

**RESOLUTION NO. 2012-215**

**A RESOLUTION BY THE BOARD OF COUNTY COMMISSIONERS OF ST. JOHNS COUNTY, FLORIDA, APPROVING THE TERMS, PROVISIONS, CONDITIONS, AND REQUIREMENTS OF A NON-EXCLUSIVE FRANCHISE AGREEMENT FOR CONSTRUCTION AND DEMOLITION DEBRIS BETWEEN ST. JOHNS COUNTY, FLORIDA, AND NINETEEN NON-EXCLUSIVE FRANCHISE HAULERS, AND AUTHORIZING THE COUNTY ADMINISTRATOR OR DESIGNEE TO EXECUTE EACH NON-EXCLUSIVE FRANCHISE AGREEMENT FOR CONSTRUCTION AND DEMOLITION DEBRIS ON BEHALF OF ST. JOHNS COUNTY**

**WHEREAS**, nineteen independent contractors wish to collect and transport Construction and Demolition Debris within the unincorporated area of St. Johns County, Florida; and

**WHEREAS**, by entering into a Non-Exclusive Franchise Agreement for Construction and Demolition Debris with each of the independent contractors, the St. Johns County Board of Commissioners ("Board") seeks to ensure that the collection and transport of Construction and Demolition Debris is performed in accordance with applicable local, state and federal regulations, and that such performance is consistent with the public interest; and

**WHEREAS**, the Board has reviewed the terms, provisions, conditions, and requirements of the Non-Exclusive Franchise Agreement for Construction and Demolition Debris (attached hereto as Exhibit A, and incorporated herein); and

**WHEREAS**, the Board has determined that entering into said Agreement with each of the independent contractors serves a public purpose and will not negatively impact the citizens of St. Johns County.

**NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF COUNTY COMMISSIONERS OF ST. JOHNS COUNTY, FLORIDA, AS FOLLOWS:**

**Section 1.** The above Recitals are hereby incorporated into the body of this Resolution, and are adopted as Findings of Fact.

**Section 2.** The Board hereby approves the terms, provisions, conditions, and requirements of the Non-exclusive Franchise Agreement for Construction and Demolition Debris between St. Johns County, Florida, and the nineteen independent contractors, respectively, and authorizes the County Administrator or designee to execute each Agreement on behalf of St. Johns County.

**Section 3.** To the extent that there are typographical, administrative and/or scrivener's errors or omissions that do not change the tone, tenor, or concept of this Resolution, then this Resolution may be revised without subsequent approval of the Board.

**PASSED AND ADOPTED** by the Board of County Commissioners of St. Johns County, Florida, this 21<sup>st</sup> day of August, 2012.

**BOARD OF COUNTY COMMISSIONERS OF  
ST. JOHNS COUNTY, FLORIDA**

Attest:

*Pam Halterman*  
Deputy Clerk

By:

*[Signature]*  
Chair

RENDITION DATE 8/23/12



**NON-EXCLUSIVE FRANCHISE AGREEMENT  
FOR CONSTRUCTION AND DEMOLITION DEBRIS**

This Non-Exclusive Franchise Agreement for the collection and transport of Construction and Demolition Debris ("Agreement") is made as of this 16<sup>th</sup> day of May, 2012, by and between St. Johns County ("County"), a political subdivision of the State of Florida, and Adams Tractor & Landscaping Services, Inc., its successors and assigns ("Contractor").

**RECITALS**

WHEREAS, Contractor wishes to collect and transport Construction and Demolition Debris in the unincorporated areas of St. Johns County; and

WHEREAS, the County wishes to ensure that the Contractor's activities are performed in accordance with all applicable laws and is consistent with the public interest.

NOW, THEREFORE, in consideration of the mutual covenants hereinafter contained and other good and valuable consideration, the receipt and adequacy of which are hereby acknowledged, the County and Contractor agree as follows:

**ARTICLE I: DEFINITIONS**

1.0 The terms used in this Agreement shall have the same definitions and meanings set forth in the St. Johns County Solid Waste Ordinance (*see* St. Johns County Ordinance 06-98), unless a different meaning is specifically defined herein. Such terms shall be construed in a manner consistent with the definitions provided in section 403.703 of the Florida Statutes. Any inconsistency with section 403.703 of the Florida Statutes shall be resolved in favor of said statutory provision.

**ARTICLE II: CONTRACTOR'S GENERAL WARRANTY**

2.0 By executing this Agreement, Contractor acknowledges that it has read the St. Johns County Solid Waste Ordinance (together with all amendments thereto) and this Agreement, and Contractor agrees to comply at all times with the applicable provisions of

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this Agreement and the Ordinance, a copy of which is attached hereto, and incorporated herein.

ARTICLE III: NON-EXCLUSIVE FRANCHISE

3.0 The County hereby grants a non-exclusive Franchise to Contractor for the collection and transport of Construction and Demolition Debris in the unincorporated areas of St. Johns County, subject to the terms and conditions of this Agreement and all applicable laws. This Agreement authorizes the Contractor to only collect and transport Construction and Demolition Debris in roll-off containers or other commercial collection equipment standard to the industry for this type of service. No other collection or transportation of Construction and Demolition Debris is authorized under this Agreement.

ARTICLE IV: TERM

4.0 This Agreement shall be effective upon execution by the County's duly authorized representative ("Effective Date"). This Agreement shall run from the Effective Date and shall expire at 11:59 p.m. (EST) on June 30, 2015 ("Expiration Date").

ARTICLE V: CONTRACTOR'S OPERATIONS

5.0 The Contractor shall take all necessary steps to ensure that its operations are performed in compliance with all applicable provisions of the St. Johns County Code of Ordinances, and all other applicable local, state, and federal laws.

5.1 The Contractor's employees shall be properly trained and qualified to perform the tasks assigned to them under this Agreement.

5.2 Contractor may collect and transport Construction and Demolition Debris between 7 a.m. and 6 p.m. (EST), on Monday through Saturday of each week. Contractor shall not collect or transport Construction and Demolition Debris at other times, unless the Contractor has received the prior approval of the Manager of the St. Johns County Solid Waste Department.

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- 5.3 When collecting or transporting construction and Demolition Debris, Contractor's employees shall wear a company shirt or uniform, which shall have the Contractor's name or logo in a conspicuous place.
- 5.4 All of the trucks used by the Contractor for the collection and transportation of Construction and Demolition Debris shall be marked with the name and phone number of the Contractor in letters that are plainly visible and at least four inches high. Each commercial container used by the Contractor for the collection and transportation of Construction and Demolition Debris shall be labeled by the Contractor on each long side (two sides) in the same manner.
- 5.5 The Contractor's roll-off and/or commercial containers shall be securely covered when transporting Construction and Demolition Debris, as authorized under this Agreement.
- 5.6 All of the rolling stock used by the Contractor for collecting and transporting Construction and Demolition Debris in St. Johns County shall be maintained in a good, clean, and safe operating condition, and be properly marked with the Contractor's name and phone number on all roll-off and/or commercial containers.
- 5.7 Contractor shall provide the County with a list of the vehicles used by the Contractor and the license plate number for each vehicle and the Company's vehicle identification number (VIN). The Contractor shall ensure that the vehicle list is updated and submitted to the County within 30 days of any revisions including deletions and/or additions of the vehicles.
- 5.8 This Agreement authorizes the use of roll-off and/or commercial containers and other commercial collection equipment standard to the industry for this type of service. The Contractor may provide an unlimited number of roll-off and/or commercial containers for Construction and Demolition Debris, if the construction site is acceptable for their proper placement and there is a bona-fide need. However, any roll-off and/or commercial container holding more than a de minimis amount of Solid Waste other than Construction and Demolition Debris shall be regulated as though the container were filled with Solid Waste and shall require transport and disposal at a St. Johns County facility accepting such waste.

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ARTICLE VI: DISPOSAL SITES

6.0 All of the Solid Waste, Construction and Demolition Debris collected by the Contractor shall be processed or disposed of at a duly licensed and permitted Solid Waste Management Facility accepting Construction and Demolition Debris.

ARTICLE VII: APPLICATION FEES

7.0 The Contractor is required to complete and submit the standard St. Johns County application form for non-exclusive Franchise to rent roll-off and/or commercial containers, collect Construction and Demolition Debris, transport said material and dispose of it in a duly licensed and permitted facility accepting Construction and Demolition Waste. A non-refundable \$500.00 application fee as well as a \$100.00 fee per vehicle shall accompany the Contractor's application to the County for the non-exclusive Franchise.

ARTICLE VIII: FRANCHISE FEES

8.0 The Contractor shall pay a Franchise fee to the County for the privilege of using the public streets, roads, alleys and other thoroughfares of the County for the collection and transportation of Construction and Demolition Debris that originates in the unincorporated areas of St. Johns County. The Franchise fee also may be used to pay the cost of implementing, administering and enforcing the County's regulations for the safe handling of Construction and Demolition Debris generated in the unincorporated areas of St. Johns County.

8.1 The Franchise fee shall be equal to ten percent (10%) of the Gross Revenues collected by the Contractor for the services provided pursuant to this Agreement, including the collection, transportation, processing and disposing of Construction and Demolition Debris originating in the unincorporated areas of St. Johns County.

8.2 Franchise fees shall be paid to the County once each quarter. Franchise fees shall be delivered to the County no later than January 15, April 15, July 15, and October 16 of each year or within 60 days of termination of the Agreement. Each quarterly payment shall be based upon the Gross Revenues earned by the Contractor for the services provided pursuant to this Agreement for the preceding calendar quarter.

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8.3 Contractor shall provide the County with an audited financial statement to demonstrate that the Contractor has fully paid the applicable Franchise fee for the full three (3) year Agreement Term or any partial period. The financial statement shall be prepared by an independent accounting firm in accordance with generally accepted accounting principles. Unless the County instructs the Contractor otherwise, the Contractor shall deliver the audited financial statement to the County within 45 days following the Expiration Date of this Agreement or within 45 days of the termination of this Agreement for any partial period.

8.4 Each quarterly payment of the Franchise fee shall be accompanied by a true and accurate report demonstrating that the Franchise fee has been paid in full for the preceding calendar quarter.

8.5 The Contractor shall allow the County's auditors to inspect and examine the Contractor's financial books and records to confirm the Contractor's compliance with this Agreement. The inspections shall be allowed by the Contractor at any reasonable time following reasonable notice by the County. Additionally, the County's auditors may communicate directly with customers of the Contractor for the purpose of confirming the Contractor's compliance with this Agreement. To the extent authorized by Chapter 119, Florida Statutes, or other applicable laws, the information obtained by the County under this Section 8.5 shall remain confidential. Contractor shall comply with Chapter 119, Florida Statutes as related to the disclosure of public records. If the Contractor fails to pay the full amount of the Franchise fee in a timely manner, the County may suspend the Franchise until payment is made or may terminate this Agreement with no further notice and revoke the Franchise. The Contractor shall pay any and all of the County's expenses for the collection of the Franchise fee, including but not limited to court costs and reasonable attorneys' fees. Interest shall accrue on any unpaid Franchise fee at the maximum rate allowed by law.

8.6 If the Contractor fails to pay the full amount of the Franchise fee within 30 days of the end of each quarter, the County may suspend the Franchise until payment is made or may terminate this Agreement with no further notice and revoke the Franchise. The Contractor shall pay any and all of the County's expenses for the collection of the

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Franchise fee, including but not limited to court costs and reasonable attorneys' fees.

Interest shall accrue on any unpaid Franchise fee at the maximum rate allowed by law.

**ARTICLE IX: APPLICATION RENEWAL**

9.0 Between the months of April 1 through June 1, prior to the Expiration Date of this Agreement, the Contractor may submit a renewal application to the Department of Solid Waste Management. A five hundred dollar (\$500) renewal fee and a vehicle fee of one hundred dollars (\$100) per vehicle shall accompany said renewal application. A surety bond or letter of credit in the amount of five thousand dollars (\$5,000) shall also be required with the application, in order to satisfy the surety requirements specified in the St. Johns County Solid Waste Ordinance. During review of the renewal application the Contractor shall operate as a non-exclusive Franchise for a period not to exceed 60 days or until the renewal application is approved or denied within that 60 day period. Applications for renewal not meeting all applicable criteria may be denied.

**ARTICLE X: INSURANCE**

10.0 The Contractor shall not begin collecting or transporting Construction and Demolition Debris under this Agreement until appropriate certificates of insurance are provided to the County that demonstrates compliance with the requirements of this Agreement. The Contractor must maintain the insurance in full force and effect at all times throughout the Term of this Agreement. The County shall be named as an additional insured on all of the insurance policies, except for workers compensation. Certificates should be issued to St. Johns County Board of County Commissioners, 500 San Sebastian View, St. Augustine, Florida, 32084.

10.1 The Contractor shall provide workers' compensation and employer's liability insurance of not less than \$100,000 for each person/accident and each person/disease or the minimum amount required under Florida Law, whichever is greater.

10.2 The Contractor shall provide commercial general liability insurance in the amount of \$1,000,000 per occurrence, and shall include coverage for bodily injury, death, property damage and other liabilities arising from or related to Contractor's premises,



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operations, independent contractors, and contracts. The coverage must specify that it included the indemnification and hold harmless provisions of this Agreement.

10.3 The Contractor shall provide vehicle liability insurance with minimum combined single limits of \$1,000,000 for all owned, hired, and non-owned vehicles.

10.4 All of the companies providing insurance must be authorized to do business in the State of Florida. All of the insurance companies providing coverage must be rated A-IX or higher in the most recent edition of Best's Key Rating Guide.

10.5 No change or cancellation of any insurance required under this Agreement may be made unless thirty (30) days prior written notice is provided to the County. Each insurance certificate must name the County as an additional insured and contain a clause stating substantially as follows: "If any of the above-described policies are to be cancelled or undergo material change before the expiration date, the issuing insurance company will mail written notice to: St. Johns County Board of County Commissioners, 500 San Sebastian View, St. Augustine, Florida, 32084 at least 30 days before the effective date of the cancellation or change."

ARTICLE XI: INDEMNIFICATION

11.0 The Contractor agrees that it shall indemnify, defend and hold harmless the County, its officials, officers, employees and agents, against, and assume all liability for, any and all claims, suits, causes of action, damages, liabilities, expenditures, or proceedings of any kind (collectively "claims") arising from or related to any of the Contractor's activities or operations pursuant to this Agreement, including but not limited to claims based on bodily injury, loss of life or limb, damage to property, pollution or other environmental damages.

11.1 This provision relating to Indemnification, is separate and apart from, and is in no way limited by, any insurance provided by the Contractor, pursuant to this Agreement, or otherwise.

ARTICLE XII: TERMINATION BY COUNTY

12.0 If there is a material breach of any term of this Agreement by the Contractor, the County shall notify the Contractor in writing of the breach and provide the Contractor

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with an opportunity to correct the breach. If the breach is not corrected within one (1) day of receipt of the written notice, the County may terminate the Agreement at any time at the County's discretion by providing written notice to the Contractor, which shall be effective upon the date specified in the notice. Upon such notice, the Contractor shall immediately cease all activities under this Agreement. Among other things, a material breach of this Agreement shall be deemed to have occurred if: (a) the Contractor fails to pay Franchise fees at the times and in the amounts required by this Agreement; (b) the Contractor fails to file complete, accurate, and timely reports, as required by this Agreement; (c) the Contractor disposes of Solid Waste at a site other than a properly permitted and authorized Solid Waste Management Facility; (d) the Contractor collects or transports Solid Waste in a manner that is not authorized under this Agreement; (e) the Contractor fails to continuously maintain the types and amounts of insurance required under this Agreement; (f) the Contractor declares bankruptcy; or (g) the Contractor fails to comply with the applicable provisions of the St. Johns County Solid Waste Ordinance or this Agreement.

12.1 If the Contractor has frequently, regularly or repetitively defaulted in the performance of any of the requirements in this Agreement or any applicable local, state or federal regulation, the County may in its sole discretion deem the Contractor to be a "habitual violator," regardless of whether the Contractor has corrected each individual condition of default. Under such circumstances, the Contractor shall forfeit its right to any further grace period to correct or cure future defaults. All of the Contractor's prior defaults shall be considered cumulative and collectively shall constitute a condition of irredeemable default. The County shall issue the Contractor a notice that the Contractor has been deemed a "habitual violator." Thereafter, any single default by the Contractor of whatever nature shall be grounds for immediate termination of this Agreement. In the event of any such default, the County may terminate this Agreement by giving a written notice to the Contractor, which shall be effective upon the date specified in the notice. Upon such notice, the Contractor shall immediately cease all activities under this Agreement. This section creates a supplemental and additional means of terminating this Agreement and it shall not be deemed to be in lieu of any other remedy available at law or equity.

ARTICLE XIII: MISCELLANEOUS PROVISIONS

13.0 *Party Representatives.* For the purposes of this Agreement, the Authorized representative of the County (as designated by the County Administrator) shall be the Solid Waste Manager of the St. Johns County Solid Waste Department or the Manager's designee. The authorized representative of the Contractor for purposes of this Agreement shall be John Adams. Either party may change its representative upon five (5) days, prior notice to the other party.

13.1 *Notice.* All notices and consents required or permitted by this Agreement shall be in writing and transmitted in person or by registered or certified mail, return receipt requested, with notice deemed to be given upon receipt, as follows:

If to the County:

Solid Waste Manager  
St. Johns County Solid Waste Department  
3005 Allen Nease Road  
Elkton, FL 32033

If to the Contractor:

Adams Tractor & Landscaping  
7529 State Road 13 North  
St. Augustine, FL 32092

Changes in the respective addresses to which such notices may be directed may be made from time to time by either party by notice to the other party.

13.2 *Waiver.* No delay or failure to exercise a right under this Agreement shall impair such right or shall be construed to be a waiver thereof, but such right may be exercised from time to time and as often as deemed expedient. The failure of the County or Contractor at any time to require performance by the other party of any term in this Agreement shall in no way affect the right of the County or Contractor thereafter to enforce same; nor shall waiver by the County or Contractor of any breach of any term of this Agreement be taken or held to be a waiver of any succeeding breach of such term or

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as a waiver of any term itself. To be effective, any waiver shall be in writing and signed by the party granting such waiver. Any such waiver shall be limited to the particular right so waived and shall not be deemed to waive any other right under this Agreement.

13.3 *Agreement Governed by Florida Law and Venue.* This Agreement shall be governed by and construed in accordance with the laws of the State of Florida, and it shall be binding upon, and inure to the benefit of, the parties, their successors, and assigns. The Contractor shall submit to service of process and the jurisdiction of the State of Florida for any controversy or claim arising out of or relating to this Agreement. Any action to interpret and/or enforce this Agreement shall be brought and maintained in the State of Florida. Venue shall be in St. Johns County, Florida.

13.4 *Assignment.* This Agreement may not be sold, assigned or transferred by the Contractor without prior approval by the County. As a condition precedent to receiving the County's approval, the Contractor or the potential assignee must demonstrate to the County's satisfaction that the assignee has the ability and resources to comply with all of the applicable requirements set forth in this Agreement and all applicable local, state and federal regulations.

13.5 *Representations of the Contractor.* The Contractor represents that: (a) it is a corporation duly organized under the laws of the State of Florida or a person or an entity qualified to do business in the State of Florida; (b) this Agreement has been duly authorized, executed, and delivered in the State of Florida; and (c) it has the required power and authority to perform this Agreement.

13.6 *Headings.* Captions and headings contained in this Agreement are for ease of Reference only and do not constitute a part of this Agreement.

13.7 *Severability.* If any term, condition, covenant or obligation of this Agreement is declared illegal, void or unenforceable, the remaining terms shall not be affected but shall remain in full force and effect, and this Agreement shall be construed as if such illegal, void or unenforceable provision had never been contained herein.

13.8 *Survivability.* Any term, condition, covenant, or obligation that requires performance by a party subsequent to expiration or termination of this Agreement shall remain enforceable against such party subsequent to such expiration or termination.

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13.9 *Third Party Beneficiaries.* It is agreed between the parties hereto that no provision of this Agreement is intended to create any third-party beneficiaries hereunder, or to authorize anyone not a party to this Agreement to maintain an action pursuant to the terms or provisions of this Agreement.

13.10 *Personal Liability.* Nothing in this Agreement shall be construed as creating any personal liability on the part of any official, officer, employee, agent or representative of the County.

13.11 *Independent Contractor.* When performing the activities required by this Agreement the Contractor will be acting in the capacity of an independent contractor and not as an agent, employee, partner, joint venture or associate of the County. The Contractor shall be solely responsible for the means, methods and procedures used by the Contractor to perform under this Agreement. Neither the Contractor nor any of its employees, officers, agents or subcontractors shall represent, act, purport to act, or be deemed to be an agent, representative, employee, or servant of the County. The Contractor shall have no authority to bind the County to any agreement or contract. No person performing any work or services for the Contractor under this Agreement shall be entitled to any benefits available or granted to employees of the County.

13.12 *Merger Clause.* This Agreement constitutes the entire agreement and understanding of the parties as to all matters addressed or referred to herein. This Agreement supersedes all prior and contemporaneous agreements and understandings, representations and warranties, whether oral or written, relating to such matters.

13.13 *Fair Dealing.* The Contractor declares and warrants that the Contractor enters into the Agreement without reliance on or engaging in any collusion, bribery or fraud, that all of the Contractor's representations in this Agreement are made fairly and in good faith, and that no County Commissioner, County officer, or County employee, directly or indirectly owns more than 5% of the total assets or capital stock of the Contractor, nor will any such person directly or indirectly benefit by more than 5%, from the profits or emoluments of this Agreement. The Contractor warrants that it has not employed or retained any company or person, other than a bona fide employee working solely for the Contractor, to solicit or secure this Agreement and the Contractor has not paid or agreed

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to pay any person, company, corporation, individual or firm, other than a bona fide employee working solely for the Contractor, any fee, commission, percentage gift or any other compensation contingent upon or resulting from the award or making of this Agreement. Further, the contractor declares and warrants that the Contractor is not subject to the restrictions in Section 287.133, Florida Statutes, for a public entity crime.

13.14 *Sovereign Immunity.* Nothing in this Agreement shall be interpreted or construed to mean that the County waives sovereign immunity as provided under Section 768.28, Florida Statutes.

13.15 *Amendment.* Except as otherwise specifically provided herein, this Agreement may be amended only by written instrument specifically referring to this Agreement and executed by both parties with the same formalities as this Agreement. The term Ordinance 06-98 as used in this document, shall mean said Ordinance as may be amended from time to time.

13.16 *Terms Generally.* Whenever the context may require, any pronoun which is used in this Agreement shall include the corresponding masculine, feminine and neuter forms and the singular shall include the plural and vice versa. Unless otherwise specifically noted, the words "include," and "including" as used herein shall be deemed to be followed by the following phrase "without limitation". The words "agree," "agreement," "consent," "establish," "impose" as used herein shall be deemed to be followed by the phrase "which shall not be unreasonably withheld or delayed" except as specifically noted. Words or phrases which are defined herein by reference to a statute, rule or regulation shall have the meaning ascribed to such word or phrases as of the Effective Date, without regard to subsequent changes in such statutes, rules or regulations, unless otherwise provided.

ARTICLE XIV: ACCESS TO RECORDS

14.0 The access to, disclosure, non-disclosure, or exemption of records, data, documents, and/or materials associated with this Agreement shall be subject to applicable provisions of the Florida Public Records Law (Chapter 119, Florida Statutes), and any other applicable State or Federal law. Access to such public records may not be blocked,

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thwarted, or hindered by placing the public records in the possession of a third party, or an unaffiliated party.

ARTICLE XV: REVIEW OF RECORDS

15.0 As a condition of entering into this Agreement, and in order to ensure compliance, especially as it relates to any applicable law, rule, or regulation, the Contractor authorized the County to examine, review, inspect, and/or audit the books, and records (including without limitation, data, documents, and correspondence), in order to determine whether compliance has been achieved with respect to the terms, conditions, provisions, rights, and responsibilities noted in this Agreement. It is specifically noted that the Contractor is under no duty to provide access to documentation not related this Agreement, and/or is otherwise protected by County, State, and/or Federal law.

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IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed  
on May 16<sup>th</sup>, 2012.

**CONTRACTOR**

Adams Tractor & Landscaping  
Name of Company

Printed Name: Leslie Adams

Title: Vice President

Signature: [Handwritten Signature]  
Company Officer  
(CORPORATE SEAL)

Date 5/16/12

[Handwritten Signature]  
Notary



Notary Seal

**ST. JOHNS COUNTY, acting by and through  
its COUNTY ADMINISTRATOR**

ATTEST: \_\_\_\_\_  
Deputy Clerk

By: \_\_\_\_\_  
County Administrator

Legal Review:

\_\_\_\_\_  
Assistant County Attorney



**NON-EXCLUSIVE FRANCHISE AGREEMENT  
FOR CONSTRUCTION AND DEMOLITION DEBRIS**

This Non-Exclusive Franchise Agreement for the collection and transport of Construction and Demolition Debris ("Agreement") is made as of this 18 day of May, 2012, by and between St. Johns County ("County"), a political subdivision of the State of Florida, and Advanced Disposal Services Jacksonville, LLC, its successors and assigns ("Contractor").

**RECITALS**

WHEREAS, Contractor wishes to collect and transport Construction and Demolition Debris in the unincorporated areas of St. Johns County; and

WHEREAS, the County wishes to ensure that the Contractor's activities are performed in accordance with all applicable laws and is consistent with the public interest.

NOW, THEREFORE, in consideration of the mutual covenants hereinafter contained and other good and valuable consideration, the receipt and adequacy of which are hereby acknowledged, the County and Contractor agree as follows:

**ARTICLE I: DEFINITIONS**

1.0 The terms used in this Agreement shall have the same definitions and meanings set forth in the St. Johns County Solid Waste Ordinance (*see* St. Johns County Ordinance 06-98), unless a different meaning is specifically defined herein. Such terms shall be construed in a manner consistent with the definitions provided in section 403.703 of the Florida Statutes. Any inconsistency with section 403.703 of the Florida Statutes shall be resolved in favor of said statutory provision.

**ARTICLE II: CONTRACTOR'S GENERAL WARRANTY**

2.0 By executing this Agreement, Contractor acknowledges that it has read the St. Johns County Solid Waste Ordinance (together with all amendments thereto) and this Agreement, and Contractor agrees to comply at all times with the applicable provisions of

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this Agreement and the Ordinance, a copy of which is attached hereto, and incorporated herein.

**ARTICLE III: NON-EXCLUSIVE FRANCHISE**

3.0 The County hereby grants a non-exclusive Franchise to Contractor for the collection and transport of Construction and Demolition Debris in the unincorporated areas of St. Johns County, subject to the terms and conditions of this Agreement and all applicable laws. This Agreement authorizes the Contractor to only collect and transport Construction and Demolition Debris in roll-off containers or other commercial collection equipment standard to the industry for this type of service. No other collection or transportation of Construction and Demolition Debris is authorized under this Agreement.

**ARTICLE IV: TERM**

4.0 This Agreement shall be effective upon execution by the County's duly authorized representative ("Effective Date"). This Agreement shall run from the Effective Date and shall expire at 11:59 p.m. (EST) on June 30, 2015 ("Expiration Date").

**ARTICLE V: CONTRACTOR'S OPERATIONS**

5.0 The Contractor shall take all necessary steps to ensure that its operations are performed in compliance with all applicable provisions of the St. Johns County Code of Ordinances, and all other applicable local, state, and federal laws.

5.1 The Contractor's employees shall be properly trained and qualified to perform the tasks assigned to them under this Agreement.

5.2 Contractor may collect and transport Construction and Demolition Debris between 7 a.m. and 6 p.m. (EST), on Monday through Saturday of each week. Contractor shall not collect or transport Construction and Demolition Debris at other times, unless the Contractor has received the prior approval of the Manager of the St. Johns County Solid Waste Department.

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5.3 When collecting or transporting construction and Demolition Debris, Contractor's employees shall wear a company shirt or uniform, which shall have the Contractor's name or logo in a conspicuous place.

5.4 All of the trucks used by the Contractor for the collection and transportation of Construction and Demolition Debris shall be marked with the name and phone number of the Contractor in letters that are plainly visible and at least four inches high. Each commercial container used by the Contractor for the collection and transportation of Construction and Demolition Debris shall be labeled by the Contractor on each long side (two sides) in the same manner.

5.5 The Contractor's roll-off and/or commercial containers shall be securely covered when transporting Construction and Demolition Debris, as authorized under this Agreement.

5.6 All of the rolling stock used by the Contractor for collecting and transporting Construction and Demolition Debris in St. Johns County shall be maintained in a good, clean, and safe operating condition, and be properly marked with the Contractor's name and phone number on all roll-off and/or commercial containers.

5.7 Contractor shall provide the County with a list of the vehicles used by the Contractor and the license plate number for each vehicle and the Company's vehicle identification number (VIN). The Contractor shall ensure that the vehicle list is updated and submitted to the County within 30 days of any revisions including deletions and/or additions of the vehicles.

5.8 This Agreement authorizes the use of roll-off and/or commercial containers and other commercial collection equipment standard to the industry for this type of service. The Contractor may provide an unlimited number of roll-off and/or commercial containers for Construction and Demolition Debris, if the construction site is acceptable for their proper placement and there is a bona-fide need. However, any roll-off and/or commercial container holding more than a de minimis amount of Solid Waste other than Construction and Demolition Debris shall be regulated as though the container were filled with Solid Waste and shall require transport and disposal at a St. Johns County facility accepting such waste.

**ARTICLE VI: DISPOSAL SITES**

6.0 All of the Solid Waste, Construction and Demolition Debris collected by the Contractor shall be processed or disposed of at a duly licensed and permitted Solid Waste Management Facility accepting Construction and Demolition Debris.

**ARTICLE VII: APPLICATION FEES**

7.0 The Contractor is required to complete and submit the standard St. Johns County application form for non-exclusive Franchise to rent roll-off and/or commercial containers, collect Construction and Demolition Debris, transport said material and dispose of it in a duly licensed and permitted facility accepting Construction and Demolition Waste. A non-refundable \$500.00 application fee as well as a \$100.00 fee per vehicle shall accompany the Contractor's application to the County for the non-exclusive Franchise.

**ARTICLE VIII: FRANCHISE FEES**

8.0 The Contractor shall pay a Franchise fee to the County for the privilege of using the public streets, roads, alleys and other thoroughfares of the County for the collection and transportation of Construction and Demolition Debris that originates in the unincorporated areas of St. Johns County. The Franchise fee also may be used to pay the cost of implementing, administering and enforcing the County's regulations for the safe handling of Construction and Demolition Debris generated in the unincorporated areas of St. Johns County.

8.1 The Franchise fee shall be equal to ten percent (10%) of the Gross Revenues collected by the Contractor for the services provided pursuant to this Agreement, including the collection, transportation, processing and disposing of Construction and Demolition Debris originating in the unincorporated areas of St. Johns County.

8.2 Franchise fees shall be paid to the County once each quarter. Franchise fees shall be delivered to the County no later than January 15, April 15, July 15, and October 16 of each year or within 60 days of termination of the Agreement. Each quarterly payment shall be based upon the Gross Revenues earned by the Contractor for the services provided pursuant to this Agreement for the preceding calendar quarter.

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8.3 Contractor shall provide the County with an audited financial statement to demonstrate that the Contractor has fully paid the applicable Franchise fee for the full three (3) year Agreement Term or any partial period. The financial statement shall be prepared by an independent accounting firm in accordance with generally accepted accounting principles. Unless the County instructs the Contractor otherwise, the Contractor shall deliver the audited financial statement to the County within 45 days following the Expiration Date of this Agreement or within 45 days of the termination of this Agreement for any partial period.

8.4 Each quarterly payment of the Franchise fee shall be accompanied by a true and accurate report demonstrating that the Franchise fee has been paid in full for the preceding calendar quarter.

8.5 The Contractor shall allow the County's auditors to inspect and examine the Contractor's financial books and records to confirm the Contractor's compliance with this Agreement. The inspections shall be allowed by the Contractor at any reasonable time following reasonable notice by the County. Additionally, the County's auditors may communicate directly with customers of the Contractor for the purpose of confirming the Contractor's compliance with this Agreement. To the extent authorized by Chapter 119, Florida Statutes, or other applicable laws, the information obtained by the County under this Section 8.5 shall remain confidential. Contractor shall comply with Chapter 119, Florida Statutes as related to the disclosure of public records. If the Contractor fails to pay the full amount of the Franchise fee in a timely manner, the County may suspend the Franchise until payment is made or may terminate this Agreement with no further notice and revoke the Franchise. The Contractor shall pay any and all of the County's expenses for the collection of the Franchise fee, including but not limited to court costs and reasonable attorneys' fees. Interest shall accrue on any unpaid Franchise fee at the maximum rate allowed by law.

8.6 If the Contractor fails to pay the full amount of the Franchise fee within 30 days of the end of each quarter, the County may suspend the Franchise until payment is made or may terminate this Agreement with no further notice and revoke the Franchise. The Contractor shall pay any and all of the County's expenses for the collection of the

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Franchise fee, including but not limited to court costs and reasonable attorneys' fees.  
Interest shall accrue on any unpaid Franchise fee at the maximum rate allowed by law.

**ARTICLE IX: APPLICATION RENEWAL**

9.0 Between the months of April 1 through June 1, prior to the Expiration Date of this Agreement, the Contractor may submit a renewal application to the Department of Solid Waste Management. A five hundred dollar (\$500) renewal fee and a vehicle fee of one hundred dollars (\$100) per vehicle shall accompany said renewal application. A surety bond or letter of credit in the amount of five thousand dollars (\$5,000) shall also be required with the application, in order to satisfy the surety requirements specified in the St. Johns County Solid Waste Ordinance. During review of the renewal application the Contractor shall operate as a non-exclusive Franchise for a period not to exceed 60 days or until the renewal application is approved or denied within that 60 day period. Applications for renewal not meeting all applicable criteria may be denied.

**ARTICLE X: INSURANCE**

10.0 The Contractor shall not begin collecting or transporting Construction and Demolition Debris under this Agreement until appropriate certificates of insurance are provided to the County that demonstrates compliance with the requirements of this Agreement. The Contractor must maintain the insurance in full force and effect at all times throughout the Term of this Agreement. The County shall be named as an additional insured on all of the insurance policies, except for workers compensation. Certificates should be issued to St. Johns County Board of County Commissioners, 500 San Sebastian View, St. Augustine, Florida, 32084.

10.1 The Contractor shall provide workers' compensation and employer's liability insurance of not less than \$100,000 for each person/accident and each person/disease or the minimum amount required under Florida Law, whichever is greater.

10.2 The Contractor shall provide commercial general liability insurance in the amount of \$1,000,000 per occurrence, and shall include coverage for bodily injury, death, property damage and other liabilities arising from or related to Contractor's premises,

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operations, independent contractors, and contracts. The coverage must specify that it included the indemnification and hold harmless provisions of this Agreement.

10.3 The Contractor shall provide vehicle liability insurance with minimum combined single limits of \$1,000,000 for all owned, hired, and non-owned vehicles.

10.4 All of the companies providing insurance must be authorized to do business in the State of Florida. All of the insurance companies providing coverage must be rated A-IX or higher in the most recent edition of Best's Key Rating Guide.

10.5 No change or cancellation of any insurance required under this Agreement may be made unless thirty (30) days prior written notice is provided to the County. Each insurance certificate must name the County as an additional insured and contain a clause stating substantially as follows: "If any of the above-described policies are to be cancelled or undergo material change before the expiration date, the issuing insurance company will mail written notice to: St. Johns County Board of County Commissioners, 500 San Sebastian View, St. Augustine, Florida, 32084 at least 30 days before the effective date of the cancellation or change."

ARTICLE XI: INDEMNIFICATION

11.0 The Contractor agrees that it shall indemnify, defend and hold harmless the County, its officials, officers, employees and agents, against, and assume all liability for, any and all claims, suits, causes of action, damages, liabilities, expenditures, or proceedings of any kind (collectively "claims") arising from or related to any of the Contractor's activities or operations pursuant to this Agreement, including but not limited to claims based on bodily injury, loss of life or limb, damage to property, pollution or other environmental damages.

11.1 This provision relating to Indemnification, is separate and apart from, and is in no way limited by, any insurance provided by the Contractor, pursuant to this Agreement, or otherwise.

ARTICLE XII: TERMINATION BY COUNTY

12.0 If there is a material breach of any term of this Agreement by the Contractor, the County shall notify the Contractor in writing of the breach and provide the Contractor

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with an opportunity to correct the breach. If the breach is not corrected within one (1) day of receipt of the written notice, the County may terminate the Agreement at any time at the County's discretion by providing written notice to the Contractor, which shall be effective upon the date specified in the notice. Upon such notice, the Contractor shall immediately cease all activities under this Agreement. Among other things, a material breach of this Agreement shall be deemed to have occurred if: (a) the Contractor fails to pay Franchise fees at the times and in the amounts required by this Agreement; (b) the Contractor fails to file complete, accurate, and timely reports, as required by this Agreement; (c) the Contractor disposes of Solid Waste at a site other than a properly permitted and authorized Solid Waste Management Facility; (d) the Contractor collects or transports Solid Waste in a manner that is not authorized under this Agreement; (e) the Contractor fails to continuously maintain the types and amounts of insurance required under this Agreement; (f) the Contractor declares bankruptcy; or (g) the Contractor fails to comply with the applicable provisions of the St. Johns County Solid Waste Ordinance or this Agreement.

12.1 If the Contractor has frequently, regularly or repetitively defaulted in the performance of any of the requirements in this Agreement or any applicable local, state or federal regulation, the County may in its sole discretion deem the Contractor to be a "habitual violator," regardless of whether the Contractor has corrected each individual condition of default. Under such circumstances, the Contractor shall forfeit its right to any further grace period to correct or cure future defaults. All of the Contractor's prior defaults shall be considered cumulative and collectively shall constitute a condition of irredeemable default. The County shall issue the Contractor a notice that the Contractor has been deemed a "habitual violator." Thereafter, any single default by the Contractor of whatever nature shall be grounds for immediate termination of this Agreement. In the event of any such default, the County may terminate this Agreement by giving a written notice to the Contractor, which shall be effective upon the date specified in the notice. Upon such notice, the Contractor shall immediately cease all activities under this Agreement. This section creates a supplemental and additional means of terminating this Agreement and it shall not be deemed to be in lieu of any other remedy available at law or equity.



**ARTICLE XIII: MISCELLANEOUS PROVISIONS**

13.0 *Party Representatives.* For the purposes of this Agreement, the Authorized representative of the County (as designated by the County Administrator) shall be the Solid Waste Manager of the St. Johns County Solid Waste Department or the Manager's designee. The authorized representative of the Contractor for purposes of this Agreement shall be Tammy Wilson, District Manager. Either party may change its representative upon five (5) days, prior notice to the other party.

13.1 *Notice.* All notices and consents required or permitted by this Agreement shall be in writing and transmitted in person or by registered or certified mail, return receipt requested, with notice deemed to be given upon receipt, as follows:

If to the County:

Solid Waste Manager  
St. Johns County Solid Waste Department  
3005 Allen Nease Road  
Elkton, FL 32033

If to the Contractor:

Advanced Disposal Services Jacksonville, LLC  
7580 Philips Hwy  
Jacksonville, Florida 32256

Changes in the respective addresses to which such notices may be directed may be made from time to time by either party by notice to the other party.

13.2 *Waiver.* No delay or failure to exercise a right under this Agreement shall impair such right or shall be construed to be a waiver thereof, but such right may be exercised from time to time and as often as deemed expedient. The failure of the County or Contractor at any time to require performance by the other party of any term in this Agreement shall in no way affect the right of the County or Contractor thereafter to enforce same; nor shall waiver by the County or Contractor of any breach of any term of this Agreement be taken or held to be a waiver of any succeeding breach of such term or

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as a waiver of any term itself. To be effective, any waiver shall be in writing and signed by the party granting such waiver. Any such waiver shall be limited to the particular right so waived and shall not be deemed to waive any other right under this Agreement.

13.3 *Agreement Governed by Florida Law and Venue.* This Agreement shall be governed by and construed in accordance with the laws of the State of Florida, and it shall be binding upon, and inure to the benefit of, the parties, their successors, and assigns. The Contractor shall submit to service of process and the jurisdiction of the State of Florida for any controversy or claim arising out of or relating to this Agreement. Any action to interpret and/or enforce this Agreement shall be brought and maintained in the State of Florida. Venue shall be in St. Johns County, Florida.

13.4 *Assignment.* This Agreement may not be sold, assigned or transferred by the Contractor without prior approval by the County. As a condition precedent to receiving the County's approval, the Contractor or the potential assignee must demonstrate to the County's satisfaction that the assignee has the ability and resources to comply with all of the applicable requirements set forth in this Agreement and all applicable local, state and federal regulations.

13.5 *Representations of the Contractor.* The Contractor represents that: (a) it is a corporation duly organized under the laws of the State of Florida or a person or an entity qualified to do business in the State of Florida; (b) this Agreement has been duly authorized, executed, and delivered in the State of Florida; and (c) it has the required power and authority to perform this Agreement.

13.6 *Headings.* Captions and headings contained in this Agreement are for ease of Reference only and do not constitute a part of this Agreement.

13.7 *Severability.* If any term, condition, covenant or obligation of this Agreement is declared illegal, void or unenforceable, the remaining terms shall not be affected but shall remain in full force and effect, and this Agreement shall be construed as if such illegal, void or unenforceable provision had never been contained herein.

13.8 *Survivability.* Any term, condition, covenant, or obligation that requires performance by a party subsequent to expiration or termination of this Agreement shall remain enforceable against such party subsequent to such expiration or termination.

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13.9 *Third Party Beneficiaries.* It is agreed between the parties hereto that no provision of this Agreement is intended to create any third-party beneficiaries hereunder, or to authorize anyone not a party to this Agreement to maintain an action pursuant to the terms or provisions of this Agreement.

13.10 *Personal Liability.* Nothing in this Agreement shall be construed as creating any personal liability on the part of any official, officer, employee, agent or representative of the County.

13.11 *Independent Contractor.* When performing the activities required by this Agreement the Contractor will be acting in the capacity of an independent contractor and not as an agent, employee, partner, joint venture or associate of the County. The Contractor shall be solely responsible for the means, methods and procedures used by the Contractor to perform under this Agreement. Neither the Contractor nor any of its employees, officers, agents or subcontractors shall represent, act, purport to act, or be deemed to be an agent, representative, employee, or servant of the County. The Contractor shall have no authority to bind the County to any agreement or contract. No person performing any work or services for the Contractor under this Agreement shall be entitled to any benefits available or granted to employees of the County.

13.12 *Merger Clause.* This Agreement constitutes the entire agreement and understanding of the parties as to all matters addressed or referred to herein. This Agreement supersedes all prior and contemporaneous agreements and understandings, representations and warranties, whether oral or written, relating to such matters.

13.13 *Fair Dealing.* The Contractor declares and warrants that the Contractor enters into the Agreement without reliance on or engaging in any collusion, bribery or fraud, that all of the Contractor's representations in this Agreement are made fairly and in good faith, and that no County Commissioner, County officer, or County employee, directly or indirectly owns more than 5% of the total assets or capital stock of the Contractor, nor will any such person directly or indirectly benefit by more than 5%, from the profits or emoluments of this Agreement. The Contractor warrants that it has not employed or retained any company or person, other than a bona fide employee working solely for the Contractor, to solicit or secure this Agreement and the Contractor has not paid or agreed

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to pay any person, company, corporation, individual or firm, other than a bona fide employee working solely for the Contractor, any fee, commission, percentage gift or any other compensation contingent upon or resulting from the award or making of this Agreement. Further, the contractor declares and warrants that the Contractor is not subject to the restrictions in Section 287.133, Florida Statutes, for a public entity crime.

13.14 *Sovereign Immunity.* Nothing in this Agreement shall be interpreted or construed to mean that the County waives sovereign immunity as provided under Section 768.28, Florida Statutes.

13.15 *Amendment.* Except as otherwise specifically provided herein, this Agreement may be amended only by written instrument specifically referring to this Agreement and executed by both parties with the same formalities as this Agreement. The term Ordinance 06-98 as used in this document, shall mean said Ordinance as may be amended from time to time.

13.16 *Terms Generally.* Whenever the context may require, any pronoun which is used in this Agreement shall include the corresponding masculine, feminine and neuter forms and the singular shall include the plural and vice versa. Unless otherwise specifically noted, the words "include," and "including" as used herein shall be deemed to be followed by the following phrase "without limitation". The words "agree," "agreement," "consent," "establish," "impose" as used herein shall be deemed to be followed by the phrase "which shall not be unreasonably withheld or delayed" except as specifically noted. Words or phrases which are defined herein by reference to a statute, rule or regulation shall have the meaning ascribed to such word or phrases as of the Effective Date, without regard to subsequent changes in such statutes, rules or regulations, unless otherwise provided.

**ARTICLE XIV: ACCESS TO RECORDS**

14.0 The access to, disclosure, non-disclosure, or exemption of records, data, documents, and/or materials associated with this Agreement shall be subject to applicable provisions of the Florida Public Records Law (Chapter 119, Florida Statutes), and any other applicable State or Federal law. Access to such public records may not be blocked,

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thwarted, or hindered by placing the public records in the possession of a third party, or an unaffiliated party.

**ARTICLE XV: REVIEW OF RECORDS**

15.0 As a condition of entering into this Agreement, and in order to ensure compliance, especially as it relates to any applicable law, rule, or regulation, the Contractor authorized the County to examine, review, inspect, and/or audit the books, and records (including without limitation, data, documents, and correspondence), in order to determine whether compliance has been achieved with respect to the terms, conditions, provisions, rights, and responsibilities noted in this Agreement. It is specifically noted that the Contractor is under no duty to provide access to documentation not related this Agreement, and/or is otherwise protected by County, State, and/or Federal law.

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St. Johns County  
Non Exclusive Franchise Agreement for Construction & Demolition Debris

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed  
on May 18, 2012.

**CONTRACTOR**

Advanced Disposal Services Jacksonville  
Name of Company

Printed Name: DAVID LAWRENCE

Title: ROP

Signature: [Handwritten Signature]  
Company Officer  
(CORPORATE SEAL)

Date 5-18-12

Kathleen J. Shires  
Notary



Notary Seal

**ST. JOHNS COUNTY, acting by and through  
its COUNTY ADMINISTRATOR**

ATTEST: \_\_\_\_\_  
Deputy Clerk

By: \_\_\_\_\_  
County Administrator

Legal Review:  
\_\_\_\_\_  
Assistant County Attorney

**NON-EXCLUSIVE FRANCHISE AGREEMENT  
FOR CONSTRUCTION AND DEMOLITION DEBRIS**

This Non-Exclusive Franchise Agreement for the collection and transport of Construction and Demolition Debris ("Agreement") is made as of this 14<sup>th</sup> day of May, 2012, by and between St. Johns County ("County"), a political subdivision of the State of Florida, and Amasonis, its successors and assigns ("Contractor").

**RECITALS**

WHEREAS, Contractor wishes to collect and transport Construction and Demolition Debris in the unincorporated areas of St. Johns County; and

WHEREAS, the County wishes to ensure that the Contractor's activities are performed in accordance with all applicable laws and is consistent with the public interest.

NOW, THEREFORE, in consideration of the mutual covenants hereinafter contained and other good and valuable consideration, the receipt and adequacy of which are hereby acknowledged, the County and Contractor agree as follows:

**ARTICLE I: DEFINITIONS**

1.0 The terms used in this Agreement shall have the same definitions and meanings set forth in the St. Johns County Solid Waste Ordinance (*see* St. Johns County Ordinance 06-98), unless a different meaning is specifically defined herein. Such terms shall be construed in a manner consistent with the definitions provided in section 403.703 of the Florida Statutes. Any inconsistency with section 403.703 of the Florida Statutes shall be resolved in favor of said statutory provision.

**ARTICLE II: CONTRACTOR'S GENERAL WARRANTY**

2.0 By executing this Agreement, Contractor acknowledges that it has read the St. Johns County Solid Waste Ordinance (together with all amendments thereto) and this Agreement, and Contractor agrees to comply at all times with the applicable provisions of

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Non Exclusive Franchise Agreement for Construction & Demolition Debris*

this Agreement and the Ordinance, a copy of which is attached hereto, and incorporated herein.

ARTICLE III: NON-EXCLUSIVE FRANCHISE

3.0 The County hereby grants a non-exclusive Franchise to Contractor for the collection and transport of Construction and Demolition Debris in the unincorporated areas of St. Johns County, subject to the terms and conditions of this Agreement and all applicable laws. This Agreement authorizes the Contractor to only collect and transport Construction and Demolition Debris in roll-off containers or other commercial collection equipment standard to the industry for this type of service. No other collection or transportation of Construction and Demolition Debris is authorized under this Agreement.

ARTICLE IV: TERM

4.0 This Agreement shall be effective upon execution by the County's duly authorized representative ("Effective Date"). This Agreement shall run from the Effective Date and shall expire at 11:59 p.m. (EST) on June 30, 2015 ("Expiration Date").

ARTICLE V: CONTRACTOR'S OPERATIONS

5.0 The Contractor shall take all necessary steps to ensure that its operations are performed in compliance with all applicable provisions of the St. Johns County Code of Ordinances, and all other applicable local, state, and federal laws.

5.1 The Contractor's employees shall be properly trained and qualified to perform the tasks assigned to them under this Agreement.

5.2 Contractor may collect and transport Construction and Demolition Debris between 7 a.m. and 6 p.m. (EST), on Monday through Saturday of each week. Contractor shall not collect or transport Construction and Demolition Debris at other times, unless the Contractor has received the prior approval of the Manager of the St. Johns County Solid Waste Department.



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Non Exclusive Franchise Agreement for Construction & Demolition Debris*

5.3 When collecting or transporting construction and Demolition Debris, Contractor's employees shall wear a company shirt or uniform, which shall have the Contractor's name or logo in a conspicuous place.

5.4 All of the trucks used by the Contractor for the collection and transportation of Construction and Demolition Debris shall be marked with the name and phone number of the Contractor in letters that are plainly visible and at least four inches high. Each commercial container used by the Contractor for the collection and transportation of Construction and Demolition Debris shall be labeled by the Contractor on each long side (two sides) in the same manner.

5.5 The Contractor's roll-off and/or commercial containers shall be securely covered when transporting Construction and Demolition Debris, as authorized under this Agreement.

5.6 All of the rolling stock used by the Contractor for collecting and transporting Construction and Demolition Debris in St. Johns County shall be maintained in a good, clean, and safe operating condition, and be properly marked with the Contractor's name and phone number on all roll-off and/or commercial containers.

5.7 Contractor shall provide the County with a list of the vehicles used by the Contractor and the license plate number for each vehicle and the Company's vehicle identification number (VIN). The Contractor shall ensure that the vehicle list is updated and submitted to the County within 30 days of any revisions including deletions and/or additions of the vehicles.

5.8 This Agreement authorizes the use of roll-off and/or commercial containers and other commercial collection equipment standard to the industry for this type of service. The Contractor may provide an unlimited number of roll-off and/or commercial containers for Construction and Demolition Debris, if the construction site is acceptable for their proper placement and there is a bona-fide need. However, any roll-off and/or commercial container holding more than a de minimis amount of Solid Waste other than Construction and Demolition Debris shall be regulated as though the container were filled with Solid Waste and shall require transport and disposal at a St. Johns County facility accepting such waste.

ARTICLE VI: DISPOSAL SITES

6.0 All of the Solid Waste, Construction and Demolition Debris collected by the Contractor shall be processed or disposed of at a duly licensed and permitted Solid Waste Management Facility accepting Construction and Demolition Debris.

ARTICLE VII: APPLICATION FEES

7.0 The Contractor is required to complete and submit the standard St. Johns County application form for non-exclusive Franchise to rent roll-off and/or commercial containers, collect Construction and Demolition Debris, transport said material and dispose of it in a duly licensed and permitted facility accepting Construction and Demolition Waste. A non-refundable \$500.00 application fee as well as a \$100.00 fee per vehicle shall accompany the Contractor's application to the County for the non-exclusive Franchise.

ARTICLE VIII: FRANCHISE FEES

8.0 The Contractor shall pay a Franchise fee to the County for the privilege of using the public streets, roads, alleys and other thoroughfares of the County for the collection and transportation of Construction and Demolition Debris that originates in the unincorporated areas of St. Johns County. The Franchise fee also may be used to pay the cost of implementing, administering and enforcing the County's regulations for the safe handling of Construction and Demolition Debris generated in the unincorporated areas of St. Johns County.

8.1 The Franchise fee shall be equal to ten percent (10%) of the Gross Revenues collected by the Contractor for the services provided pursuant to this Agreement, including the collection, transportation, processing and disposing of Construction and Demolition Debris originating in the unincorporated areas of St. Johns County.

8.2 Franchise fees shall be paid to the County once each quarter. Franchise fees shall be delivered to the County no later than January 15, April 15, July 15, and October 16 of each year or within 60 days of termination of the Agreement. Each quarterly payment shall be based upon the Gross Revenues earned by the Contractor for the services provided pursuant to this Agreement for the preceding calendar quarter.

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Non Exclusive Franchise Agreement for Construction & Demolition Debris*

8.3 Contractor shall provide the County with an audited financial statement to demonstrate that the Contractor has fully paid the applicable Franchise fee for the full three (3) year Agreement Term or any partial period. The financial statement shall be prepared by an independent accounting firm in accordance with generally accepted accounting principles. Unless the County instructs the Contractor otherwise, the Contractor shall deliver the audited financial statement to the County within 45 days following the Expiration Date of this Agreement or within 45 days of the termination of this Agreement for any partial period.

8.4 Each quarterly payment of the Franchise fee shall be accompanied by a true and accurate report demonstrating that the Franchise fee has been paid in full for the preceding calendar quarter.

8.5 The Contractor shall allow the County's auditors to inspect and examine the Contractor's financial books and records to confirm the Contractor's compliance with this Agreement. The inspections shall be allowed by the Contractor at any reasonable time following reasonable notice by the County. Additionally, the County's auditors may communicate directly with customers of the Contractor for the purpose of confirming the Contractor's compliance with this Agreement. To the extent authorized by Chapter 119, Florida Statutes, or other applicable laws, the information obtained by the County under this Section 8.5 shall remain confidential. Contractor shall comply with Chapter 119, Florida Statutes as related to the disclosure of public records. If the Contractor fails to pay the full amount of the Franchise fee in a timely manner, the County may suspend the Franchise until payment is made or may terminate this Agreement with no further notice and revoke the Franchise. The Contractor shall pay any and all of the County's expenses for the collection of the Franchise fee, including but not limited to court costs and reasonable attorneys' fees. Interest shall accrue on any unpaid Franchise fee at the maximum rate allowed by law.

8.6 If the Contractor fails to pay the full amount of the Franchise fee within 30 days of the end of each quarter, the County may suspend the Franchise until payment is made or may terminate this Agreement with no further notice and revoke the Franchise. The Contractor shall pay any and all of the County's expenses for the collection of the

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Franchise fee, including but not limited to court costs and reasonable attorneys' fees.  
Interest shall accrue on any unpaid Franchise fee at the maximum rate allowed by law.

ARTICLE IX: APPLICATION RENEWAL

9.0 Between the months of April 1 through June 1, prior to the Expiration Date of this Agreement, the Contractor may submit a renewal application to the Department of Solid Waste Management. A five hundred dollar (\$500) renewal fee and a vehicle fee of one hundred dollars (\$100) per vehicle shall accompany said renewal application. A surety bond or letter of credit in the amount of five thousand dollars (\$5,000) shall also be required with the application, in order to satisfy the surety requirements specified in the St. Johns County Solid Waste Ordinance. During review of the renewal application the Contractor shall operate as a non-exclusive Franchise for a period not to exceed 60 days or until the renewal application is approved or denied within that 60 day period. Applications for renewal not meeting all applicable criteria may be denied.

ARTICLE X: INSURANCE

10.0 The Contractor shall not begin collecting or transporting Construction and Demolition Debris under this Agreement until appropriate certificates of insurance are provided to the County that demonstrates compliance with the requirements of this Agreement. The Contractor must maintain the insurance in full force and effect at all times throughout the Term of this Agreement. The County shall be named as an additional insured on all of the insurance policies, except for workers compensation. Certificates should be issued to St. Johns County Board of County Commissioners, 500 San Sebastian View, St. Augustine, Florida, 32084.

10.1 The Contractor shall provide workers' compensation and employer's liability insurance of not less than \$100,000 for each person/accident and each person/disease or the minimum amount required under Florida Law, whichever is greater.

10.2 The Contractor shall provide commercial general liability insurance in the amount of \$1,000,000 per occurrence, and shall include coverage for bodily injury, death, property damage and other liabilities arising from or related to Contractor's premises,

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operations, independent contractors, and contracts. The coverage must specify that it included the indemnification and hold harmless provisions of this Agreement.

10.3 The Contractor shall provide vehicle liability insurance with minimum combined single limits of \$1,000,000 for all owned, hired, and non-owned vehicles.

10.4 All of the companies providing insurance must be authorized to do business in the State of Florida. All of the insurance companies providing coverage must be rated A-IX or higher in the most recent edition of Best's Key Rating Guide.

10.5 No change or cancellation of any insurance required under this Agreement may be made unless thirty (30) days prior written notice is provided to the County. Each insurance certificate must name the County as an additional insured and contain a clause stating substantially as follows: "If any of the above-described policies are to be cancelled or undergo material change before the expiration date, the issuing insurance company will mail written notice to: St. Johns County Board of County Commissioners, 500 San Sebastian View, St. Augustine, Florida, 32084 at least 30 days before the effective date of the cancellation or change."

ARTICLE XI: INDEMNIFICATION

11.0 The Contractor agrees that it shall indemnify, defend and hold harmless the County, its officials, officers, employees and agents, against, and assume all liability for, any and all claims, suits, causes of action, damages, liabilities, expenditures, or proceedings of any kind (collectively "claims") arising from or related to any of the Contractor's activities or operations pursuant to this Agreement, including but not limited to claims based on bodily injury, loss of life or limb, damage to property, pollution or other environmental damages.

11.1 This provision relating to Indemnification, is separate and apart from, and is in no way limited by, any insurance provided by the Contractor, pursuant to this Agreement, or otherwise.

ARTICLE XII: TERMINATION BY COUNTY

12.0 If there is a material breach of any term of this Agreement by the Contractor, the County shall notify the Contractor in writing of the breach and provide the Contractor

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Non Exclusive Franchise Agreement for Construction & Demolition Debris*

with an opportunity to correct the breach. If the breach is not corrected within one (1) day of receipt of the written notice, the County may terminate the Agreement at any time at the County's discretion by providing written notice to the Contractor, which shall be effective upon the date specified in the notice. Upon such notice, the Contractor shall immediately cease all activities under this Agreement. Among other things, a material breach of this Agreement shall be deemed to have occurred if: (a) the Contractor fails to pay Franchise fees at the times and in the amounts required by this Agreement; (b) the Contractor fails to file complete, accurate, and timely reports, as required by this Agreement; (c) the Contractor disposes of Solid Waste at a site other than a properly permitted and authorized Solid Waste Management Facility; (d) the Contractor collects or transports Solid Waste in a manner that is not authorized under this Agreement; (e) the Contractor fails to continuously maintain the types and amounts of insurance required under this Agreement; (f) the Contractor declares bankruptcy; or (g) the Contractor fails to comply with the applicable provisions of the St. Johns County Solid Waste Ordinance or this Agreement.

12.1 If the Contractor has frequently, regularly or repetitively defaulted in the performance of any of the requirements in this Agreement or any applicable local, state or federal regulation, the County may in its sole discretion deem the Contractor to be a "habitual violator," regardless of whether the Contractor has corrected each individual condition of default. Under such circumstances, the Contractor shall forfeit its right to any further grace period to correct or cure future defaults. All of the Contractor's prior defaults shall be considered cumulative and collectively shall constitute a condition of irredeemable default. The County shall issue the Contractor a notice that the Contractor has been deemed a "habitual violator." Thereafter, any single default by the Contractor of whatever nature shall be grounds for immediate termination of this Agreement. In the event of any such default, the County may terminate this Agreement by giving a written notice to the Contractor, which shall be effective upon the date specified in the notice. Upon such notice, the Contractor shall immediately cease all activities under this Agreement. This section creates a supplemental and additional means of terminating this Agreement and it shall not be deemed to be in lieu of any other remedy available at law or equity.

ARTICLE XIII: MISCELLANEOUS PROVISIONS

13.0 *Party Representatives.* For the purposes of this Agreement, the Authorized representative of the County (as designated by the County Administrator) shall be the Solid Waste Manager of the St. Johns County Solid Waste Department or the Manager's designee. The authorized representative of the Contractor for purposes of this Agreement shall be Carly Evans. Either party may change its representative upon five (5) days, prior notice to the other party.

13.1 *Notice.* All notices and consents required or permitted by this Agreement shall be in writing and transmitted in person or by registered or certified mail, return receipt requested, with notice deemed to be given upon receipt, as follows:

If to the County:

Solid Waste Manager  
St. Johns County Solid Waste Department  
3005 Allen Nease Road  
Elkton, FL 32033

If to the Contractor:

Carly Evans  
AMASONIS  
273 Jefferson Avenue  
Orange Park FL 32065

Changes in the respective addresses to which such notices may be directed may be made from time to time by either party by notice to the other party.

13.2 *Waiver.* No delay or failure to exercise a right under this Agreement shall impair such right or shall be construed to be a waiver thereof, but such right may be exercised from time to time and as often as deemed expedient. The failure of the County or Contractor at any time to require performance by the other party of any term in this Agreement shall in no way affect the right of the County or Contractor thereafter to enforce same; nor shall waiver by the County or Contractor of any breach of any term of this Agreement be taken or held to be a waiver of any succeeding breach of such term or

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as a waiver of any term itself. To be effective, any waiver shall be in writing and signed by the party granting such waiver. Any such waiver shall be limited to the particular right so waived and shall not be deemed to waive any other right under this Agreement.

13.3 *Agreement Governed by Florida Law and Venue.* This Agreement shall be governed by and construed in accordance with the laws of the State of Florida, and it shall be binding upon, and inure to the benefit of, the parties, their successors, and assigns. The Contractor shall submit to service of process and the jurisdiction of the State of Florida for any controversy or claim arising out of or relating to this Agreement. Any action to interpret and/or enforce this Agreement shall be brought and maintained in the State of Florida. Venue shall be in St. Johns County, Florida.

13.4 *Assignment.* This Agreement may not be sold, assigned or transferred by the Contractor without prior approval by the County. As a condition precedent to receiving the County's approval, the Contractor or the potential assignee must demonstrate to the County's satisfaction that the assignee has the ability and resources to comply with all of the applicable requirements set forth in this Agreement and all applicable local, state and federal regulations.

13.5 *Representations of the Contractor.* The Contractor represents that: (a) it is a corporation duly organized under the laws of the State of Florida or a person or an entity qualified to do business in the State of Florida; (b) this Agreement has been duly authorized, executed, and delivered in the State of Florida; and (c) it has the required power and authority to perform this Agreement.

13.6 *Headings.* Captions and headings contained in this Agreement are for ease of Reference only and do not constitute a part of this Agreement.

13.7 *Severability.* If any term, condition, covenant or obligation of this Agreement is declared illegal, void or unenforceable, the remaining terms shall not be affected but shall remain in full force and effect, and this Agreement shall be construed as if such illegal, void or unenforceable provision had never been contained herein.

13.8 *Survivability.* Any term, condition, covenant, or obligation that requires performance by a party subsequent to expiration or termination of this Agreement shall remain enforceable against such party subsequent to such expiration or termination.



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13.9 *Third Party Beneficiaries.* It is agreed between the parties hereto that no provision of this Agreement is intended to create any third-party beneficiaries hereunder, or to authorize anyone not a party to this Agreement to maintain an action pursuant to the terms or provisions of this Agreement.

13.10 *Personal Liability.* Nothing in this Agreement shall be construed as creating any personal liability on the part of any official, officer, employee, agent or representative of the County.

13.11 *Independent Contractor.* When performing the activities required by this Agreement the Contractor will be acting in the capacity of an independent contractor and not as an agent, employee, partner, joint venture or associate of the County. The Contractor shall be solely responsible for the means, methods and procedures used by the Contractor to perform under this Agreement. Neither the Contractor nor any of its employees, officers, agents or subcontractors shall represent, act, purport to act, or be deemed to be an agent, representative, employee, or servant of the County. The Contractor shall have no authority to bind the County to any agreement or contract. No person performing any work or services for the Contractor under this Agreement shall be entitled to any benefits available or granted to employees of the County.

13.12 *Merger Clause.* This Agreement constitutes the entire agreement and understanding of the parties as to all matters addressed or referred to herein. This Agreement supersedes all prior and contemporaneous agreements and understandings, representations and warranties, whether oral or written, relating to such matters.

13.13 *Fair Dealing.* The Contractor declares and warrants that the Contractor enters into the Agreement without reliance on or engaging in any collusion, bribery or fraud, that all of the Contractor's representations in this Agreement are made fairly and in good faith, and that no County Commissioner, County officer, or County employee, directly or indirectly owns more than 5% of the total assets or capital stock of the Contractor, nor will any such person directly or indirectly benefit by more than 5%, from the profits or emoluments of this Agreement. The Contractor warrants that it has not employed or retained any company or person, other than a bona fide employee working solely for the Contractor, to solicit or secure this Agreement and the Contractor has not paid or agreed

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to pay any person, company, corporation, individual or firm, other than a bona fide employee working solely for the Contractor, any fee, commission, percentage gift or any other compensation contingent upon or resulting from the award or making of this Agreement. Further, the contractor declares and warrants that the Contractor is not subject to the restrictions in Section 287.133, Florida Statutes, for a public entity crime.

13.14 *Sovereign Immunity.* Nothing in this Agreement shall be interpreted or construed to mean that the County waives sovereign immunity as provided under Section 768.28, Florida Statutes.

13.15 *Amendment.* Except as otherwise specifically provided herein, this Agreement may be amended only by written instrument specifically referring to this Agreement and executed by both parties with the same formalities as this Agreement. The term Ordinance 06-98 as used in this document, shall mean said Ordinance as may be amended from time to time.

13.16 *Terms Generally.* Whenever the context may require, any pronoun which is used in this Agreement shall include the corresponding masculine, feminine and neuter forms and the singular shall include the plural and vice versa. Unless otherwise specifically noted, the words "include," and "including" as used herein shall be deemed to be followed by the following phrase "without limitation". The words "agree," "agreement," "consent," "establish," "impose" as used herein shall be deemed to be followed by the phrase "which shall not be unreasonably withheld or delayed" except as specifically noted. Words or phrases which are defined herein by reference to a statute, rule or regulation shall have the meaning ascribed to such word or phrases as of the Effective Date, without regard to subsequent changes in such statutes, rules or regulations, unless otherwise provided.

**ARTICLE XIV: ACCESS TO RECORDS**

14.0 The access to, disclosure, non-disclosure, or exemption of records, data, documents, and/or materials associated with this Agreement shall be subject to applicable provisions of the Florida Public Records Law (Chapter 119, Florida Statutes), and any other applicable State or Federal law. Access to such public records may not be blocked,

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thwarted, or hindered by placing the public records in the possession of a third party, or an unaffiliated party.

ARTICLE XV: REVIEW OF RECORDS

15.0 As a condition of entering into this Agreement, and in order to ensure compliance, especially as it relates to any applicable law, rule, or regulation, the Contractor authorized the County to examine, review, inspect, and/or audit the books, and records (including without limitation, data, documents, and correspondence), in order to determine whether compliance has been achieved with respect to the terms, conditions, provisions, rights, and responsibilities noted in this Agreement. It is specifically noted that the Contractor is under no duty to provide access to documentation not related this Agreement, and/or is otherwise protected by County, State, and/or Federal law.

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St. Johns County  
Non Exclusive Franchise Agreement for Construction & Demolition Debris

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed  
on may 14, 2012.

**CONTRACTOR**

Amason's  
Name of Company

Printed Name: Carly A. Evans

Title: Asst. Secretary

Signature: *Carly A. Evans*  
Company Officer  
(CORPORATE SEAL)

Date May 16, 2012

*Cathy S. Kight*  
Notary  
Seen 7/1 DL



\_\_\_\_\_  
Notary Seal

**ST. JOHNS COUNTY, acting by and through  
its COUNTY ADMINISTRATOR**

ATTEST: \_\_\_\_\_  
Deputy Clerk

By: \_\_\_\_\_  
County Administrator

Legal Review:

\_\_\_\_\_  
Assistant County Attorney

**NON-EXCLUSIVE FRANCHISE AGREEMENT  
FOR CONSTRUCTION AND DEMOLITION DEBRIS**

This Non-Exclusive Franchise Agreement for the collection and transport of Construction and Demolition Debris ("Agreement") is made as of this 14<sup>th</sup> day of May, 2012, by and between St. Johns County ("County"), a political subdivision of the State of Florida, and Ann's Site Cleaning Inc. its successors and assigns ("Contractor").

**RECITALS**

WHEREAS, Contractor wishes to collect and transport Construction and Demolition Debris in the unincorporated areas of St. Johns County; and

WHEREAS, the County wishes to ensure that the Contractor's activities are performed in accordance with all applicable laws and is consistent with the public interest.

NOW, THEREFORE, in consideration of the mutual covenants hereinafter contained and other good and valuable consideration, the receipt and adequacy of which are hereby acknowledged, the County and Contractor agree as follows:

**ARTICLE I: DEFINITIONS**

1.0 The terms used in this Agreement shall have the same definitions and meanings set forth in the St. Johns County Solid Waste Ordinance (*see* St. Johns County Ordinance 06-98), unless a different meaning is specifically defined herein. Such terms shall be construed in a manner consistent with the definitions provided in section 403.703 of the Florida Statutes. Any inconsistency with section 403.703 of the Florida Statutes shall be resolved in favor of said statutory provision.

**ARTICLE II: CONTRACTOR'S GENERAL WARRANTY**

2.0 By executing this Agreement, Contractor acknowledges that it has read the St. Johns County Solid Waste Ordinance (together with all amendments thereto) and this Agreement, and Contractor agrees to comply at all times with the applicable provisions of

*St. Johns County*  
*Non Exclusive Franchise Agreement for Construction & Demolition Debris*

this Agreement and the Ordinance, a copy of which is attached hereto, and incorporated herein.

**ARTICLE III: NON-EXCLUSIVE FRANCHISE**

3.0 The County hereby grants a non-exclusive Franchise to Contractor for the collection and transport of Construction and Demolition Debris in the unincorporated areas of St. Johns County, subject to the terms and conditions of this Agreement and all applicable laws. This Agreement authorizes the Contractor to only collect and transport Construction and Demolition Debris in roll-off containers or other commercial collection equipment standard to the industry for this type of service. No other collection or transportation of Construction and Demolition Debris is authorized under this Agreement.

**ARTICLE IV: TERM**

4.0 This Agreement shall be effective upon execution by the County's duly authorized representative ("Effective Date"). This Agreement shall run from the Effective Date and shall expire at 11:59 p.m. (EST) on June 30, 2015 ("Expiration Date").

**ARTICLE V: CONTRACTOR'S OPERATIONS**

5.0 The Contractor shall take all necessary steps to ensure that its operations are performed in compliance with all applicable provisions of the St. Johns County Code of Ordinances, and all other applicable local, state, and federal laws.

5.1 The Contractor's employees shall be properly trained and qualified to perform the tasks assigned to them under this Agreement.

5.2 Contractor may collect and transport Construction and Demolition Debris between 7 a.m. and 6 p.m. (EST), on Monday through Saturday of each week. Contractor shall not collect or transport Construction and Demolition Debris at other times, unless the Contractor has received the prior approval of the Manager of the St. Johns County Solid Waste Department.

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5.3 When collecting or transporting construction and Demolition Debris, Contractor's employees shall wear a company shirt or uniform, which shall have the Contractor's name or logo in a conspicuous place.

5.4 All of the trucks used by the Contractor for the collection and transportation of Construction and Demolition Debris shall be marked with the name and phone number of the Contractor in letters that are plainly visible and at least four inches high. Each commercial container used by the Contractor for the collection and transportation of Construction and Demolition Debris shall be labeled by the Contractor on each long side (two sides) in the same manner.

5.5 The Contractor's roll-off and/or commercial containers shall be securely covered when transporting Construction and Demolition Debris, as authorized under this Agreement.

5.6 All of the rolling stock used by the Contractor for collecting and transporting Construction and Demolition Debris in St. Johns County shall be maintained in a good, clean, and safe operating condition, and be properly marked with the Contractor's name and phone number on all roll-off and/or commercial containers.

5.7 Contractor shall provide the County with a list of the vehicles used by the Contractor and the license plate number for each vehicle and the Company's vehicle identification number (VIN). The Contractor shall ensure that the vehicle list is updated and submitted to the County within 30 days of any revisions including deletions and/or additions of the vehicles.

5.8 This Agreement authorizes the use of roll-off and/or commercial containers and other commercial collection equipment standard to the industry for this type of service. The Contractor may provide an unlimited number of roll-off and/or commercial containers for Construction and Demolition Debris, if the construction site is acceptable for their proper placement and there is a bona-fide need. However, any roll-off and/or commercial container holding more than a de minimis amount of Solid Waste other than Construction and Demolition Debris shall be regulated as though the container were filled with Solid Waste and shall require transport and disposal at a St. Johns County facility accepting such waste.

**ARTICLE VI: DISPOSAL SITES**

6.0 All of the Solid Waste, Construction and Demolition Debris collected by the Contractor shall be processed or disposed of at a duly licensed and permitted Solid Waste Management Facility accepting Construction and Demolition Debris.

**ARTICLE VII: APPLICATION FEES**

7.0 The Contractor is required to complete and submit the standard St. Johns County application form for non-exclusive Franchise to rent roll-off and/or commercial containers, collect Construction and Demolition Debris, transport said material and dispose of it in a duly licensed and permitted facility accepting Construction and Demolition Waste. A non-refundable \$500.00 application fee as well as a \$100.00 fee per vehicle shall accompany the Contractor's application to the County for the non-exclusive Franchise.

**ARTICLE VIII: FRANCHISE FEES**

8.0 The Contractor shall pay a Franchise fee to the County for the privilege of using the public streets, roads, alleys and other thoroughfares of the County for the collection and transportation of Construction and Demolition Debris that originates in the unincorporated areas of St. Johns County. The Franchise fee also may be used to pay the cost of implementing, administering and enforcing the County's regulations for the safe handling of Construction and Demolition Debris generated in the unincorporated areas of St. Johns County.

8.1 The Franchise fee shall be equal to ten percent (10%) of the Gross Revenues collected by the Contractor for the services provided pursuant to this Agreement, including the collection, transportation, processing and disposing of Construction and Demolition Debris originating in the unincorporated areas of St. Johns County.

8.2 Franchise fees shall be paid to the County once each quarter. Franchise fees shall be delivered to the County no later than January 15, April 15, July 15, and October 16 of each year or within 60 days of termination of the Agreement. Each quarterly payment shall be based upon the Gross Revenues earned by the Contractor for the services provided pursuant to this Agreement for the preceding calendar quarter.



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8.3 Contractor shall provide the County with an audited financial statement to demonstrate that the Contractor has fully paid the applicable Franchise fee for the full three (3) year Agreement Term or any partial period. The financial statement shall be prepared by an independent accounting firm in accordance with generally accepted accounting principles. Unless the County instructs the Contractor otherwise, the Contractor shall deliver the audited financial statement to the County within 45 days following the Expiration Date of this Agreement or within 45 days of the termination of this Agreement for any partial period.

8.4 Each quarterly payment of the Franchise fee shall be accompanied by a true and accurate report demonstrating that the Franchise fee has been paid in full for the preceding calendar quarter.

8.5 The Contractor shall allow the County's auditors to inspect and examine the Contractor's financial books and records to confirm the Contractor's compliance with this Agreement. The inspections shall be allowed by the Contractor at any reasonable time following reasonable notice by the County. Additionally, the County's auditors may communicate directly with customers of the Contractor for the purpose of confirming the Contractor's compliance with this Agreement. To the extent authorized by Chapter 119, Florida Statutes, or other applicable laws, the information obtained by the County under this Section 8.5 shall remain confidential. Contractor shall comply with Chapter 119, Florida Statutes as related to the disclosure of public records. If the Contractor fails to pay the full amount of the Franchise fee in a timely manner, the County may suspend the Franchise until payment is made or may terminate this Agreement with no further notice and revoke the Franchise. The Contractor shall pay any and all of the County's expenses for the collection of the Franchise fee, including but not limited to court costs and reasonable attorneys' fees. Interest shall accrue on any unpaid Franchise fee at the maximum rate allowed by law.

8.6 If the Contractor fails to pay the full amount of the Franchise fee within 30 days of the end of each quarter, the County may suspend the Franchise until payment is made or may terminate this Agreement with no further notice and revoke the Franchise. The Contractor shall pay any and all of the County's expenses for the collection of the

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Franchise fee, including but not limited to court costs and reasonable attorneys' fees.  
Interest shall accrue on any unpaid Franchise fee at the maximum rate allowed by law.

**ARTICLE IX: APPLICATION RENEWAL**

9.0 Between the months of April 1 through June 1, prior to the Expiration Date of this Agreement, the Contractor may submit a renewal application to the Department of Solid Waste Management. A five hundred dollar (\$500) renewal fee and a vehicle fee of one hundred dollars (\$100) per vehicle shall accompany said renewal application. A surety bond or letter of credit in the amount of five thousand dollars (\$5,000) shall also be required with the application, in order to satisfy the surety requirements specified in the St. Johns County Solid Waste Ordinance. During review of the renewal application the Contractor shall operate as a non-exclusive Franchise for a period not to exceed 60 days or until the renewal application is approved or denied within that 60 day period. Applications for renewal not meeting all applicable criteria may be denied.

**ARTICLE X: INSURANCE**

10.0 The Contractor shall not begin collecting or transporting Construction and Demolition Debris under this Agreement until appropriate certificates of insurance are provided to the County that demonstrates compliance with the requirements of this Agreement. The Contractor must maintain the insurance in full force and effect at all times throughout the Term of this Agreement. The County shall be named as an additional insured on all of the insurance policies, except for workers compensation. Certificates should be issued to St. Johns County Board of County Commissioners, 500 San Sebastian View, St. Augustine, Florida, 32084.

10.1 The Contractor shall provide workers' compensation and employer's liability insurance of not less than \$100,000 for each person/accident and each person/disease or the minimum amount required under Florida Law, whichever is greater.

10.2 The Contractor shall provide commercial general liability insurance in the amount of \$1,000,000 per occurrence, and shall include coverage for bodily injury, death, property damage and other liabilities arising from or related to Contractor's premises,

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operations, independent contractors, and contracts. The coverage must specify that it included the indemnification and hold harmless provisions of this Agreement.

10.3 The Contractor shall provide vehicle liability insurance with minimum combined single limits of \$1,000,000 for all owned, hired, and non-owned vehicles.

10.4 All of the companies providing insurance must be authorized to do business in the State of Florida. All of the insurance companies providing coverage must be rated A-IX or higher in the most recent edition of Best's Key Rating Guide.

10.5 No change or cancellation of any insurance required under this Agreement may be made unless thirty (30) days prior written notice is provided to the County. Each insurance certificate must name the County as an additional insured and contain a clause stating substantially as follows: "If any of the above-described policies are to be cancelled or undergo material change before the expiration date, the issuing insurance company will mail written notice to: St. Johns County Board of County Commissioners, 500 San Sebastian View, St. Augustine, Florida, 32084 at least 30 days before the effective date of the cancellation or change."

ARTICLE XI: INDEMNIFICATION

11.0 The Contractor agrees that it shall indemnify, defend and hold harmless the County, its officials, officers, employees and agents, against, and assume all liability for, any and all claims, suits, causes of action, damages, liabilities, expenditures, or proceedings of any kind (collectively "claims") arising from or related to any of the Contractor's activities or operations pursuant to this Agreement, including but not limited to claims based on bodily injury, loss of life or limb, damage to property, pollution or other environmental damages.

11.1 This provision relating to Indemnification, is separate and apart from, and is in no way limited by, any insurance provided by the Contractor, pursuant to this Agreement, or otherwise.

ARTICLE XII: TERMINATION BY COUNTY

12.0 If there is a material breach of any term of this Agreement by the Contractor, the County shall notify the Contractor in writing of the breach and provide the Contractor

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with an opportunity to correct the breach. If the breach is not corrected within one (1) day of receipt of the written notice, the County may terminate the Agreement at any time at the County's discretion by providing written notice to the Contractor, which shall be effective upon the date specified in the notice. Upon such notice, the Contractor shall immediately cease all activities under this Agreement. Among other things, a material breach of this Agreement shall be deemed to have occurred if: (a) the Contractor fails to pay Franchise fees at the times and in the amounts required by this Agreement; (b) the Contractor fails to file complete, accurate, and timely reports, as required by this Agreement; (c) the Contractor disposes of Solid Waste at a site other than a properly permitted and authorized Solid Waste Management Facility; (d) the Contractor collects or transports Solid Waste in a manner that is not authorized under this Agreement; (e) the Contractor fails to continuously maintain the types and amounts of insurance required under this Agreement; (f) the Contractor declares bankruptcy; or (g) the Contractor fails to comply with the applicable provisions of the St. Johns County Solid Waste Ordinance or this Agreement.

12.1 If the Contractor has frequently, regularly or repetitively defaulted in the performance of any of the requirements in this Agreement or any applicable local, state or federal regulation, the County may in its sole discretion deem the Contractor to be a "habitual violator," regardless of whether the Contractor has corrected each individual condition of default. Under such circumstances, the Contractor shall forfeit its right to any further grace period to correct or cure future defaults. All of the Contractor's prior defaults shall be considered cumulative and collectively shall constitute a condition of irredeemable default. The County shall issue the Contractor a notice that the Contractor has been deemed a "habitual violator." Thereafter, any single default by the Contractor of whatever nature shall be grounds for immediate termination of this Agreement. In the event of any such default, the County may terminate this Agreement by giving a written notice to the Contractor, which shall be effective upon the date specified in the notice. Upon such notice, the Contractor shall immediately cease all activities under this Agreement. This section creates a supplemental and additional means of terminating this Agreement and it shall not be deemed to be in lieu of any other remedy available at law or equity.

ARTICLE XIII: MISCELLANEOUS PROVISIONS

13.0 *Party Representatives.* For the purposes of this Agreement, the Authorized representative of the County (as designated by the County Administrator) shall be the Solid Waste Manager of the St. Johns County Solid Waste Department or the Manager's designee. The authorized representative of the Contractor for purposes of this Agreement shall be ANN LEEPER. Either party may change its representative upon five (5) days, prior notice to the other party.

13.1 *Notice.* All notices and consents required or permitted by this Agreement shall be in writing and transmitted in person or by registered or certified mail, return receipt requested, with notice deemed to be given upon receipt, as follows:

If to the County:

Solid Waste Manager  
St. Johns County Solid Waste Department  
3005 Allen Nease Road  
Elkton, FL 32033

If to the Contractor:

*Mailing*  
ANN'S SITE CLEANING, INC.  
318 N. ROSCOE BLVD.  
Ponte Vedra Beach - 32082

Changes in the respective addresses to which such notices may be directed may be made from time to time by either party by notice to the other party.

13.2 *Waiver.* No delay or failure to exercise a right under this Agreement shall impair such right or shall be construed to be a waiver thereof, but such right may be exercised from time to time and as often as deemed expedient. The failure of the County or Contractor at any time to require performance by the other party of any term in this Agreement shall in no way affect the right of the County or Contractor thereafter to enforce same; nor shall waiver by the County or Contractor of any breach of any term of this Agreement be taken or held to be a waiver of any succeeding breach of such term or

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as a waiver of any term itself. To be effective, any waiver shall be in writing and signed by the party granting such waiver. Any such waiver shall be limited to the particular right so waived and shall not be deemed to waive any other right under this Agreement.

13.3 *Agreement Governed by Florida Law and Venue.* This Agreement shall be governed by and construed in accordance with the laws of the State of Florida, and it shall be binding upon, and inure to the benefit of, the parties, their successors, and assigns. The Contractor shall submit to service of process and the jurisdiction of the State of Florida for any controversy or claim arising out of or relating to this Agreement. Any action to interpret and/or enforce this Agreement shall be brought and maintained in the State of Florida. Venue shall be in St. Johns County, Florida.

13.4 *Assignment.* This Agreement may not be sold, assigned or transferred by the Contractor without prior approval by the County. As a condition precedent to receiving the County's approval, the Contractor or the potential assignee must demonstrate to the County's satisfaction that the assignee has the ability and resources to comply with all of the applicable requirements set forth in this Agreement and all applicable local, state and federal regulations.

13.5 *Representations of the Contractor.* The Contractor represents that: (a) it is a corporation duly organized under the laws of the State of Florida or a person or an entity qualified to do business in the State of Florida; (b) this Agreement has been duly authorized, executed, and delivered in the State of Florida; and (c) it has the required power and authority to perform this Agreement.

13.6 *Headings.* Captions and headings contained in this Agreement are for ease of Reference only and do not constitute a part of this Agreement.

13.7 *Severability.* If any term, condition, covenant or obligation of this Agreement is declared illegal, void or unenforceable, the remaining terms shall not be affected but shall remain in full force and effect, and this Agreement shall be construed as if such illegal, void or unenforceable provision had never been contained herein.

13.8 *Survivability.* Any term, condition, covenant, or obligation that requires performance by a party subsequent to expiration or termination of this Agreement shall remain enforceable against such party subsequent to such expiration or termination.

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13.9 *Third Party Beneficiaries.* It is agreed between the parties hereto that no provision of this Agreement is intended to create any third-party beneficiaries hereunder, or to authorize anyone not a party to this Agreement to maintain an action pursuant to the terms or provisions of this Agreement.

13.10 *Personal Liability.* Nothing in this Agreement shall be construed as creating any personal liability on the part of any official, officer, employee, agent or representative of the County.

13.11 *Independent Contractor.* When performing the activities required by this Agreement the Contractor will be acting in the capacity of an independent contractor and not as an agent, employee, partner, joint venture or associate of the County. The Contractor shall be solely responsible for the means, methods and procedures used by the Contractor to perform under this Agreement. Neither the Contractor nor any of its employees, officers, agents or subcontractors shall represent, act, purport to act, or be deemed to be an agent, representative, employee, or servant of the County. The Contractor shall have no authority to bind the County to any agreement or contract. No person performing any work or services for the Contractor under this Agreement shall be entitled to any benefits available or granted to employees of the County.

13.12 *Merger Clause.* This Agreement constitutes the entire agreement and understanding of the parties as to all matters addressed or referred to herein. This Agreement supersedes all prior and contemporaneous agreements and understandings, representations and warranties, whether oral or written, relating to such matters.

13.13 *Fair Dealing.* The Contractor declares and warrants that the Contractor enters into the Agreement without reliance on or engaging in any collusion, bribery or fraud, that all of the Contractor's representations in this Agreement are made fairly and in good faith, and that no County Commissioner, County officer, or County employee, directly or indirectly owns more than 5% of the total assets or capital stock of the Contractor, nor will any such person directly or indirectly benefit by more than 5%, from the profits or emoluments of this Agreement. The Contractor warrants that it has not employed or retained any company or person, other than a bona fide employee working solely for the Contractor, to solicit or secure this Agreement and the Contractor has not paid or agreed

*St. Johns County  
Non Exclusive Franchise Agreement for Construction & Demolition Debris*

to pay any person, company, corporation, individual or firm, other than a bona fide employee working solely for the Contractor, any fee, commission, percentage gift or any other compensation contingent upon or resulting from the award or making of this Agreement. Further, the contractor declares and warrants that the Contractor is not subject to the restrictions in Section 287.133, Florida Statutes, for a public entity crime.

13.14 *Sovereign Immunity.* Nothing in this Agreement shall be interpreted or construed to mean that the County waives sovereign immunity as provided under Section 768.28, Florida Statutes.

13.15 *Amendment.* Except as otherwise specifically provided herein, this Agreement may be amended only by written instrument specifically referring to this Agreement and executed by both parties with the same formalities as this Agreement. The term Ordinance 06-98 as used in this document, shall mean said Ordinance as may be amended from time to time.

13.16 *Terms Generally.* Whenever the context may require, any pronoun which is used in this Agreement shall include the corresponding masculine, feminine and neuter forms and the singular shall include the plural and vice versa. Unless otherwise specifically noted, the words "include," and "including" as used herein shall be deemed to be followed by the following phrase "without limitation". The words "agree," "agreement," "consent," "establish," "impose" as used herein shall be deemed to be followed by the phrase "which shall not be unreasonably withheld or delayed" except as specifically noted. Words or phrases which are defined herein by reference to a statute, rule or regulation shall have the meaning ascribed to such word or phrases as of the Effective Date, without regard to subsequent changes in such statutes, rules or regulations, unless otherwise provided.

**ARTICLE XIV: ACCESS TO RECORDS**

14.0 The access to, disclosure, non-disclosure, or exemption of records, data, documents, and/or materials associated with this Agreement shall be subject to applicable provisions of the Florida Public Records Law (Chapter 119, Florida Statutes), and any other applicable State or Federal law. Access to such public records may not be blocked,



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thwarted, or hindered by placing the public records in the possession of a third party, or an unaffiliated party.

**ARTICLE XV: REVIEW OF RECORDS**

15.0 As a condition of entering into this Agreement, and in order to ensure compliance, especially as it relates to any applicable law, rule, or regulation, the Contractor authorized the County to examine, review, inspect, and/or audit the books, and records (including without limitation, data, documents, and correspondence), in order to determine whether compliance has been achieved with respect to the terms, conditions, provisions, rights, and responsibilities noted in this Agreement. It is specifically noted that the Contractor is under no duty to provide access to documentation not related this Agreement, and/or is otherwise protected by County, State, and/or Federal law.

-----

St. Johns County  
Non Exclusive Franchise Agreement for Construction & Demolition Debris

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed  
on May 14, 2012.

**CONTRACTOR**

Ann's Site Cleaning Inc.  
Name of Company

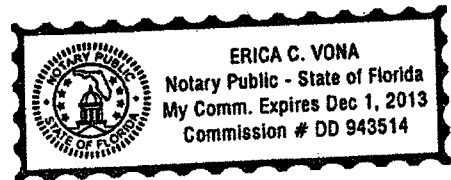
Printed Name: Ann LEOPER

Title: president

Signature: [Signature]  
Company Officer  
(CORPORATE SEAL)

Date May 14<sup>th</sup>, 2012

[Signature] Erica C. Vona  
Notary



\_\_\_\_\_  
Notary Seal

**ST. JOHNS COUNTY, acting by and through  
its COUNTY ADMINISTRATOR**

ATTEST: \_\_\_\_\_  
Deputy Clerk

By: \_\_\_\_\_  
County Administrator

Legal Review:

\_\_\_\_\_  
Assistant County Attorney

**NON-EXCLUSIVE FRANCHISE AGREEMENT  
FOR CONSTRUCTION AND DEMOLITION DEBRIS**

This Non-Exclusive Franchise Agreement for the collection and transport of Construction and Demolition Debris ("Agreement") is made as of this 18<sup>th</sup> day of May, 2012, by and between St. Johns County ("County"), a political subdivision of the State of Florida, and Arwood Waste, its successors and assigns ("Contractor").

**RECITALS**

WHEREAS, Contractor wishes to collect and transport Construction and Demolition Debris in the unincorporated areas of St. Johns County; and

WHEREAS, the County wishes to ensure that the Contractor's activities are performed in accordance with all applicable laws and is consistent with the public interest.

NOW, THEREFORE, in consideration of the mutual covenants hereinafter contained and other good and valuable consideration, the receipt and adequacy of which are hereby acknowledged, the County and Contractor agree as follows:

**ARTICLE I: DEFINITIONS**

1.0 The terms used in this Agreement shall have the same definitions and meanings set forth in the St. Johns County Solid Waste Ordinance (*see* St. Johns County Ordinance 06-98), unless a different meaning is specifically defined herein. Such terms shall be construed in a manner consistent with the definitions provided in section 403.703 of the Florida Statutes. Any inconsistency with section 403.703 of the Florida Statutes shall be resolved in favor of said statutory provision.

**ARTICLE II: CONTRACTOR'S GENERAL WARRANTY**

2.0 By executing this Agreement, Contractor acknowledges that it has read the St. Johns County Solid Waste Ordinance (together with all amendments thereto) and this Agreement, and Contractor agrees to comply at all times with the applicable provisions of

*St. Johns County*  
*Non Exclusive Franchise Agreement for Construction & Demolition Debris*

this Agreement and the Ordinance, a copy of which is attached hereto, and incorporated herein.

ARTICLE III: NON-EXCLUSIVE FRANCHISE

3.0 The County hereby grants a non-exclusive Franchise to Contractor for the collection and transport of Construction and Demolition Debris in the unincorporated areas of St. Johns County, subject to the terms and conditions of this Agreement and all applicable laws. This Agreement authorizes the Contractor to only collect and transport Construction and Demolition Debris in roll-off containers or other commercial collection equipment standard to the industry for this type of service. No other collection or transportation of Construction and Demolition Debris is authorized under this Agreement.

ARTICLE IV: TERM

4.0 This Agreement shall be effective upon execution by the County's duly authorized representative ("Effective Date"). This Agreement shall run from the Effective Date and shall expire at 11:59 p.m. (EST) on June 30, 2015 ("Expiration Date").

ARTICLE V: CONTRACTOR'S OPERATIONS

5.0 The Contractor shall take all necessary steps to ensure that its operations are performed in compliance with all applicable provisions of the St. Johns County Code of Ordinances, and all other applicable local, state, and federal laws.

5.1 The Contractor's employees shall be properly trained and qualified to perform the tasks assigned to them under this Agreement.

5.2 Contractor may collect and transport Construction and Demolition Debris between 7 a.m. and 6 p.m. (EST), on Monday through Saturday of each week. Contractor shall not collect or transport Construction and Demolition Debris at other times, unless the Contractor has received the prior approval of the Manager of the St. Johns County Solid Waste Department.

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Non Exclusive Franchise Agreement for Construction & Demolition Debris*

5.3 When collecting or transporting construction and Demolition Debris, Contractor's employees shall wear a company shirt or uniform, which shall have the Contractor's name or logo in a conspicuous place.

5.4 All of the trucks used by the Contractor for the collection and transportation of Construction and Demolition Debris shall be marked with the name and phone number of the Contractor in letters that are plainly visible and at least four inches high. Each commercial container used by the Contractor for the collection and transportation of Construction and Demolition Debris shall be labeled by the Contractor on each long side (two sides) in the same manner.

5.5 The Contractor's roll-off and/or commercial containers shall be securely covered when transporting Construction and Demolition Debris, as authorized under this Agreement.

5.6 All of the rolling stock used by the Contractor for collecting and transporting Construction and Demolition Debris in St. Johns County shall be maintained in a good, clean, and safe operating condition, and be properly marked with the Contractor's name and phone number on all roll-off and/or commercial containers.

5.7 Contractor shall provide the County with a list of the vehicles used by the Contractor and the license plate number for each vehicle and the Company's vehicle identification number (VIN). The Contractor shall ensure that the vehicle list is updated and submitted to the County within 30 days of any revisions including deletions and/or additions of the vehicles.

5.8 This Agreement authorizes the use of roll-off and/or commercial containers and other commercial collection equipment standard to the industry for this type of service. The Contractor may provide an unlimited number of roll-off and/or commercial containers for Construction and Demolition Debris, if the construction site is acceptable for their proper placement and there is a bona-fide need. However, any roll-off and/or commercial container holding more than a de minimis amount of Solid Waste other than Construction and Demolition Debris shall be regulated as though the container were filled with Solid Waste and shall require transport and disposal at a St. Johns County facility accepting such waste.

**ARTICLE VI: DISPOSAL SITES**

6.0 All of the Solid Waste, Construction and Demolition Debris collected by the Contractor shall be processed or disposed of at a duly licensed and permitted Solid Waste Management Facility accepting Construction and Demolition Debris.

**ARTICLE VII: APPLICATION FEES**

7.0 The Contractor is required to complete and submit the standard St. Johns County application form for non-exclusive Franchise to rent roll-off and/or commercial containers, collect Construction and Demolition Debris, transport said material and dispose of it in a duly licensed and permitted facility accepting Construction and Demolition Waste. A non-refundable \$500.00 application fee as well as a \$100.00 fee per vehicle shall accompany the Contractor's application to the County for the non-exclusive Franchise.

**ARTICLE VIII: FRANCHISE FEES**

8.0 The Contractor shall pay a Franchise fee to the County for the privilege of using the public streets, roads, alleys and other thoroughfares of the County for the collection and transportation of Construction and Demolition Debris that originates in the unincorporated areas of St. Johns County. The Franchise fee also may be used to pay the cost of implementing, administering and enforcing the County's regulations for the safe handling of Construction and Demolition Debris generated in the unincorporated areas of St. Johns County.

8.1 The Franchise fee shall be equal to ten percent (10%) of the Gross Revenues collected by the Contractor for the services provided pursuant to this Agreement, including the collection, transportation, processing and disposing of Construction and Demolition Debris originating in the unincorporated areas of St. Johns County.

8.2 Franchise fees shall be paid to the County once each quarter. Franchise fees shall be delivered to the County no later than January 15, April 15, July 15, and October 16 of each year or within 60 days of termination of the Agreement. Each quarterly payment shall be based upon the Gross Revenues earned by the Contractor for the services provided pursuant to this Agreement for the preceding calendar quarter.

*St. Johns County  
Non Exclusive Franchise Agreement for Construction & Demolition Debris*

8.3 Contractor shall provide the County with an audited financial statement to demonstrate that the Contractor has fully paid the applicable Franchise fee for the full three (3) year Agreement Term or any partial period. The financial statement shall be prepared by an independent accounting firm in accordance with generally accepted accounting principles. Unless the County instructs the Contractor otherwise, the Contractor shall deliver the audited financial statement to the County within 45 days following the Expiration Date of this Agreement or within 45 days of the termination of this Agreement for any partial period.

8.4 Each quarterly payment of the Franchise fee shall be accompanied by a true and accurate report demonstrating that the Franchise fee has been paid in full for the preceding calendar quarter.

8.5 The Contractor shall allow the County's auditors to inspect and examine the Contractor's financial books and records to confirm the Contractor's compliance with this Agreement. The inspections shall be allowed by the Contractor at any reasonable time following reasonable notice by the County. Additionally, the County's auditors may communicate directly with customers of the Contractor for the purpose of confirming the Contractor's compliance with this Agreement. To the extent authorized by Chapter 119, Florida Statutes, or other applicable laws, the information obtained by the County under this Section 8.5 shall remain confidential. Contractor shall comply with Chapter 119, Florida Statutes as related to the disclosure of public records. If the Contractor fails to pay the full amount of the Franchise fee in a timely manner, the County may suspend the Franchise until payment is made or may terminate this Agreement with no further notice and revoke the Franchise. The Contractor shall pay any and all of the County's expenses for the collection of the Franchise fee, including but not limited to court costs and reasonable attorneys' fees. Interest shall accrue on any unpaid Franchise fee at the maximum rate allowed by law.

8.6 If the Contractor fails to pay the full amount of the Franchise fee within 30 days of the end of each quarter, the County may suspend the Franchise until payment is made or may terminate this Agreement with no further notice and revoke the Franchise. The Contractor shall pay any and all of the County's expenses for the collection of the

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Franchise fee, including but not limited to court costs and reasonable attorneys' fees.  
Interest shall accrue on any unpaid Franchise fee at the maximum rate allowed by law.

ARTICLE IX: APPLICATION RENEWAL

9.0 Between the months of April 1 through June 1, prior to the Expiration Date of this Agreement, the Contractor may submit a renewal application to the Department of Solid Waste Management. A five hundred dollar (\$500) renewal fee and a vehicle fee of one hundred dollars (\$100) per vehicle shall accompany said renewal application. A surety bond or letter of credit in the amount of five thousand dollars (\$5,000) shall also be required with the application, in order to satisfy the surety requirements specified in the St. Johns County Solid Waste Ordinance. During review of the renewal application the Contractor shall operate as a non-exclusive Franchise for a period not to exceed 60 days or until the renewal application is approved or denied within that 60 day period. Applications for renewal not meeting all applicable criteria may be denied.

ARTICLE X: INSURANCE

10.0 The Contractor shall not begin collecting or transporting Construction and Demolition Debris under this Agreement until appropriate certificates of insurance are provided to the County that demonstrates compliance with the requirements of this Agreement. The Contractor must maintain the insurance in full force and effect at all times throughout the Term of this Agreement. The County shall be named as an additional insured on all of the insurance policies, except for workers compensation. Certificates should be issued to St. Johns County Board of County Commissioners, 500 San Sebastian View, St. Augustine, Florida, 32084.

10.1 The Contractor shall provide workers' compensation and employer's liability insurance of not less than \$100,000 for each person/accident and each person/disease or the minimum amount required under Florida Law, whichever is greater.

10.2 The Contractor shall provide commercial general liability insurance in the amount of \$1,000,000 per occurrence, and shall include coverage for bodily injury, death, property damage and other liabilities arising from or related to Contractor's premises,



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operations, independent contractors, and contracts. The coverage must specify that it included the indemnification and hold harmless provisions of this Agreement.

10.3 The Contractor shall provide vehicle liability insurance with minimum combined single limits of \$1,000,000 for all owned, hired, and non-owned vehicles.

10.4 All of the companies providing insurance must be authorized to do business in the State of Florida. All of the insurance companies providing coverage must be rated A-IX or higher in the most recent edition of Best's Key Rating Guide.

10.5 No change or cancellation of any insurance required under this Agreement may be made unless thirty (30) days prior written notice is provided to the County. Each insurance certificate must name the County as an additional insured and contain a clause stating substantially as follows: "If any of the above-described policies are to be cancelled or undergo material change before the expiration date, the issuing insurance company will mail written notice to: St. Johns County Board of County Commissioners, 500 San Sebastian View, St. Augustine, Florida, 32084 at least 30 days before the effective date of the cancellation or change."

ARTICLE XI: INDEMNIFICATION

11.0 The Contractor agrees that it shall indemnify, defend and hold harmless the County, its officials, officers, employees and agents, against, and assume all liability for, any and all claims, suits, causes of action, damages, liabilities, expenditures, or proceedings of any kind (collectively "claims") arising from or related to any of the Contractor's activities or operations pursuant to this Agreement, including but not limited to claims based on bodily injury, loss of life or limb, damage to property, pollution or other environmental damages.

11.1 This provision relating to Indemnification, is separate and apart from, and is in no way limited by, any insurance provided by the Contractor, pursuant to this Agreement, or otherwise.

ARTICLE XII: TERMINATION BY COUNTY

12.0 If there is a material breach of any term of this Agreement by the Contractor, the County shall notify the Contractor in writing of the breach and provide the Contractor

*St. Johns County  
Non Exclusive Franchise Agreement for Construction & Demolition Debris*

with an opportunity to correct the breach. If the breach is not corrected within one (1) day of receipt of the written notice, the County may terminate the Agreement at any time at the County's discretion by providing written notice to the Contractor, which shall be effective upon the date specified in the notice. Upon such notice, the Contractor shall immediately cease all activities under this Agreement. Among other things, a material breach of this Agreement shall be deemed to have occurred if: (a) the Contractor fails to pay Franchise fees at the times and in the amounts required by this Agreement; (b) the Contractor fails to file complete, accurate, and timely reports, as required by this Agreement; (c) the Contractor disposes of Solid Waste at a site other than a properly permitted and authorized Solid Waste Management Facility; (d) the Contractor collects or transports Solid Waste in a manner that is not authorized under this Agreement; (e) the Contractor fails to continuously maintain the types and amounts of insurance required under this Agreement; (f) the Contractor declares bankruptcy; or (g) the Contractor fails to comply with the applicable provisions of the St. Johns County Solid Waste Ordinance or this Agreement.

12.1 If the Contractor has frequently, regularly or repetitively defaulted in the performance of any of the requirements in this Agreement or any applicable local, state or federal regulation, the County may in its sole discretion deem the Contractor to be a "habitual violator," regardless of whether the Contractor has corrected each individual condition of default. Under such circumstances, the Contractor shall forfeit its right to any further grace period to correct or cure future defaults. All of the Contractor's prior defaults shall be considered cumulative and collectively shall constitute a condition of irredeemable default. The County shall issue the Contractor a notice that the Contractor has been deemed a "habitual violator." Thereafter, any single default by the Contractor of whatever nature shall be grounds for immediate termination of this Agreement. In the event of any such default, the County may terminate this Agreement by giving a written notice to the Contractor, which shall be effective upon the date specified in the notice. Upon such notice, the Contractor shall immediately cease all activities under this Agreement. This section creates a supplemental and additional means of terminating this Agreement and it shall not be deemed to be in lieu of any other remedy available at law or equity.

ARTICLE XIII: MISCELLANEOUS PROVISIONS

13.0 *Party Representatives.* For the purposes of this Agreement, the Authorized representative of the County (as designated by the County Administrator) shall be the Solid Waste Manager of the St. Johns County Solid Waste Department or the Manager's designee. The authorized representative of the Contractor for purposes of this Agreement shall be J. Reese Stewart. Either party may change its representative upon five (5) days, prior notice to the other party.

13.1 *Notice.* All notices and consents required or permitted by this Agreement shall be in writing and transmitted in person or by registered or certified mail, return receipt requested, with notice deemed to be given upon receipt, as follows:

If to the County:

Solid Waste Manager  
St. Johns County Solid Waste Department  
3005 Allen Nease Road  
Elkton, FL 32033

If to the Contractor:

ARWOOD WASTE  
13255 LANIER RD  
JACKSONVILLE FL 32226

Changes in the respective addresses to which such notices may be directed may be made from time to time by either party by notice to the other party.

13.2 *Waiver.* No delay or failure to exercise a right under this Agreement shall impair such right or shall be construed to be a waiver thereof, but such right may be exercised from time to time and as often as deemed expedient. The failure of the County or Contractor at any time to require performance by the other party of any term in this Agreement shall in no way affect the right of the County or Contractor thereafter to enforce same; nor shall waiver by the County or Contractor of any breach of any term of this Agreement be taken or held to be a waiver of any succeeding breach of such term or

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Non Exclusive Franchise Agreement for Construction & Demolition Debris*

as a waiver of any term itself. To be effective, any waiver shall be in writing and signed by the party granting such waiver. Any such waiver shall be limited to the particular right so waived and shall not be deemed to waive any other right under this Agreement.

13.3 *Agreement Governed by Florida Law and Venue.* This Agreement shall be governed by and construed in accordance with the laws of the State of Florida, and it shall be binding upon, and inure to the benefit of, the parties, their successors, and assigns. The Contractor shall submit to service of process and the jurisdiction of the State of Florida for any controversy or claim arising out of or relating to this Agreement. Any action to interpret and/or enforce this Agreement shall be brought and maintained in the State of Florida. Venue shall be in St. Johns County, Florida.

13.4 *Assignment.* This Agreement may not be sold, assigned or transferred by the Contractor without prior approval by the County. As a condition precedent to receiving the County's approval, the Contractor or the potential assignee must demonstrate to the County's satisfaction that the assignee has the ability and resources to comply with all of the applicable requirements set forth in this Agreement and all applicable local, state and federal regulations.

13.5 *Representations of the Contractor.* The Contractor represents that: (a) it is a corporation duly organized under the laws of the State of Florida or a person or an entity qualified to do business in the State of Florida; (b) this Agreement has been duly authorized, executed, and delivered in the State of Florida; and (c) it has the required power and authority to perform this Agreement.

13.6 *Headings.* Captions and headings contained in this Agreement are for ease of Reference only and do not constitute a part of this Agreement.

13.7 *Severability.* If any term, condition, covenant or obligation of this Agreement is declared illegal, void or unenforceable, the remaining terms shall not be affected but shall remain in full force and effect, and this Agreement shall be construed as if such illegal, void or unenforceable provision had never been contained herein.

13.8 *Survivability.* Any term, condition, covenant, or obligation that requires performance by a party subsequent to expiration or termination of this Agreement shall remain enforceable against such party subsequent to such expiration or termination.

*St. Johns County  
Non Exclusive Franchise Agreement for Construction & Demolition Debris*

13.9 *Third Party Beneficiaries.* It is agreed between the parties hereto that no provision of this Agreement is intended to create any third-party beneficiaries hereunder, or to authorize anyone not a party to this Agreement to maintain an action pursuant to the terms or provisions of this Agreement.

13.10 *Personal Liability.* Nothing in this Agreement shall be construed as creating any personal liability on the part of any official, officer, employee, agent or representative of the County.

13.11 *Independent Contractor.* When performing the activities required by this Agreement the Contractor will be acting in the capacity of an independent contractor and not as an agent, employee, partner, joint venture or associate of the County. The Contractor shall be solely responsible for the means, methods and procedures used by the Contractor to perform under this Agreement. Neither the Contractor nor any of its employees, officers, agents or subcontractors shall represent, act, purport to act, or be deemed to be an agent, representative, employee, or servant of the County. The Contractor shall have no authority to bind the County to any agreement or contract. No person performing any work or services for the Contractor under this Agreement shall be entitled to any benefits available or granted to employees of the County.

13.12 *Merger Clause.* This Agreement constitutes the entire agreement and understanding of the parties as to all matters addressed or referred to herein. This Agreement supersedes all prior and contemporaneous agreements and understandings, representations and warranties, whether oral or written, relating to such matters.

13.13 *Fair Dealing.* The Contractor declares and warrants that the Contractor enters into the Agreement without reliance on or engaging in any collusion, bribery or fraud, that all of the Contractor's representations in this Agreement are made fairly and in good faith, and that no County Commissioner, County officer, or County employee, directly or indirectly owns more than 5% of the total assets or capital stock of the Contractor, nor will any such person directly or indirectly benefit by more than 5%, from the profits or emoluments of this Agreement. The Contractor warrants that it has not employed or retained any company or person, other than a bona fide employee working solely for the Contractor, to solicit or secure this Agreement and the Contractor has not paid or agreed

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to pay any person, company, corporation, individual or firm, other than a bona fide employee working solely for the Contractor, any fee, commission, percentage gift or any other compensation contingent upon or resulting from the award or making of this Agreement. Further, the contractor declares and warrants that the Contractor is not subject to the restrictions in Section 287.133, Florida Statutes, for a public entity crime.

13.14 *Sovereign Immunity.* Nothing in this Agreement shall be interpreted or construed to mean that the County waives sovereign immunity as provided under Section 768.28, Florida Statutes.

13.15 *Amendment.* Except as otherwise specifically provided herein, this Agreement may be amended only by written instrument specifically referring to this Agreement and executed by both parties with the same formalities as this Agreement. The term Ordinance 06-98 as used in this document, shall mean said Ordinance as may be amended from time to time.

13.16 *Terms Generally.* Whenever the context may require, any pronoun which is used in this Agreement shall include the corresponding masculine, feminine and neuter forms and the singular shall include the plural and vice versa. Unless otherwise specifically noted, the words "include," and "including" as used herein shall be deemed to be followed by the following phrase "without limitation". The words "agree," "agreement," "consent," "establish," "impose" as used herein shall be deemed to be followed by the phrase "which shall not be unreasonably withheld or delayed" except as specifically noted. Words or phrases which are defined herein by reference to a statute, rule or regulation shall have the meaning ascribed to such word or phrases as of the Effective Date, without regard to subsequent changes in such statutes, rules or regulations, unless otherwise provided.

**ARTICLE XIV: ACCESS TO RECORDS**

14.0 The access to, disclosure, non-disclosure, or exemption of records, data, documents, and/or materials associated with this Agreement shall be subject to applicable provisions of the Florida Public Records Law (Chapter 119, Florida Statutes), and any other applicable State or Federal law. Access to such public records may not be blocked,

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thwarted, or hindered by placing the public records in the possession of a third party, or an unaffiliated party.

ARTICLE XV: REVIEW OF RECORDS

15.0 As a condition of entering into this Agreement, and in order to ensure compliance, especially as it relates to any applicable law, rule, or regulation, the Contractor authorized the County to examine, review, inspect, and/or audit the books, and records (including without limitation, data, documents, and correspondence), in order to determine whether compliance has been achieved with respect to the terms, conditions, provisions, rights, and responsibilities noted in this Agreement. It is specifically noted that the Contractor is under no duty to provide access to documentation not related this Agreement, and/or is otherwise protected by County, State, and/or Federal law.

-----

St. Johns County  
Non Exclusive Franchise Agreement for Construction & Demolition Debris

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed  
on MAY 18<sup>th</sup>, 2012.

**CONTRACTOR**

Arwood Waste  
Name of Company

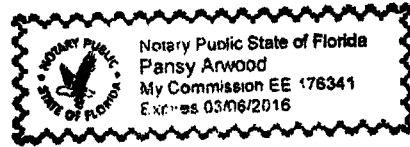
Printed Name: John Arwood

Title: Owner

Signature: [Handwritten Signature]  
Company Officer  
(CORPORATE SEAL)

Date 5-18-2012

[Handwritten Signature]  
Notary



Notary Seal

**ST. JOHNS COUNTY, acting by and through  
its COUNTY ADMINISTRATOR**

ATTEST: \_\_\_\_\_  
Deputy Clerk

By: \_\_\_\_\_  
County Administrator

Legal Review:

\_\_\_\_\_  
Assistant County Attorney



*St. Johns County  
Non Exclusive Franchise Agreement for Construction & Demolition Debris*

**NON-EXCLUSIVE FRANCHISE AGREEMENT  
FOR CONSTRUCTION AND DEMOLITION DEBRIS**

This Non-Exclusive Franchise Agreement for the collection and transport of Construction and Demolition Debris ("Agreement") is made as of this 1<sup>st</sup> day of May, 2012, by and between St. Johns County ("County"), a political subdivision of the State of Florida, and Coastal Site Contractors, Inc., its successors and assigns ("Contractor").

**RECITALS**

WHEREAS, Contractor wishes to collect and transport Construction and Demolition Debris in the unincorporated areas of St. Johns County; and

WHEREAS, the County wishes to ensure that the Contractor's activities are performed in accordance with all applicable laws and is consistent with the public interest.

NOW, THEREFORE, in consideration of the mutual covenants hereinafter contained and other good and valuable consideration, the receipt and adequacy of which are hereby acknowledged, the County and Contractor agree as follows:

**ARTICLE I: DEFINITIONS**

1.0 The terms used in this Agreement shall have the same definitions and meanings set forth in the St. Johns County Solid Waste Ordinance (*see* St. Johns County Ordinance 06-98), unless a different meaning is specifically defined herein. Such terms shall be construed in a manner consistent with the definitions provided in section 403.703 of the Florida Statutes. Any inconsistency with section 403.703 of the Florida Statutes shall be resolved in favor of said statutory provision.

**ARTICLE II: CONTRACTOR'S GENERAL WARRANTY**

2.0 By executing this Agreement, Contractor acknowledges that it has read the St. Johns County Solid Waste Ordinance (together with all amendments thereto) and this Agreement, and Contractor agrees to comply at all times with the applicable provisions of

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*Non Exclusive Franchise Agreement for Construction & Demolition Debris*

this Agreement and the Ordinance, a copy of which is attached hereto, and incorporated herein.

ARTICLE III: NON-EXCLUSIVE FRANCHISE

3.0 The County hereby grants a non-exclusive Franchise to Contractor for the collection and transport of Construction and Demolition Debris in the unincorporated areas of St. Johns County, subject to the terms and conditions of this Agreement and all applicable laws. This Agreement authorizes the Contractor to only collect and transport Construction and Demolition Debris in roll-off containers or other commercial collection equipment standard to the industry for this type of service. No other collection or transportation of Construction and Demolition Debris is authorized under this Agreement.

ARTICLE IV: TERM

4.0 This Agreement shall be effective upon execution by the County's duly authorized representative ("Effective Date"). This Agreement shall run from the Effective Date and shall expire at 11:59 p.m. (EST) on June 30, 2015 ("Expiration Date").

ARTICLE V: CONTRACTOR'S OPERATIONS

5.0 The Contractor shall take all necessary steps to ensure that its operations are performed in compliance with all applicable provisions of the St. Johns County Code of Ordinances, and all other applicable local, state, and federal laws.

5.1 The Contractor's employees shall be properly trained and qualified to perform the tasks assigned to them under this Agreement.

5.2 Contractor may collect and transport Construction and Demolition Debris between 7 a.m. and 6 p.m. (EST), on Monday through Saturday of each week. Contractor shall not collect or transport Construction and Demolition Debris at other times, unless the Contractor has received the prior approval of the Manager of the St. Johns County Solid Waste Department.

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5.3 When collecting or transporting construction and Demolition Debris, Contractor's employees shall wear a company shirt or uniform, which shall have the Contractor's name or logo in a conspicuous place.

5.4 All of the trucks used by the Contractor for the collection and transportation of Construction and Demolition Debris shall be marked with the name and phone number of the Contractor in letters that are plainly visible and at least four inches high. Each commercial container used by the Contractor for the collection and transportation of Construction and Demolition Debris shall be labeled by the Contractor on each long side (two sides) in the same manner.

5.5 The Contractor's roll-off and/or commercial containers shall be securely covered when transporting Construction and Demolition Debris, as authorized under this Agreement.

5.6 All of the rolling stock used by the Contractor for collecting and transporting Construction and Demolition Debris in St. Johns County shall be maintained in a good, clean, and safe operating condition, and be properly marked with the Contractor's name and phone number on all roll-off and/or commercial containers.

5.7 Contractor shall provide the County with a list of the vehicles used by the Contractor and the license plate number for each vehicle and the Company's vehicle identification number (VIN). The Contractor shall ensure that the vehicle list is updated and submitted to the County within 30 days of any revisions including deletions and/or additions of the vehicles.

5.8 This Agreement authorizes the use of roll-off and/or commercial containers and other commercial collection equipment standard to the industry for this type of service. The Contractor may provide an unlimited number of roll-off and/or commercial containers for Construction and Demolition Debris, if the construction site is acceptable for their proper placement and there is a bona-fide need. However, any roll-off and/or commercial container holding more than a de minimis amount of Solid Waste other than Construction and Demolition Debris shall be regulated as though the container were filled with Solid Waste and shall require transport and disposal at a St. Johns County facility accepting such waste.

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**ARTICLE VI: DISPOSAL SITES**

6.0 All of the Solid Waste, Construction and Demolition Debris collected by the Contractor shall be processed or disposed of at a duly licensed and permitted Solid Waste Management Facility accepting Construction and Demolition Debris.

**ARTICLE VII: APPLICATION FEES**

7.0 The Contractor is required to complete and submit the standard St. Johns County application form for non-exclusive Franchise to rent roll-off and/or commercial containers, collect Construction and Demolition Debris, transport said material and dispose of it in a duly licensed and permitted facility accepting Construction and Demolition Waste. A non-refundable \$500.00 application fee as well as a \$100.00 fee per vehicle shall accompany the Contractor's application to the County for the non-exclusive Franchise.

**ARTICLE VIII: FRANCHISE FEES**

8.0 The Contractor shall pay a Franchise fee to the County for the privilege of using the public streets, roads, alleys and other thoroughfares of the County for the collection and transportation of Construction and Demolition Debris that originates in the unincorporated areas of St. Johns County. The Franchise fee also may be used to pay the cost of implementing, administering and enforcing the County's regulations for the safe handling of Construction and Demolition Debris generated in the unincorporated areas of St. Johns County.

8.1 The Franchise fee shall be equal to ten percent (10%) of the Gross Revenues collected by the Contractor for the services provided pursuant to this Agreement, including the collection, transportation, processing and disposing of Construction and Demolition Debris originating in the unincorporated areas of St. Johns County.

8.2 Franchise fees shall be paid to the County once each quarter. Franchise fees shall be delivered to the County no later than January 15, April 15, July 15, and October 16 of each year or within 60 days of termination of the Agreement. Each quarterly payment shall be based upon the Gross Revenues earned by the Contractor for the services provided pursuant to this Agreement for the preceding calendar quarter.

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8.3 Contractor shall provide the County with an audited financial statement to demonstrate that the Contractor has fully paid the applicable Franchise fee for the full three (3) year Agreement Term or any partial period. The financial statement shall be prepared by an independent accounting firm in accordance with generally accepted accounting principles. Unless the County instructs the Contractor otherwise, the Contractor shall deliver the audited financial statement to the County within 45 days following the Expiration Date of this Agreement or within 45 days of the termination of this Agreement for any partial period.

8.4 Each quarterly payment of the Franchise fee shall be accompanied by a true and accurate report demonstrating that the Franchise fee has been paid in full for the preceding calendar quarter.

8.5 The Contractor shall allow the County's auditors to inspect and examine the Contractor's financial books and records to confirm the Contractor's compliance with this Agreement. The inspections shall be allowed by the Contractor at any reasonable time following reasonable notice by the County. Additionally, the County's auditors may communicate directly with customers of the Contractor for the purpose of confirming the Contractor's compliance with this Agreement. To the extent authorized by Chapter 119, Florida Statutes, or other applicable laws, the information obtained by the County under this Section 8.5 shall remain confidential. Contractor shall comply with Chapter 119, Florida Statutes as related to the disclosure of public records. If the Contractor fails to pay the full amount of the Franchise fee in a timely manner, the County may suspend the Franchise until payment is made or may terminate this Agreement with no further notice and revoke the Franchise. The Contractor shall pay any and all of the County's expenses for the collection of the Franchise fee, including but not limited to court costs and reasonable attorneys' fees. Interest shall accrue on any unpaid Franchise fee at the maximum rate allowed by law.

8.6 If the Contractor fails to pay the full amount of the Franchise fee within 30 days of the end of each quarter, the County may suspend the Franchise until payment is made or may terminate this Agreement with no further notice and revoke the Franchise. The Contractor shall pay any and all of the County's expenses for the collection of the

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Franchise fee, including but not limited to court costs and reasonable attorneys' fees.  
Interest shall accrue on any unpaid Franchise fee at the maximum rate allowed by law.

**ARTICLE IX: APPLICATION RENEWAL**

9.0 Between the months of April 1 through June 1, prior to the Expiration Date of this Agreement, the Contractor may submit a renewal application to the Department of Solid Waste Management. A five hundred dollar (\$500) renewal fee and a vehicle fee of one hundred dollars (\$100) per vehicle shall accompany said renewal application. A surety bond or letter of credit in the amount of five thousand dollars (\$5,000) shall also be required with the application, in order to satisfy the surety requirements specified in the St. Johns County Solid Waste Ordinance. During review of the renewal application the Contractor shall operate as a non-exclusive Franchise for a period not to exceed 60 days or until the renewal application is approved or denied within that 60 day period. Applications for renewal not meeting all applicable criteria may be denied.

**ARTICLE X: INSURANCE**

10.0 The Contractor shall not begin collecting or transporting Construction and Demolition Debris under this Agreement until appropriate certificates of insurance are provided to the County that demonstrates compliance with the requirements of this Agreement. The Contractor must maintain the insurance in full force and effect at all times throughout the Term of this Agreement. The County shall be named as an additional insured on all of the insurance policies, except for workers compensation. Certificates should be issued to St. Johns County Board of County Commissioners, 500 San Sebastian View, St. Augustine, Florida, 32084.

10.1 The Contractor shall provide workers' compensation and employer's liability insurance of not less than \$100,000 for each person/accident and each person/disease or the minimum amount required under Florida Law, whichever is greater.

10.2 The Contractor shall provide commercial general liability insurance in the amount of \$1,000,000 per occurrence, and shall include coverage for bodily injury, death, property damage and other liabilities arising from or related to Contractor's premises,

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operations, independent contractors, and contracts. The coverage must specify that it included the indemnification and hold harmless provisions of this Agreement.

10.3 The Contractor shall provide vehicle liability insurance with minimum combined single limits of \$1,000,000 for all owned, hired, and non-owned vehicles.

10.4 All of the companies providing insurance must be authorized to do business in the State of Florida. All of the insurance companies providing coverage must be rated A-IX or higher in the most recent edition of Best's Key Rating Guide.

10.5 No change or cancellation of any insurance required under this Agreement may be made unless thirty (30) days prior written notice is provided to the County. Each insurance certificate must name the County as an additional insured and contain a clause stating substantially as follows: "If any of the above-described policies are to be cancelled or undergo material change before the expiration date, the issuing insurance company will mail written notice to: St. Johns County Board of County Commissioners, 500 San Sebastian View, St. Augustine, Florida, 32084 at least 30 days before the effective date of the cancellation or change."

**ARTICLE XI: INDEMNIFICATION**

11.0 The Contractor agrees that it shall indemnify, defend and hold harmless the County, its officials, officers, employees and agents, against, and assume all liability for, any and all claims, suits, causes of action, damages, liabilities, expenditures, or proceedings of any kind (collectively "claims") arising from or related to any of the Contractor's activities or operations pursuant to this Agreement, including but not limited to claims based on bodily injury, loss of life or limb, damage to property, pollution or other environmental damages.

11.1 This provision relating to Indemnification, is separate and apart from, and is in no way limited by, any insurance provided by the Contractor, pursuant to this Agreement, or otherwise.

**ARTICLE XII: TERMINATION BY COUNTY**

12.0 If there is a material breach of any term of this Agreement by the Contractor, the County shall notify the Contractor in writing of the breach and provide the Contractor

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with an opportunity to correct the breach. If the breach is not corrected within one (1) day of receipt of the written notice, the County may terminate the Agreement at any time at the County's discretion by providing written notice to the Contractor, which shall be effective upon the date specified in the notice. Upon such notice, the Contractor shall immediately cease all activities under this Agreement. Among other things, a material breach of this Agreement shall be deemed to have occurred if: (a) the Contractor fails to pay Franchise fees at the times and in the amounts required by this Agreement; (b) the Contractor fails to file complete, accurate, and timely reports, as required by this Agreement; (c) the Contractor disposes of Solid Waste at a site other than a properly permitted and authorized Solid Waste Management Facility; (d) the Contractor collects or transports Solid Waste in a manner that is not authorized under this Agreement; (e) the Contractor fails to continuously maintain the types and amounts of insurance required under this Agreement; (f) the Contractor declares bankruptcy; or (g) the Contractor fails to comply with the applicable provisions of the St. Johns County Solid Waste Ordinance or this Agreement.

12.1 If the Contractor has frequently, regularly or repetitively defaulted in the performance of any of the requirements in this Agreement or any applicable local, state or federal regulation, the County may in its sole discretion deem the Contractor to be a "habitual violator," regardless of whether the Contractor has corrected each individual condition of default. Under such circumstances, the Contractor shall forfeit its right to any further grace period to correct or cure future defaults. All of the Contractor's prior defaults shall be considered cumulative and collectively shall constitute a condition of irredeemable default. The County shall issue the Contractor a notice that the Contractor has been deemed a "habitual violator." Thereafter, any single default by the Contractor of whatever nature shall be grounds for immediate termination of this Agreement. In the event of any such default, the County may terminate this Agreement by giving a written notice to the Contractor, which shall be effective upon the date specified in the notice. Upon such notice, the Contractor shall immediately cease all activities under this Agreement. This section creates a supplemental and additional means of terminating this Agreement and it shall not be deemed to be in lieu of any other remedy available at law or equity.



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ARTICLE XIII: MISCELLANEOUS PROVISIONS

13.0 *Party Representatives.* For the purposes of this Agreement, the Authorized representative of the County (as designated by the County Administrator) shall be the Solid Waste Manager of the St. Johns County Solid Waste Department or the Manager's designee. The authorized representative of the Contractor for purposes of this Agreement shall be Coastal Site Contractors, Inc.. Either party may change its representative upon five (5) days, prior notice to the other party.

13.1 *Notice.* All notices and consents required or permitted by this Agreement shall be in writing and transmitted in person or by registered or certified mail, return receipt requested, with notice deemed to be given upon receipt, as follows:

If to the County:

Solid Waste Manager  
St. Johns County Solid Waste Department  
3005 Allen Nease Road  
Elkton, FL 32033

If to the Contractor:

Coastal Site Contractors, Inc.  
2810 C.R 13  
Bunnell, FL. 32110

Changes in the respective addresses to which such notices may be directed may be made from time to time by either party by notice to the other party.

13.2 *Waiver.* No delay or failure to exercise a right under this Agreement shall impair such right or shall be construed to be a waiver thereof, but such right may be exercised from time to time and as often as deemed expedient. The failure of the County or Contractor at any time to require performance by the other party of any term in this Agreement shall in no way affect the right of the County or Contractor thereafter to enforce same; nor shall waiver by the County or Contractor of any breach of any term of this Agreement be taken or held to be a waiver of any succeeding breach of such term or

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as a waiver of any term itself. To be effective, any waiver shall be in writing and signed by the party granting such waiver. Any such waiver shall be limited to the particular right so waived and shall not be deemed to waive any other right under this Agreement.

13.3 *Agreement Governed by Florida Law and Venue.* This Agreement shall be governed by and construed in accordance with the laws of the State of Florida, and it shall be binding upon, and inure to the benefit of, the parties, their successors, and assigns. The Contractor shall submit to service of process and the jurisdiction of the State of Florida for any controversy or claim arising out of or relating to this Agreement. Any action to interpret and/or enforce this Agreement shall be brought and maintained in the State of Florida. Venue shall be in St. Johns County, Florida.

13.4 *Assignment.* This Agreement may not be sold, assigned or transferred by the Contractor without prior approval by the County. As a condition precedent to receiving the County's approval, the Contractor or the potential assignee must demonstrate to the County's satisfaction that the assignee has the ability and resources to comply with all of the applicable requirements set forth in this Agreement and all applicable local, state and federal regulations.

13.5 *Representations of the Contractor.* The Contractor represents that: (a) it is a corporation duly organized under the laws of the State of Florida or a person or an entity qualified to do business in the State of Florida; (b) this Agreement has been duly authorized, executed, and delivered in the State of Florida; and (c) it has the required power and authority to perform this Agreement.

13.6 *Headings.* Captions and headings contained in this Agreement are for ease of Reference only and do not constitute a part of this Agreement.

13.7 *Severability.* If any term, condition, covenant or obligation of this Agreement is declared illegal, void or unenforceable, the remaining terms shall not be affected but shall remain in full force and effect, and this Agreement shall be construed as if such illegal, void or unenforceable provision had never been contained herein.

13.8 *Survivability.* Any term, condition, covenant, or obligation that requires performance by a party subsequent to expiration or termination of this Agreement shall remain enforceable against such party subsequent to such expiration or termination.

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Non Exclusive Franchise Agreement for Construction & Demolition Debris*

13.9 *Third Party Beneficiaries.* It is agreed between the parties hereto that no provision of this Agreement is intended to create any third-party beneficiaries hereunder, or to authorize anyone not a party to this Agreement to maintain an action pursuant to the terms or provisions of this Agreement.

13.10 *Personal Liability.* Nothing in this Agreement shall be construed as creating any personal liability on the part of any official, officer, employee, agent or representative of the County.

13.11 *Independent Contractor.* When performing the activities required by this Agreement the Contractor will be acting in the capacity of an independent contractor and not as an agent, employee, partner, joint venture or associate of the County. The Contractor shall be solely responsible for the means, methods and procedures used by the Contractor to perform under this Agreement. Neither the Contractor nor any of its employees, officers, agents or subcontractors shall represent, act, purport to act, or be deemed to be an agent, representative, employee, or servant of the County. The Contractor shall have no authority to bind the County to any agreement or contract. No person performing any work or services for the Contractor under this Agreement shall be entitled to any benefits available or granted to employees of the County.

13.12 *Merger Clause.* This Agreement constitutes the entire agreement and understanding of the parties as to all matters addressed or referred to herein. This Agreement supersedes all prior and contemporaneous agreements and understandings, representations and warranties, whether oral or written, relating to such matters.

13.13 *Fair Dealing.* The Contractor declares and warrants that the Contractor enters into the Agreement without reliance on or engaging in any collusion, bribery or fraud, that all of the Contractor's representations in this Agreement are made fairly and in good faith, and that no County Commissioner, County officer, or County employee, directly or indirectly owns more than 5% of the total assets or capital stock of the Contractor, nor will any such person directly or indirectly benefit by more than 5%, from the profits or emoluments of this Agreement. The Contractor warrants that it has not employed or retained any company or person, other than a bona fide employee working solely for the Contractor, to solicit or secure this Agreement and the Contractor has not paid or agreed

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Non Exclusive Franchise Agreement for Construction & Demolition Debris*

to pay any person, company, corporation, individual or firm, other than a bona fide employee working solely for the Contractor, any fee, commission, percentage gift or any other compensation contingent upon or resulting from the award or making of this Agreement. Further, the contractor declares and warrants that the Contractor is not subject to the restrictions in Section 287.133, Florida Statutes, for a public entity crime.

13.14 *Sovereign Immunity.* Nothing in this Agreement shall be interpreted or construed to mean that the County waives sovereign immunity as provided under Section 768.28, Florida Statutes.

13.15 *Amendment.* Except as otherwise specifically provided herein, this Agreement may be amended only by written instrument specifically referring to this Agreement and executed by both parties with the same formalities as this Agreement. The term Ordinance 06-98 as used in this document, shall mean said Ordinance as may be amended from time to time.

13.16 *Terms Generally.* Whenever the context may require, any pronoun which is used in this Agreement shall include the corresponding masculine, feminine and neuter forms and the singular shall include the plural and vice versa. Unless otherwise specifically noted, the words "include," and "including" as used herein shall be deemed to be followed by the following phrase "without limitation". The words "agree," "agreement," "consent," "establish," "impose" as used herein shall be deemed to be followed by the phrase "which shall not be unreasonably withheld or delayed" except as specifically noted. Words or phrases which are defined herein by reference to a statute, rule or regulation shall have the meaning ascribed to such word or phrases as of the Effective Date, without regard to subsequent changes in such statutes, rules or regulations, unless otherwise provided.

**ARTICLE XIV: ACCESS TO RECORDS**

14.0 The access to, disclosure, non-disclosure, or exemption of records, data, documents, and/or materials associated with this Agreement shall be subject to applicable provisions of the Florida Public Records Law (Chapter 119, Florida Statutes), and any other applicable State or Federal law. Access to such public records may not be blocked,

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thwarted, or hindered by placing the public records in the possession of a third party, or an unaffiliated party.

**ARTICLE XV: REVIEW OF RECORDS**

15.0 As a condition of entering into this Agreement, and in order to ensure compliance, especially as it relates to any applicable law, rule, or regulation, the Contractor authorized the County to examine, review, inspect, and/or audit the books, and records (including without limitation, data, documents, and correspondence), in order to determine whether compliance has been achieved with respect to the terms, conditions, provisions, rights, and responsibilities noted in this Agreement. It is specifically noted that the Contractor is under no duty to provide access to documentation not related this Agreement, and/or is otherwise protected by County, State, and/or Federal law.

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St. Johns County  
Non Exclusive Franchise Agreement for Construction & Demolition Debris

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed  
on May 21, 2012.

**CONTRACTOR**

Coastal Site Contractors, Inc.  
Name of Company

Printed Name: Peter McLaughlin

Title: VP

Signature: [Handwritten Signature]  
Company Officer  
(CORPORATE SEAL)

Date: May 21, 2012



Svetlana V Hartman  
Notary

Notary Seal

**ST. JOHNS COUNTY, acting by and through  
its COUNTY ADMINISTRATOR**

ATTEST: \_\_\_\_\_  
Deputy Clerk

By: \_\_\_\_\_  
County Administrator

Legal Review:

\_\_\_\_\_  
Assistant County Attorney

**NON-EXCLUSIVE FRANCHISE AGREEMENT  
FOR CONSTRUCTION AND DEMOLITION DEBRIS**

This Non-Exclusive Franchise Agreement for the collection and transport of Construction and Demolition Debris ("Agreement") is made as of this 15<sup>th</sup> day of May, 2012, by and between St. Johns County ("County"), a political subdivision of the State of Florida, and Colliers Waste, its successors and assigns ("Contractor").

**RECITALS**

WHEREAS, Contractor wishes to collect and transport Construction and Demolition Debris in the unincorporated areas of St. Johns County; and

WHEREAS, the County wishes to ensure that the Contractor's activities are performed in accordance with all applicable laws and is consistent with the public interest.

NOW, THEREFORE, in consideration of the mutual covenants hereinafter contained and other good and valuable consideration, the receipt and adequacy of which are hereby acknowledged, the County and Contractor agree as follows:

**ARTICLE I: DEFINITIONS**

1.0 The terms used in this Agreement shall have the same definitions and meanings set forth in the St. Johns County Solid Waste Ordinance (*see* St. Johns County Ordinance 06-98), unless a different meaning is specifically defined herein. Such terms shall be construed in a manner consistent with the definitions provided in section 403.703 of the Florida Statutes. Any inconsistency with section 403.703 of the Florida Statutes shall be resolved in favor of said statutory provision.

**ARTICLE II: CONTRACTOR'S GENERAL WARRANTY**

2.0 By executing this Agreement, Contractor acknowledges that it has read the St. Johns County Solid Waste Ordinance (together with all amendments thereto) and this Agreement, and Contractor agrees to comply at all times with the applicable provisions of

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*Non Exclusive Franchise Agreement for Construction & Demolition Debris*

this Agreement and the Ordinance, a copy of which is attached hereto, and incorporated herein.

ARTICLE III: NON-EXCLUSIVE FRANCHISE

3.0 The County hereby grants a non-exclusive Franchise to Contractor for the collection and transport of Construction and Demolition Debris in the unincorporated areas of St. Johns County, subject to the terms and conditions of this Agreement and all applicable laws. This Agreement authorizes the Contractor to only collect and transport Construction and Demolition Debris in roll-off containers or other commercial collection equipment standard to the industry for this type of service. No other collection or transportation of Construction and Demolition Debris is authorized under this Agreement.

ARTICLE IV: TERM

4.0 This Agreement shall be effective upon execution by the County's duly authorized representative ("Effective Date"). This Agreement shall run from the Effective Date and shall expire at 11:59 p.m. (EST) on June 30, 2015 ("Expiration Date").

ARTICLE V: CONTRACTOR'S OPERATIONS

5.0 The Contractor shall take all necessary steps to ensure that its operations are performed in compliance with all applicable provisions of the St. Johns County Code of Ordinances, and all other applicable local, state, and federal laws.

5.1 The Contractor's employees shall be properly trained and qualified to perform the tasks assigned to them under this Agreement.

5.2 Contractor may collect and transport Construction and Demolition Debris between 7 a.m. and 6 p.m. (EST), on Monday through Saturday of each week. Contractor shall not collect or transport Construction and Demolition Debris at other times, unless the Contractor has received the prior approval of the Manager of the St. Johns County Solid Waste Department.



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5.3 When collecting or transporting construction and Demolition Debris, Contractor's employees shall wear a company shirt or uniform, which shall have the Contractor's name or logo in a conspicuous place.

5.4 All of the trucks used by the Contractor for the collection and transportation of Construction and Demolition Debris shall be marked with the name and phone number of the Contractor in letters that are plainly visible and at least four inches high. Each commercial container used by the Contractor for the collection and transportation of Construction and Demolition Debris shall be labeled by the Contractor on each long side (two sides) in the same manner.

5.5 The Contractor's roll-off and/or commercial containers shall be securely covered when transporting Construction and Demolition Debris, as authorized under this Agreement.

5.6 All of the rolling stock used by the Contractor for collecting and transporting Construction and Demolition Debris in St. Johns County shall be maintained in a good, clean, and safe operating condition, and be properly marked with the Contractor's name and phone number on all roll-off and/or commercial containers.

5.7 Contractor shall provide the County with a list of the vehicles used by the Contractor and the license plate number for each vehicle and the Company's vehicle identification number (VIN). The Contractor shall ensure that the vehicle list is updated and submitted to the County within 30 days of any revisions including deletions and/or additions of the vehicles.

5.8 This Agreement authorizes the use of roll-off and/or commercial containers and other commercial collection equipment standard to the industry for this type of service. The Contractor may provide an unlimited number of roll-off and/or commercial containers for Construction and Demolition Debris, if the construction site is acceptable for their proper placement and there is a bona-fide need. However, any roll-off and/or commercial container holding more than a de minimis amount of Solid Waste other than Construction and Demolition Debris shall be regulated as though the container were filled with Solid Waste and shall require transport and disposal at a St. Johns County facility accepting such waste.

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ARTICLE VI: DISPOSAL SITES

6.0 All of the Solid Waste, Construction and Demolition Debris collected by the Contractor shall be processed or disposed of at a duly licensed and permitted Solid Waste Management Facility accepting Construction and Demolition Debris.

ARTICLE VII: APPLICATION FEES

7.0 The Contractor is required to complete and submit the standard St. Johns County application form for non-exclusive Franchise to rent roll-off and/or commercial containers, collect Construction and Demolition Debris, transport said material and dispose of it in a duly licensed and permitted facility accepting Construction and Demolition Waste. A non-refundable \$500.00 application fee as well as a \$100.00 fee per vehicle shall accompany the Contractor's application to the County for the non-exclusive Franchise.

ARTICLE VIII: FRANCHISE FEES

8.0 The Contractor shall pay a Franchise fee to the County for the privilege of using the public streets, roads, alleys and other thoroughfares of the County for the collection and transportation of Construction and Demolition Debris that originates in the unincorporated areas of St. Johns County. The Franchise fee also may be used to pay the cost of implementing, administering and enforcing the County's regulations for the safe handling of Construction and Demolition Debris generated in the unincorporated areas of St. Johns County.

8.1 The Franchise fee shall be equal to ten percent (10%) of the Gross Revenues collected by the Contractor for the services provided pursuant to this Agreement, including the collection, transportation, processing and disposing of Construction and Demolition Debris originating in the unincorporated areas of St. Johns County.

8.2 Franchise fees shall be paid to the County once each quarter. Franchise fees shall be delivered to the County no later than January 15, April 15, July 15, and October 16 of each year or within 60 days of termination of the Agreement. Each quarterly payment shall be based upon the Gross Revenues earned by the Contractor for the services provided pursuant to this Agreement for the preceding calendar quarter.

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8.3 Contractor shall provide the County with an audited financial statement to demonstrate that the Contractor has fully paid the applicable Franchise fee for the full three (3) year Agreement Term or any partial period. The financial statement shall be prepared by an independent accounting firm in accordance with generally accepted accounting principles. Unless the County instructs the Contractor otherwise, the Contractor shall deliver the audited financial statement to the County within 45 days following the Expiration Date of this Agreement or within 45 days of the termination of this Agreement for any partial period.

8.4 Each quarterly payment of the Franchise fee shall be accompanied by a true and accurate report demonstrating that the Franchise fee has been paid in full for the preceding calendar quarter.

8.5 The Contractor shall allow the County's auditors to inspect and examine the Contractor's financial books and records to confirm the Contractor's compliance with this Agreement. The inspections shall be allowed by the Contractor at any reasonable time following reasonable notice by the County. Additionally, the County's auditors may communicate directly with customers of the Contractor for the purpose of confirming the Contractor's compliance with this Agreement. To the extent authorized by Chapter 119, Florida Statutes, or other applicable laws, the information obtained by the County under this Section 8.5 shall remain confidential. Contractor shall comply with Chapter 119, Florida Statutes as related to the disclosure of public records. If the Contractor fails to pay the full amount of the Franchise fee in a timely manner, the County may suspend the Franchise until payment is made or may terminate this Agreement with no further notice and revoke the Franchise. The Contractor shall pay any and all of the County's expenses for the collection of the Franchise fee, including but not limited to court costs and reasonable attorneys' fees. Interest shall accrue on any unpaid Franchise fee at the maximum rate allowed by law.

8.6 If the Contractor fails to pay the full amount of the Franchise fee within 30 days of the end of each quarter, the County may suspend the Franchise until payment is made or may terminate this Agreement with no further notice and revoke the Franchise. The Contractor shall pay any and all of the County's expenses for the collection of the

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Franchise fee, including but not limited to court costs and reasonable attorneys' fees.  
Interest shall accrue on any unpaid Franchise fee at the maximum rate allowed by law.

ARTICLE IX: APPLICATION RENEWAL

9.0 Between the months of April 1 through June 1, prior to the Expiration Date of this Agreement, the Contractor may submit a renewal application to the Department of Solid Waste Management. A five hundred dollar (\$500) renewal fee and a vehicle fee of one hundred dollars (\$100) per vehicle shall accompany said renewal application. A surety bond or letter of credit in the amount of five thousand dollars (\$5,000) shall also be required with the application, in order to satisfy the surety requirements specified in the St. Johns County Solid Waste Ordinance. During review of the renewal application the Contractor shall operate as a non-exclusive Franchise for a period not to exceed 60 days or until the renewal application is approved or denied within that 60 day period. Applications for renewal not meeting all applicable criteria may be denied.

ARTICLE X: INSURANCE

10.0 The Contractor shall not begin collecting or transporting Construction and Demolition Debris under this Agreement until appropriate certificates of insurance are provided to the County that demonstrates compliance with the requirements of this Agreement. The Contractor must maintain the insurance in full force and effect at all times throughout the Term of this Agreement. The County shall be named as an additional insured on all of the insurance policies, except for workers compensation. Certificates should be issued to St. Johns County Board of County Commissioners, 500 San Sebastian View, St. Augustine, Florida, 32084.

10.1 The Contractor shall provide workers' compensation and employer's liability insurance of not less than \$100,000 for each person/accident and each person/disease or the minimum amount required under Florida Law, whichever is greater.

10.2 The Contractor shall provide commercial general liability insurance in the amount of \$1,000,000 per occurrence, and shall include coverage for bodily injury, death, property damage and other liabilities arising from or related to Contractor's premises,

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operations, independent contractors, and contracts. The coverage must specify that it included the indemnification and hold harmless provisions of this Agreement.

10.3 The Contractor shall provide vehicle liability insurance with minimum combined single limits of \$1,000,000 for all owned, hired, and non-owned vehicles.

10.4 All of the companies providing insurance must be authorized to do business in the State of Florida. All of the insurance companies providing coverage must be rated A-IX or higher in the most recent edition of Best's Key Rating Guide.

10.5 No change or cancellation of any insurance required under this Agreement may be made unless thirty (30) days prior written notice is provided to the County. Each insurance certificate must name the County as an additional insured and contain a clause stating substantially as follows: "If any of the above-described policies are to be cancelled or undergo material change before the expiration date, the issuing insurance company will mail written notice to: St. Johns County Board of County Commissioners, 500 San Sebastian View, St. Augustine, Florida, 32084 at least 30 days before the effective date of the cancellation or change."

ARTICLE XI: INDEMNIFICATION

11.0 The Contractor agrees that it shall indemnify, defend and hold harmless the County, its officials, officers, employees and agents, against, and assume all liability for, any and all claims, suits, causes of action, damages, liabilities, expenditures, or proceedings of any kind (collectively "claims") arising from or related to any of the Contractor's activities or operations pursuant to this Agreement, including but not limited to claims based on bodily injury, loss of life or limb, damage to property, pollution or other environmental damages.

11.1 This provision relating to Indemnification, is separate and apart from, and is in no way limited by, any insurance provided by the Contractor, pursuant to this Agreement, or otherwise.

ARTICLE XII: TERMINATION BY COUNTY

12.0 If there is a material breach of any term of this Agreement by the Contractor, the County shall notify the Contractor in writing of the breach and provide the Contractor

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with an opportunity to correct the breach. If the breach is not corrected within one (1) day of receipt of the written notice, the County may terminate the Agreement at any time at the County's discretion by providing written notice to the Contractor, which shall be effective upon the date specified in the notice. Upon such notice, the Contractor shall immediately cease all activities under this Agreement. Among other things, a material breach of this Agreement shall be deemed to have occurred if: (a) the Contractor fails to pay Franchise fees at the times and in the amounts required by this Agreement; (b) the Contractor fails to file complete, accurate, and timely reports, as required by this Agreement; (c) the Contractor disposes of Solid Waste at a site other than a properly permitted and authorized Solid Waste Management Facility; (d) the Contractor collects or transports Solid Waste in a manner that is not authorized under this Agreement; (e) the Contractor fails to continuously maintain the types and amounts of insurance required under this Agreement; (f) the Contractor declares bankruptcy; or (g) the Contractor fails to comply with the applicable provisions of the St. Johns County Solid Waste Ordinance or this Agreement.

12.1 If the Contractor has frequently, regularly or repetitively defaulted in the performance of any of the requirements in this Agreement or any applicable local, state or federal regulation, the County may in its sole discretion deem the Contractor to be a "habitual violator," regardless of whether the Contractor has corrected each individual condition of default. Under such circumstances, the Contractor shall forfeit its right to any further grace period to correct or cure future defaults. All of the Contractor's prior defaults shall be considered cumulative and collectively shall constitute a condition of irredeemable default. The County shall issue the Contractor a notice that the Contractor has been deemed a "habitual violator." Thereafter, any single default by the Contractor of whatever nature shall be grounds for immediate termination of this Agreement. In the event of any such default, the County may terminate this Agreement by giving a written notice to the Contractor, which shall be effective upon the date specified in the notice. Upon such notice, the Contractor shall immediately cease all activities under this Agreement. This section creates a supplemental and additional means of terminating this Agreement and it shall not be deemed to be in lieu of any other remedy available at law or equity.

ARTICLE XIII: MISCELLANEOUS PROVISIONS

13.0 *Party Representatives.* For the purposes of this Agreement, the Authorized representative of the County (as designated by the County Administrator) shall be the Solid Waste Manager of the St. Johns County Solid Waste Department or the Manager's designee. The authorized representative of the Contractor for purposes of this Agreement shall be DEBORAH L. COLLIER. Either party may change its representative upon five (5) days, prior notice to the other party.

13.1 *Notice.* All notices and consents required or permitted by this Agreement shall be in writing and transmitted in person or by registered or certified mail, return receipt requested, with notice deemed to be given upon receipt, as follows:

If to the County:

Solid Waste Manager  
St. Johns County Solid Waste Department  
3005 Allen Nease Road  
Elkton, FL 32033

If to the Contractor:

Collier's Waste Containers, Inc.  
2859 Windemere Ct  
Middleburg FL 32068

Changes in the respective addresses to which such notices may be directed may be made from time to time by either party by notice to the other party.

13.2 *Waiver.* No delay or failure to exercise a right under this Agreement shall impair such right or shall be construed to be a waiver thereof, but such right may be exercised from time to time and as often as deemed expedient. The failure of the County or Contractor at any time to require performance by the other party of any term in this Agreement shall in no way affect the right of the County or Contractor thereafter to enforce same; nor shall waiver by the County or Contractor of any breach of any term of this Agreement be taken or held to be a waiver of any succeeding breach of such term or

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as a waiver of any term itself. To be effective, any waiver shall be in writing and signed by the party granting such waiver. Any such waiver shall be limited to the particular right so waived and shall not be deemed to waive any other right under this Agreement.

13.3 *Agreement Governed by Florida Law and Venue.* This Agreement shall be governed by and construed in accordance with the laws of the State of Florida, and it shall be binding upon, and inure to the benefit of, the parties, their successors, and assigns. The Contractor shall submit to service of process and the jurisdiction of the State of Florida for any controversy or claim arising out of or relating to this Agreement. Any action to interpret and/or enforce this Agreement shall be brought and maintained in the State of Florida. Venue shall be in St. Johns County, Florida.

13.4 *Assignment.* This Agreement may not be sold, assigned or transferred by the Contractor without prior approval by the County. As a condition precedent to receiving the County's approval, the Contractor or the potential assignee must demonstrate to the County's satisfaction that the assignee has the ability and resources to comply with all of the applicable requirements set forth in this Agreement and all applicable local, state and federal regulations.

13.5 *Representations of the Contractor.* The Contractor represents that: (a) it is a corporation duly organized under the laws of the State of Florida or a person or an entity qualified to do business in the State of Florida; (b) this Agreement has been duly authorized, executed, and delivered in the State of Florida; and (c) it has the required power and authority to perform this Agreement.

13.6 *Headings.* Captions and headings contained in this Agreement are for ease of Reference only and do not constitute a part of this Agreement.

13.7 *Severability.* If any term, condition, covenant or obligation of this Agreement is declared illegal, void or unenforceable, the remaining terms shall not be affected but shall remain in full force and effect, and this Agreement shall be construed as if such illegal, void or unenforceable provision had never been contained herein.

13.8 *Survivability.* Any term, condition, covenant, or obligation that requires performance by a party subsequent to expiration or termination of this Agreement shall remain enforceable against such party subsequent to such expiration or termination.



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13.9 *Third Party Beneficiaries.* It is agreed between the parties hereto that no provision of this Agreement is intended to create any third-party beneficiaries hereunder, or to authorize anyone not a party to this Agreement to maintain an action pursuant to the terms or provisions of this Agreement.

13.10 *Personal Liability.* Nothing in this Agreement shall be construed as creating any personal liability on the part of any official, officer, employee, agent or representative of the County.

13.11 *Independent Contractor.* When performing the activities required by this Agreement the Contractor will be acting in the capacity of an independent contractor and not as an agent, employee, partner, joint venture or associate of the County. The Contractor shall be solely responsible for the means, methods and procedures used by the Contractor to perform under this Agreement. Neither the Contractor nor any of its employees, officers, agents or subcontractors shall represent, act, purport to act, or be deemed to be an agent, representative, employee, or servant of the County. The Contractor shall have no authority to bind the County to any agreement or contract. No person performing any work or services for the Contractor under this Agreement shall be entitled to any benefits available or granted to employees of the County.

13.12 *Merger Clause.* This Agreement constitutes the entire agreement and understanding of the parties as to all matters addressed or referred to herein. This Agreement supersedes all prior and contemporaneous agreements and understandings, representations and warranties, whether oral or written, relating to such matters.

13.13 *Fair Dealing.* The Contractor declares and warrants that the Contractor enters into the Agreement without reliance on or engaging in any collusion, bribery or fraud, that all of the Contractor's representations in this Agreement are made fairly and in good faith, and that no County Commissioner, County officer, or County employee, directly or indirectly owns more than 5% of the total assets or capital stock of the Contractor, nor will any such person directly or indirectly benefit by more than 5%, from the profits or emoluments of this Agreement. The Contractor warrants that it has not employed or retained any company or person, other than a bona fide employee working solely for the Contractor, to solicit or secure this Agreement and the Contractor has not paid or agreed

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to pay any person, company, corporation, individual or firm, other than a bona fide employee working solely for the Contractor, any fee, commission, percentage gift or any other compensation contingent upon or resulting from the award or making of this Agreement. Further, the contractor declares and warrants that the Contractor is not subject to the restrictions in Section 287.133, Florida Statutes, for a public entity crime.

13.14 *Sovereign Immunity.* Nothing in this Agreement shall be interpreted or construed to mean that the County waives sovereign immunity as provided under Section 768.28, Florida Statutes.

13.15 *Amendment.* Except as otherwise specifically provided herein, this Agreement may be amended only by written instrument specifically referring to this Agreement and executed by both parties with the same formalities as this Agreement. The term Ordinance 06-98 as used in this document, shall mean said Ordinance as may be amended from time to time.

13.16 *Terms Generally.* Whenever the context may require, any pronoun which is used in this Agreement shall include the corresponding masculine, feminine and neuter forms and the singular shall include the plural and vice versa. Unless otherwise specifically noted, the words "include," and "including" as used herein shall be deemed to be followed by the following phrase "without limitation". The words "agree," "agreement," "consent," "establish," "impose" as used herein shall be deemed to be followed by the phrase "which shall not be unreasonably withheld or delayed" except as specifically noted. Words or phrases which are defined herein by reference to a statute, rule or regulation shall have the meaning ascribed to such word or phrases as of the Effective Date, without regard to subsequent changes in such statutes, rules or regulations, unless otherwise provided.

**ARTICLE XIV: ACCESS TO RECORDS**

14.0 The access to, disclosure, non-disclosure, or exemption of records, data, documents, and/or materials associated with this Agreement shall be subject to applicable provisions of the Florida Public Records Law (Chapter 119, Florida Statutes), and any other applicable State or Federal law. Access to such public records may not be blocked,

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thwarted, or hindered by placing the public records in the possession of a third party, or an unaffiliated party.

ARTICLE XV: REVIEW OF RECORDS

15.0 As a condition of entering into this Agreement, and in order to ensure compliance, especially as it relates to any applicable law, rule, or regulation, the Contractor authorized the County to examine, review, inspect, and/or audit the books, and records (including without limitation, data, documents, and correspondence), in order to determine whether compliance has been achieved with respect to the terms, conditions, provisions, rights, and responsibilities noted in this Agreement. It is specifically noted that the Contractor is under no duty to provide access to documentation not related this Agreement, and/or is otherwise protected by County, State, and/or Federal law.

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Non Exclusive Franchise Agreement for Construction & Demolition Debris

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed  
on 15<sup>th</sup> May, 2012.

**CONTRACTOR**

Collier's Waste Containers, Inc.  
Name of Company

Printed Name: Deborah L. Collier-Gibson

Title: PRES

Signature: [Handwritten Signature]  
Company Officer  
(CORPORATE SEAL)

Date May 16, 2012

Michelle Pinson  
Notary



Notary Seal

**ST. JOHNS COUNTY, acting by and through  
its COUNTY ADMINISTRATOR**

ATTEST: \_\_\_\_\_  
Deputy Clerk

By: \_\_\_\_\_  
County Administrator

Legal Review:

\_\_\_\_\_  
Assistant County Attorney

**NON-EXCLUSIVE FRANCHISE AGREEMENT  
FOR CONSTRUCTION AND DEMOLITION DEBRIS**

This Non-Exclusive Franchise Agreement for the collection and transport of Construction and Demolition Debris ("Agreement") is made as of this 11<sup>th</sup> day of May, 2012, by and between St. Johns County ("County"), a political subdivision of the State of Florida, and Construction Debris Removal, its successors and assigns ("Contractor").

**RECITALS**

WHEREAS, Contractor wishes to collect and transport Construction and Demolition Debris in the unincorporated areas of St. Johns County; and

WHEREAS, the County wishes to ensure that the Contractor's activities are performed in accordance with all applicable laws and is consistent with the public interest.

NOW, THEREFORE, in consideration of the mutual covenants hereinafter contained and other good and valuable consideration, the receipt and adequacy of which are hereby acknowledged, the County and Contractor agree as follows:

**ARTICLE I: DEFINITIONS**

1.0 The terms used in this Agreement shall have the same definitions and meanings set forth in the St. Johns County Solid Waste Ordinance (*see* St. Johns County Ordinance 06-98), unless a different meaning is specifically defined herein. Such terms shall be construed in a manner consistent with the definitions provided in section 403.703 of the Florida Statutes. Any inconsistency with section 403.703 of the Florida Statutes shall be resolved in favor of said statutory provision.

**ARTICLE II: CONTRACTOR'S GENERAL WARRANTY**

2.0 By executing this Agreement, Contractor acknowledges that it has read the St. Johns County Solid Waste Ordinance (together with all amendments thereto) and this Agreement, and Contractor agrees to comply at all times with the applicable provisions of

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this Agreement and the Ordinance, a copy of which is attached hereto, and incorporated herein.

ARTICLE III: NON-EXCLUSIVE FRANCHISE

3.0 The County hereby grants a non-exclusive Franchise to Contractor for the collection and transport of Construction and Demolition Debris in the unincorporated areas of St. Johns County, subject to the terms and conditions of this Agreement and all applicable laws. This Agreement authorizes the Contractor to only collect and transport Construction and Demolition Debris in roll-off containers or other commercial collection equipment standard to the industry for this type of service. No other collection or transportation of Construction and Demolition Debris is authorized under this Agreement.

ARTICLE IV: TERM

4.0 This Agreement shall be effective upon execution by the County's duly authorized representative ("Effective Date"). This Agreement shall run from the Effective Date and shall expire at 11:59 p.m. (EST) on June 30, 2015 ("Expiration Date").

ARTICLE V: CONTRACTOR'S OPERATIONS

5.0 The Contractor shall take all necessary steps to ensure that its operations are performed in compliance with all applicable provisions of the St. Johns County Code of Ordinances, and all other applicable local, state, and federal laws.

5.1 The Contractor's employees shall be properly trained and qualified to perform the tasks assigned to them under this Agreement.

5.2 Contractor may collect and transport Construction and Demolition Debris between 7 a.m. and 6 p.m. (EST), on Monday through Saturday of each week. Contractor shall not collect or transport Construction and Demolition Debris at other times, unless the Contractor has received the prior approval of the Manager of the St. Johns County Solid Waste Department.

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Non Exclusive Franchise Agreement for Construction & Demolition Debris*

5.3 When collecting or transporting construction and Demolition Debris, Contractor's employees shall wear a company shirt or uniform, which shall have the Contractor's name or logo in a conspicuous place.

5.4 All of the trucks used by the Contractor for the collection and transportation of Construction and Demolition Debris shall be marked with the name and phone number of the Contractor in letters that are plainly visible and at least four inches high. Each commercial container used by the Contractor for the collection and transportation of Construction and Demolition Debris shall be labeled by the Contractor on each long side (two sides) in the same manner.

5.5 The Contractor's roll-off and/or commercial containers shall be securely covered when transporting Construction and Demolition Debris, as authorized under this Agreement.

5.6 All of the rolling stock used by the Contractor for collecting and transporting Construction and Demolition Debris in St. Johns County shall be maintained in a good, clean, and safe operating condition, and be properly marked with the Contractor's name and phone number on all roll-off and/or commercial containers.

5.7 Contractor shall provide the County with a list of the vehicles used by the Contractor and the license plate number for each vehicle and the Company's vehicle identification number (VIN). The Contractor shall ensure that the vehicle list is updated and submitted to the County within 30 days of any revisions including deletions and/or additions of the vehicles.

5.8 This Agreement authorizes the use of roll-off and/or commercial containers and other commercial collection equipment standard to the industry for this type of service. The Contractor may provide an unlimited number of roll-off and/or commercial containers for Construction and Demolition Debris, if the construction site is acceptable for their proper placement and there is a bona-fide need. However, any roll-off and/or commercial container holding more than a de minimis amount of Solid Waste other than Construction and Demolition Debris shall be regulated as though the container were filled with Solid Waste and shall require transport and disposal at a St. Johns County facility accepting such waste.

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ARTICLE VI: DISPOSAL SITES

6.0 All of the Solid Waste, Construction and Demolition Debris collected by the Contractor shall be processed or disposed of at a duly licensed and permitted Solid Waste Management Facility accepting Construction and Demolition Debris.

ARTICLE VII: APPLICATION FEES

7.0 The Contractor is required to complete and submit the standard St. Johns County application form for non-exclusive Franchise to rent roll-off and/or commercial containers, collect Construction and Demolition Debris, transport said material and dispose of it in a duly licensed and permitted facility accepting Construction and Demolition Waste. A non-refundable \$500.00 application fee as well as a \$100.00 fee per vehicle shall accompany the Contractor's application to the County for the non-exclusive Franchise.

ARTICLE VIII: FRANCHISE FEES

8.0 The Contractor shall pay a Franchise fee to the County for the privilege of using the public streets, roads, alleys and other thoroughfares of the County for the collection and transportation of Construction and Demolition Debris that originates in the unincorporated areas of St. Johns County. The Franchise fee also may be used to pay the cost of implementing, administering and enforcing the County's regulations for the safe handling of Construction and Demolition Debris generated in the unincorporated areas of St. Johns County.

8.1 The Franchise fee shall be equal to ten percent (10%) of the Gross Revenues collected by the Contractor for the services provided pursuant to this Agreement, including the collection, transportation, processing and disposing of Construction and Demolition Debris originating in the unincorporated areas of St. Johns County.

8.2 Franchise fees shall be paid to the County once each quarter. Franchise fees shall be delivered to the County no later than January 15, April 15, July 15, and October 16 of each year or within 60 days of termination of the Agreement. Each quarterly payment shall be based upon the Gross Revenues earned by the Contractor for the services provided pursuant to this Agreement for the preceding calendar quarter.



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8.3 Contractor shall provide the County with an audited financial statement to demonstrate that the Contractor has fully paid the applicable Franchise fee for the full three (3) year Agreement Term or any partial period. The financial statement shall be prepared by an independent accounting firm in accordance with generally accepted accounting principles. Unless the County instructs the Contractor otherwise, the Contractor shall deliver the audited financial statement to the County within 45 days following the Expiration Date of this Agreement or within 45 days of the termination of this Agreement for any partial period.

8.4 Each quarterly payment of the Franchise fee shall be accompanied by a true and accurate report demonstrating that the Franchise fee has been paid in full for the preceding calendar quarter.

8.5 The Contractor shall allow the County's auditors to inspect and examine the Contractor's financial books and records to confirm the Contractor's compliance with this Agreement. The inspections shall be allowed by the Contractor at any reasonable time following reasonable notice by the County. Additionally, the County's auditors may communicate directly with customers of the Contractor for the purpose of confirming the Contractor's compliance with this Agreement. To the extent authorized by Chapter 119, Florida Statutes, or other applicable laws, the information obtained by the County under this Section 8.5 shall remain confidential. Contractor shall comply with Chapter 119, Florida Statutes as related to the disclosure of public records. If the Contractor fails to pay the full amount of the Franchise fee in a timely manner, the County may suspend the Franchise until payment is made or may terminate this Agreement with no further notice and revoke the Franchise. The Contractor shall pay any and all of the County's expenses for the collection of the Franchise fee, including but not limited to court costs and reasonable attorneys' fees. Interest shall accrue on any unpaid Franchise fee at the maximum rate allowed by law.

8.6 If the Contractor fails to pay the full amount of the Franchise fee within 30 days of the end of each quarter, the County may suspend the Franchise until payment is made or may terminate this Agreement with no further notice and revoke the Franchise. The Contractor shall pay any and all of the County's expenses for the collection of the

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Franchise fee, including but not limited to court costs and reasonable attorneys' fees.  
Interest shall accrue on any unpaid Franchise fee at the maximum rate allowed by law.

**ARTICLE IX: APPLICATION RENEWAL**

9.0 Between the months of April 1 through June 1, prior to the Expiration Date of this Agreement, the Contractor may submit a renewal application to the Department of Solid Waste Management. A five hundred dollar (\$500) renewal fee and a vehicle fee of one hundred dollars (\$100) per vehicle shall accompany said renewal application. A surety bond or letter of credit in the amount of five thousand dollars (\$5,000) shall also be required with the application, in order to satisfy the surety requirements specified in the St. Johns County Solid Waste Ordinance. During review of the renewal application the Contractor shall operate as a non-exclusive Franchise for a period not to exceed 60 days or until the renewal application is approved or denied within that 60 day period. Applications for renewal not meeting all applicable criteria may be denied.

**ARTICLE X: INSURANCE**

10.0 The Contractor shall not begin collecting or transporting Construction and Demolition Debris under this Agreement until appropriate certificates of insurance are provided to the County that demonstrates compliance with the requirements of this Agreement. The Contractor must maintain the insurance in full force and effect at all times throughout the Term of this Agreement. The County shall be named as an additional insured on all of the insurance policies, except for workers compensation. Certificates should be issued to St. Johns County Board of County Commissioners, 500 San Sebastian View, St. Augustine, Florida, 32084.

10.1 The Contractor shall provide workers' compensation and employer's liability insurance of not less than \$100,000 for each person/accident and each person/disease or the minimum amount required under Florida Law, whichever is greater.

10.2 The Contractor shall provide commercial general liability insurance in the amount of \$1,000,000 per occurrence, and shall include coverage for bodily injury, death, property damage and other liabilities arising from or related to Contractor's premises,

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operations, independent contractors, and contracts. The coverage must specify that it included the indemnification and hold harmless provisions of this Agreement.

10.3 The Contractor shall provide vehicle liability insurance with minimum combined single limits of \$1,000,000 for all owned, hired, and non-owned vehicles.

10.4 All of the companies providing insurance must be authorized to do business in the State of Florida. All of the insurance companies providing coverage must be rated A-IX or higher in the most recent edition of Best's Key Rating Guide.

10.5 No change or cancellation of any insurance required under this Agreement may be made unless thirty (30) days prior written notice is provided to the County. Each insurance certificate must name the County as an additional insured and contain a clause stating substantially as follows: "If any of the above-described policies are to be cancelled or undergo material change before the expiration date, the issuing insurance company will mail written notice to: St. Johns County Board of County Commissioners, 500 San Sebastian View, St. Augustine, Florida, 32084 at least 30 days before the effective date of the cancellation or change."

ARTICLE XI: INDEMNIFICATION

11.0 The Contractor agrees that it shall indemnify, defend and hold harmless the County, its officials, officers, employees and agents, against, and assume all liability for, any and all claims, suits, causes of action, damages, liabilities, expenditures, or proceedings of any kind (collectively "claims") arising from or related to any of the Contractor's activities or operations pursuant to this Agreement, including but not limited to claims based on bodily injury, loss of life or limb, damage to property, pollution or other environmental damages.

11.1 This provision relating to Indemnification, is separate and apart from, and is in no way limited by, any insurance provided by the Contractor, pursuant to this Agreement, or otherwise.

ARTICLE XII: TERMINATION BY COUNTY

12.0 If there is a material breach of any term of this Agreement by the Contractor, the County shall notify the Contractor in writing of the breach and provide the Contractor

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with an opportunity to correct the breach. If the breach is not corrected within one (1) day of receipt of the written notice, the County may terminate the Agreement at any time at the County's discretion by providing written notice to the Contractor, which shall be effective upon the date specified in the notice. Upon such notice, the Contractor shall immediately cease all activities under this Agreement. Among other things, a material breach of this Agreement shall be deemed to have occurred if: (a) the Contractor fails to pay Franchise fees at the times and in the amounts required by this Agreement; (b) the Contractor fails to file complete, accurate, and timely reports, as required by this Agreement; (c) the Contractor disposes of Solid Waste at a site other than a properly permitted and authorized Solid Waste Management Facility; (d) the Contractor collects or transports Solid Waste in a manner that is not authorized under this Agreement; (e) the Contractor fails to continuously maintain the types and amounts of insurance required under this Agreement; (f) the Contractor declares bankruptcy; or (g) the Contractor fails to comply with the applicable provisions of the St. Johns County Solid Waste Ordinance or this Agreement.

12.1 If the Contractor has frequently, regularly or repetitively defaulted in the performance of any of the requirements in this Agreement or any applicable local, state or federal regulation, the County may in its sole discretion deem the Contractor to be a "habitual violator," regardless of whether the Contractor has corrected each individual condition of default. Under such circumstances, the Contractor shall forfeit its right to any further grace period to correct or cure future defaults. All of the Contractor's prior defaults shall be considered cumulative and collectively shall constitute a condition of irredeemable default. The County shall issue the Contractor a notice that the Contractor has been deemed a "habitual violator." Thereafter, any single default by the Contractor of whatever nature shall be grounds for immediate termination of this Agreement. In the event of any such default, the County may terminate this Agreement by giving a written notice to the Contractor, which shall be effective upon the date specified in the notice. Upon such notice, the Contractor shall immediately cease all activities under this Agreement. This section creates a supplemental and additional means of terminating this Agreement and it shall not be deemed to be in lieu of any other remedy available at law or equity.

ARTICLE XIII: MISCELLANEOUS PROVISIONS

13.0 *Party Representatives.* For the purposes of this Agreement, the Authorized representative of the County (as designated by the County Administrator) shall be the Solid Waste Manager of the St. Johns County Solid Waste Department or the Manager's designee. The authorized representative of the Contractor for purposes of this Agreement shall be Vernon Keith. Either party may change its representative upon five (5) days, prior notice to the other party.

13.1 *Notice.* All notices and consents required or permitted by this Agreement shall be in writing and transmitted in person or by registered or certified mail, return receipt requested, with notice deemed to be given upon receipt, as follows:

If to the County:

Solid Waste Manager  
St. Johns County Solid Waste Department  
3005 Allen Nease Road  
Elkton, FL 32033

If to the Contractor:

Construction Debris Removal - Vernon Keith  
1535 State Road 207  
St Augustine, FL 32086

Changes in the respective addresses to which such notices may be directed may be made from time to time by either party by notice to the other party.

13.2 *Waiver.* No delay or failure to exercise a right under this Agreement shall impair such right or shall be construed to be a waiver thereof, but such right may be exercised from time to time and as often as deemed expedient. The failure of the County or Contractor at any time to require performance by the other party of any term in this Agreement shall in no way affect the right of the County or Contractor thereafter to enforce same; nor shall waiver by the County or Contractor of any breach of any term of this Agreement be taken or held to be a waiver of any succeeding breach of such term or

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Non Exclusive Franchise Agreement for Construction & Demolition Debris*

as a waiver of any term itself. To be effective, any waiver shall be in writing and signed by the party granting such waiver. Any such waiver shall be limited to the particular right so waived and shall not be deemed to waive any other right under this Agreement.

13.3 *Agreement Governed by Florida Law and Venue.* This Agreement shall be governed by and construed in accordance with the laws of the State of Florida, and it shall be binding upon, and inure to the benefit of, the parties, their successors, and assigns. The Contractor shall submit to service of process and the jurisdiction of the State of Florida for any controversy or claim arising out of or relating to this Agreement. Any action to interpret and/or enforce this Agreement shall be brought and maintained in the State of Florida. Venue shall be in St. Johns County, Florida.

13.4 *Assignment.* This Agreement may not be sold, assigned or transferred by the Contractor without prior approval by the County. As a condition precedent to receiving the County's approval, the Contractor or the potential assignee must demonstrate to the County's satisfaction that the assignee has the ability and resources to comply with all of the applicable requirements set forth in this Agreement and all applicable local, state and federal regulations.

13.5 *Representations of the Contractor.* The Contractor represents that: (a) it is a corporation duly organized under the laws of the State of Florida or a person or an entity qualified to do business in the State of Florida; (b) this Agreement has been duly authorized, executed, and delivered in the State of Florida; and (c) it has the required power and authority to perform this Agreement.

13.6 *Headings.* Captions and headings contained in this Agreement are for ease of Reference only and do not constitute a part of this Agreement.

13.7 *Severability.* If any term, condition, covenant or obligation of this Agreement is declared illegal, void or unenforceable, the remaining terms shall not be affected but shall remain in full force and effect, and this Agreement shall be construed as if such illegal, void or unenforceable provision had never been contained herein.

13.8 *Survivability.* Any term, condition, covenant, or obligation that requires performance by a party subsequent to expiration or termination of this Agreement shall remain enforceable against such party subsequent to such expiration or termination.

*St. Johns County  
Non Exclusive Franchise Agreement for Construction & Demolition Debris*

13.9 *Third Party Beneficiaries.* It is agreed between the parties hereto that no provision of this Agreement is intended to create any third-party beneficiaries hereunder, or to authorize anyone not a party to this Agreement to maintain an action pursuant to the terms or provisions of this Agreement.

13.10 *Personal Liability.* Nothing in this Agreement shall be construed as creating any personal liability on the part of any official, officer, employee, agent or representative of the County.

13.11 *Independent Contractor.* When performing the activities required by this Agreement the Contractor will be acting in the capacity of an independent contractor and not as an agent, employee, partner, joint venture or associate of the County. The Contractor shall be solely responsible for the means, methods and procedures used by the Contractor to perform under this Agreement. Neither the Contractor nor any of its employees, officers, agents or subcontractors shall represent, act, purport to act, or be deemed to be an agent, representative, employee, or servant of the County. The Contractor shall have no authority to bind the County to any agreement or contract. No person performing any work or services for the Contractor under this Agreement shall be entitled to any benefits available or granted to employees of the County.

13.12 *Merger Clause.* This Agreement constitutes the entire agreement and understanding of the parties as to all matters addressed or referred to herein. This Agreement supersedes all prior and contemporaneous agreements and understandings, representations and warranties, whether oral or written, relating to such matters.

13.13 *Fair Dealing.* The Contractor declares and warrants that the Contractor enters into the Agreement without reliance on or engaging in any collusion, bribery or fraud, that all of the Contractor's representations in this Agreement are made fairly and in good faith, and that no County Commissioner, County officer, or County employee, directly or indirectly owns more than 5% of the total assets or capital stock of the Contractor, nor will any such person directly or indirectly benefit by more than 5%, from the profits or emoluments of this Agreement. The Contractor warrants that it has not employed or retained any company or person, other than a bona fide employee working solely for the Contractor, to solicit or secure this Agreement and the Contractor has not paid or agreed

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to pay any person, company, corporation, individual or firm, other than a bona fide employee working solely for the Contractor, any fee, commission, percentage gift or any other compensation contingent upon or resulting from the award or making of this Agreement. Further, the contractor declares and warrants that the Contractor is not subject to the restrictions in Section 287.133, Florida Statutes, for a public entity crime.

13.14 *Sovereign Immunity.* Nothing in this Agreement shall be interpreted or construed to mean that the County waives sovereign immunity as provided under Section 768.28, Florida Statutes.

13.15 *Amendment.* Except as otherwise specifically provided herein, this Agreement may be amended only by written instrument specifically referring to this Agreement and executed by both parties with the same formalities as this Agreement. The term Ordinance 06-98 as used in this document, shall mean said Ordinance as may be amended from time to time.

13.16 *Terms Generally.* Whenever the context may require, any pronoun which is used in this Agreement shall include the corresponding masculine, feminine and neuter forms and the singular shall include the plural and vice versa. Unless otherwise specifically noted, the words "include," and "including" as used herein shall be deemed to be followed by the following phrase "without limitation". The words "agree," "agreement," "consent," "establish," "impose" as used herein shall be deemed to be followed by the phrase "which shall not be unreasonably withheld or delayed" except as specifically noted. Words or phrases which are defined herein by reference to a statute, rule or regulation shall have the meaning ascribed to such word or phrases as of the Effective Date, without regard to subsequent changes in such statutes, rules or regulations, unless otherwise provided.

**ARTICLE XIV: ACCESS TO RECORDS**

14.0 The access to, disclosure, non-disclosure, or exemption of records, data, documents, and/or materials associated with this Agreement shall be subject to applicable provisions of the Florida Public Records Law (Chapter 119, Florida Statutes), and any other applicable State or Federal law. Access to such public records may not be blocked,



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thwarted, or hindered by placing the public records in the possession of a third party, or an unaffiliated party.

**ARTICLE XV: REVIEW OF RECORDS**

15.0 As a condition of entering into this Agreement, and in order to ensure compliance, especially as it relates to any applicable law, rule, or regulation, the Contractor authorized the County to examine, review, inspect, and/or audit the books, and records (including without limitation, data, documents, and correspondence), in order to determine whether compliance has been achieved with respect to the terms, conditions, provisions, rights, and responsibilities noted in this Agreement. It is specifically noted that the Contractor is under no duty to provide access to documentation not related this Agreement, and/or is otherwise protected by County, State, and/or Federal law.

-----

St. Johns County  
Non Exclusive Franchise Agreement for Construction & Demolition Debris

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed  
on May 11, 2012.

**CONTRACTOR**

Construction Debris Removal Inc  
Name of Company

Printed Name: Vernon D Keith

Title: President

Signature: [Handwritten Signature]  
Company Officer  
(CORPORATE SEAL)

Date 5/15/2012

[Handwritten Signature]  
Notary

NOTARY PUBLIC-STATE OF FLORIDA  
Leona J. Brown  
Commission # DD971179  
Expires: MAR. 15, 2014  
BONDED THRU ATLANTIC BONDING CO., INC.

Notary Seal

**ST. JOHNS COUNTY, acting by and through  
its COUNTY ADMINISTRATOR**

ATTEST: \_\_\_\_\_  
Deputy Clerk

By: \_\_\_\_\_  
County Administrator

Legal Review:

\_\_\_\_\_  
Assistant County Attorney

**NON-EXCLUSIVE FRANCHISE AGREEMENT  
FOR CONSTRUCTION AND DEMOLITION DEBRIS**

This Non-Exclusive Franchise Agreement for the collection and transport of Construction and Demolition Debris ("Agreement") is made as of this 29<sup>th</sup> day of June, 2012, by and between St. Johns County ("County"), a political subdivision of the State of Florida, and Environment Land Services, its successors and assigns ("Contractor").

**RECITALS**

WHEREAS, Contractor wishes to collect and transport Construction and Demolition Debris in the unincorporated areas of St. Johns County; and

WHEREAS, the County wishes to ensure that the Contractor's activities are performed in accordance with all applicable laws and is consistent with the public interest.

NOW, THEREFORE, in consideration of the mutual covenants hereinafter contained and other good and valuable consideration, the receipt and adequacy of which are hereby acknowledged, the County and Contractor agree as follows:

**ARTICLE I: DEFINITIONS**

1.0 The terms used in this Agreement shall have the same definitions and meanings set forth in the St. Johns County Solid Waste Ordinance (*see* St. Johns County Ordinance 06-98), unless a different meaning is specifically defined herein. Such terms shall be construed in a manner consistent with the definitions provided in section 403.703 of the Florida Statutes. Any inconsistency with section 403.703 of the Florida Statutes shall be resolved in favor of said statutory provision.

**ARTICLE II: CONTRACTOR'S GENERAL WARRANTY**

2.0 By executing this Agreement, Contractor acknowledges that it has read the St. Johns County Solid Waste Ordinance (together with all amendments thereto) and this Agreement, and Contractor agrees to comply at all times with the applicable provisions of

*St. Johns County  
Non Exclusive Franchise Agreement for Construction & Demolition Debris*

this Agreement and the Ordinance, a copy of which is attached hereto, and incorporated herein.

ARTICLE III: NON-EXCLUSIVE FRANCHISE

3.0 The County hereby grants a non-exclusive Franchise to Contractor for the collection and transport of Construction and Demolition Debris in the unincorporated areas of St. Johns County, subject to the terms and conditions of this Agreement and all applicable laws. This Agreement authorizes the Contractor to only collect and transport Construction and Demolition Debris in roll-off containers or other commercial collection equipment standard to the industry for this type of service. No other collection or transportation of Construction and Demolition Debris is authorized under this Agreement.

ARTICLE IV: TERM

4.0 This Agreement shall be effective upon execution by the County's duly authorized representative ("Effective Date"). This Agreement shall run from the Effective Date and shall expire at 11:59 p.m. (EST) on June 30, 2015 ("Expiration Date").

ARTICLE V: CONTRACTOR'S OPERATIONS

5.0 The Contractor shall take all necessary steps to ensure that its operations are performed in compliance with all applicable provisions of the St. Johns County Code of Ordinances, and all other applicable local, state, and federal laws.

5.1 The Contractor's employees shall be properly trained and qualified to perform the tasks assigned to them under this Agreement.

5.2 Contractor may collect and transport Construction and Demolition Debris between 7 a.m. and 6 p.m. (EST), on Monday through Saturday of each week. Contractor shall not collect or transport Construction and Demolition Debris at other times, unless the Contractor has received the prior approval of the Manager of the St. Johns County Solid Waste Department.

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Non Exclusive Franchise Agreement for Construction & Demolition Debris*

5.3 When collecting or transporting construction and Demolition Debris, Contractor's employees shall wear a company shirt or uniform, which shall have the Contractor's name or logo in a conspicuous place.

5.4 All of the trucks used by the Contractor for the collection and transportation of Construction and Demolition Debris shall be marked with the name and phone number of the Contractor in letters that are plainly visible and at least four inches high. Each commercial container used by the Contractor for the collection and transportation of Construction and Demolition Debris shall be labeled by the Contractor on each long side (two sides) in the same manner.

5.5 The Contractor's roll-off and/or commercial containers shall be securely covered when transporting Construction and Demolition Debris, as authorized under this Agreement.

5.6 All of the rolling stock used by the Contractor for collecting and transporting Construction and Demolition Debris in St. Johns County shall be maintained in a good, clean, and safe operating condition, and be properly marked with the Contractor's name and phone number on all roll-off and/or commercial containers.

5.7 Contractor shall provide the County with a list of the vehicles used by the Contractor and the license plate number for each vehicle and the Company's vehicle identification number (VIN). The Contractor shall ensure that the vehicle list is updated and submitted to the County within 30 days of any revisions including deletions and/or additions of the vehicles.

5.8 This Agreement authorizes the use of roll-off and/or commercial containers and other commercial collection equipment standard to the industry for this type of service. The Contractor may provide an unlimited number of roll-off and/or commercial containers for Construction and Demolition Debris, if the construction site is acceptable for their proper placement and there is a bona-fide need. However, any roll-off and/or commercial container holding more than a de minimis amount of Solid Waste other than Construction and Demolition Debris shall be regulated as though the container were filled with Solid Waste and shall require transport and disposal at a St. Johns County facility accepting such waste.

ARTICLE VI: DISPOSAL SITES

6.0 All of the Solid Waste, Construction and Demolition Debris collected by the Contractor shall be processed or disposed of at a duly licensed and permitted Solid Waste Management Facility accepting Construction and Demolition Debris.

ARTICLE VII: APPLICATION FEES

7.0 The Contractor is required to complete and submit the standard St. Johns County application form for non-exclusive Franchise to rent roll-off and/or commercial containers, collect Construction and Demolition Debris, transport said material and dispose of it in a duly licensed and permitted facility accepting Construction and Demolition Waste. A non-refundable \$500.00 application fee as well as a \$100.00 fee per vehicle shall accompany the Contractor's application to the County for the non-exclusive Franchise.

ARTICLE VIII: FRANCHISE FEES

8.0 The Contractor shall pay a Franchise fee to the County for the privilege of using the public streets, roads, alleys and other thoroughfares of the County for the collection and transportation of Construction and Demolition Debris that originates in the unincorporated areas of St. Johns County. The Franchise fee also may be used to pay the cost of implementing, administering and enforcing the County's regulations for the safe handling of Construction and Demolition Debris generated in the unincorporated areas of St. Johns County.

8.1 The Franchise fee shall be equal to ten percent (10%) of the Gross Revenues collected by the Contractor for the services provided pursuant to this Agreement, including the collection, transportation, processing and disposing of Construction and Demolition Debris originating in the unincorporated areas of St. Johns County.

8.2 Franchise fees shall be paid to the County once each quarter. Franchise fees shall be delivered to the County no later than January 15, April 15, July 15, and October 16 of each year or within 60 days of termination of the Agreement. Each quarterly payment shall be based upon the Gross Revenues earned by the Contractor for the services provided pursuant to this Agreement for the preceding calendar quarter.

*St. Johns County  
Non Exclusive Franchise Agreement for Construction & Demolition Debris*

8.3 Contractor shall provide the County with an audited financial statement to demonstrate that the Contractor has fully paid the applicable Franchise fee for the full three (3) year Agreement Term or any partial period. The financial statement shall be prepared by an independent accounting firm in accordance with generally accepted accounting principles. Unless the County instructs the Contractor otherwise, the Contractor shall deliver the audited financial statement to the County within 45 days following the Expiration Date of this Agreement or within 45 days of the termination of this Agreement for any partial period.

8.4 Each quarterly payment of the Franchise fee shall be accompanied by a true and accurate report demonstrating that the Franchise fee has been paid in full for the preceding calendar quarter.

8.5 The Contractor shall allow the County's auditors to inspect and examine the Contractor's financial books and records to confirm the Contractor's compliance with this Agreement. The inspections shall be allowed by the Contractor at any reasonable time following reasonable notice by the County. Additionally, the County's auditors may communicate directly with customers of the Contractor for the purpose of confirming the Contractor's compliance with this Agreement. To the extent authorized by Chapter 119, Florida Statutes, or other applicable laws, the information obtained by the County under this Section 8.5 shall remain confidential. Contractor shall comply with Chapter 119, Florida Statutes as related to the disclosure of public records. If the Contractor fails to pay the full amount of the Franchise fee in a timely manner, the County may suspend the Franchise until payment is made or may terminate this Agreement with no further notice and revoke the Franchise. The Contractor shall pay any and all of the County's expenses for the collection of the Franchise fee, including but not limited to court costs and reasonable attorneys' fees. Interest shall accrue on any unpaid Franchise fee at the maximum rate allowed by law.

8.6 If the Contractor fails to pay the full amount of the Franchise fee within 30 days of the end of each quarter, the County may suspend the Franchise until payment is made or may terminate this Agreement with no further notice and revoke the Franchise. The Contractor shall pay any and all of the County's expenses for the collection of the

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Franchise fee, including but not limited to court costs and reasonable attorneys' fees.  
Interest shall accrue on any unpaid Franchise fee at the maximum rate allowed by law.

ARTICLE IX: APPLICATION RENEWAL

9.0 Between the months of April 1 through June 1, prior to the Expiration Date of this Agreement, the Contractor may submit a renewal application to the Department of Solid Waste Management. A five hundred dollar (\$500) renewal fee and a vehicle fee of one hundred dollars (\$100) per vehicle shall accompany said renewal application. A surety bond or letter of credit in the amount of five thousand dollars (\$5,000) shall also be required with the application in order to satisfy the surety requirements specified in the St. Johns County Solid Waste Ordinance. During review of the renewal application the Contractor shall operate as a non-exclusive Franchise for a period not to exceed 60 days or until the renewal application is approved or denied within that 60 day period. Applications for renewal not meeting all applicable criteria may be denied.

ARTICLE X: INSURANCE

10.0 The Contractor shall not begin collecting or transporting Construction and Demolition Debris under this Agreement until appropriate certificates of insurance are provided to the County that demonstrates compliance with the requirements of this Agreement. The Contractor must maintain the insurance in full force and effect at all times throughout the Term of this Agreement. The County shall be named as an additional insured on all of the insurance policies, except for workers-compensation. Certificates should be issued to St. Johns County Board of County Commissioners, 500 San Sebastian View, St. Augustine, Florida, 32084.

10.1 The Contractor shall provide workers' compensation and employer's liability insurance of not less than \$100,000 for each person/accident and each person/disease or the minimum amount required under Florida Law, whichever is greater.

10.2 The Contractor shall provide commercial general liability insurance in the amount of \$1,000,000 per occurrence, and shall include coverage for bodily injury, death, property damage and other liabilities arising from or related to Contractor's premises,



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Non Exclusive Franchise Agreement for Construction & Demolition Debris*

operations, independent contractors, and contracts. The coverage must specify that it included the indemnification and hold harmless provisions of this Agreement.

10.3 The Contractor shall provide vehicle liability insurance with minimum combined single limits of \$1,000,000 for all owned, hired, and non-owned vehicles.

10.4 All of the companies providing insurance must be authorized to do business in the State of Florida. All of the insurance companies providing coverage must be rated A-IX or higher in the most recent edition of Best's Key Rating Guide.

10.5 No change or cancellation of any insurance required under this Agreement may be made unless thirty (30) days prior written notice is provided to the County. Each insurance certificate must name the County as an additional insured and contain a clause stating substantially as follows: "If any of the above-described policies are to be cancelled or undergo material change before the expiration date, the issuing insurance company will mail written notice to: St. Johns County Board of County Commissioners, 500 San Sebastian View, St. Augustine, Florida, 32084 at least 30 days before the effective date of the cancellation or change."

ARTICLE XI: INDEMNIFICATION

11.0 The Contractor agrees that it shall indemnify, defend and hold harmless the County, its officials, officers, employees and agents, against, and assume all liability for, any and all claims, suits, causes of action, damages, liabilities, expenditures, or proceedings of any kind (collectively "claims") arising from or related to any of the Contractor's activities or operations pursuant to this Agreement, including but not limited to claims based on bodily injury, loss of life or limb, damage to property, pollution or other environmental damages.

11.1 This provision relating to Indemnification, is separate and apart from, and is in no way limited by, any insurance provided by the Contractor, pursuant to this Agreement, or otherwise.

ARTICLE XII: TERMINATION BY COUNTY

12.0 If there is a material breach of any term of this Agreement by the Contractor, the County shall notify the Contractor in writing of the breach and provide the Contractor

*St. Johns County  
Non Exclusive Franchise Agreement for Construction & Demolition Debris*

with an opportunity to correct the breach. If the breach is not corrected within one (1) day of receipt of the written notice, the County may terminate the Agreement at any time at the County's discretion by providing written notice to the Contractor, which shall be effective upon the date specified in the notice. Upon such notice, the Contractor shall immediately cease all activities under this Agreement. Among other things, a material breach of this Agreement shall be deemed to have occurred if: (a) the Contractor fails to pay Franchise fees at the times and in the amounts required by this Agreement; (b) the Contractor fails to file complete, accurate, and timely reports, as required by this Agreement; (c) the Contractor disposes of Solid Waste at a site other than a properly permitted and authorized Solid Waste Management Facility; (d) the Contractor collects or transports Solid Waste in a manner that is not authorized under this Agreement; (e) the Contractor fails to continuously maintain the types and amounts of insurance required under this Agreement; (f) the Contractor declares bankruptcy; or (g) the Contractor fails to comply with the applicable provisions of the St. Johns County Solid Waste Ordinance or this Agreement.

12.1 If the Contractor has frequently, regularly or repetitively defaulted in the performance of any of the requirements in this Agreement or any applicable local, state or federal regulation, the County may in its sole discretion deem the Contractor to be a "habitual violator," regardless of whether the Contractor has corrected each individual condition of default. Under such circumstances, the Contractor shall forfeit its right to any further grace period to correct or cure future defaults. All of the Contractor's prior defaults shall be considered cumulative and collectively shall constitute a condition of irredeemable default. The County shall issue the Contractor a notice that the Contractor has been deemed a "habitual violator." Thereafter, any single default by the Contractor of whatever nature shall be grounds for immediate termination of this Agreement. In the event of any such default, the County may terminate this Agreement by giving a written notice to the Contractor, which shall be effective upon the date specified in the notice. Upon such notice, the Contractor shall immediately cease all activities under this Agreement. This section creates a supplemental and additional means of terminating this Agreement and it shall not be deemed to be in lieu of any other remedy available at law or equity.

ARTICLE XIII: MISCELLANEOUS PROVISIONS

13.0 *Party Representatives.* For the purposes of this Agreement, the Authorized representative of the County (as designated by the County Administrator) shall be the Solid Waste Manager of the St. Johns County Solid Waste Department or the Manager's designee. The authorized representative of the Contractor for purposes of this Agreement shall be NANCY MOREA, V.Pres. Either party may change its representative upon five (5) days, prior notice to the other party.

13.1 *Notice.* All notices and consents required or permitted by this Agreement shall be in writing and transmitted in person or by registered or certified mail, return receipt requested, with notice deemed to be given upon receipt, as follows:

If to the County:

Solid Waste Manager  
St. Johns County Solid Waste Department  
3005 Allen Nease Road  
Elkton, FL 32033

If to the Contractor:

**Environmental Land Services  
of Flagler County Inc.  
2550 North State Street  
Suite #7  
Bunnell, FL 32110**

Changes in the respective addresses to which such notices may be directed may be made from time to time by either party by notice to the other party.

13.2 *Waiver.* No delay or failure to exercise a right under this Agreement shall impair such right or shall be construed to be a waiver thereof, but such right may be exercised from time to time and as often as deemed expedient. The failure of the County or Contractor at any time to require performance by the other party of any term in this Agreement shall in no way affect the right of the County or Contractor thereafter to enforce same; nor shall waiver by the County or Contractor of any breach of any term of this Agreement be taken or held to be a waiver of any succeeding breach of such term or

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Non Exclusive Franchise Agreement for Construction & Demolition Debris*

as a waiver of any term itself. To be effective, any waiver shall be in writing and signed by the party granting such waiver. Any such waiver shall be limited to the particular right so waived and shall not be deemed to waive any other right under this Agreement.

13.3 *Agreement Governed by Florida Law and Venue.* This Agreement shall be governed by and construed in accordance with the laws of the State of Florida, and it shall be binding upon, and inure to the benefit of, the parties, their successors, and assigns. The Contractor shall submit to service of process and the jurisdiction of the State of Florida for any controversy or claim arising out of or relating to this Agreement. Any action to interpret and/or enforce this Agreement shall be brought and maintained in the State of Florida. Venue shall be in St. Johns County, Florida.

13.4 *Assignment.* This Agreement may not be sold, assigned or transferred by the Contractor without prior approval by the County. As a condition precedent to receiving the County's approval, the Contractor or the potential assignee must demonstrate to the County's satisfaction that the assignee has the ability and resources to comply with all of the applicable requirements set forth in this Agreement and all applicable local, state and federal regulations.

13.5 *Representations of the Contractor.* The Contractor represents that: (a) it is a corporation duly organized under the laws of the State of Florida or a person or an entity qualified to do business in the State of Florida; (b) this Agreement has been duly authorized, executed, and delivered in the State of Florida; and (c) it has the required power and authority to perform this Agreement.

13.6 *Headings.* Captions and headings contained in this Agreement are for ease of Reference only and do not constitute a part of this Agreement.

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*St. Johns County  
Non Exclusive Franchise Agreement for Construction & Demolition Debris*

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13.12 *Merger Clause.* This Agreement constitutes the entire agreement and understanding of the parties as to all matters addressed or referred to herein. This Agreement supersedes all prior and contemporaneous agreements and understandings, representations and warranties, whether oral or written, relating to such matters.

13.13 *Fair Dealing.* The Contractor declares and warrants that the Contractor enters into the Agreement without reliance on or engaging in any collusion, bribery or fraud, that all of the Contractor's representations in this Agreement are made fairly and in good faith, and that no County Commissioner, County officer, or County employee, directly or indirectly owns more than 5% of the total assets or capital stock of the Contractor, nor will any such person directly or indirectly benefit by more than 5%, from the profits or emoluments of this Agreement. The Contractor warrants that it has not employed or retained any company or person, other than a bona fide employee working solely for the Contractor, to solicit or secure this Agreement and the Contractor has not paid or agreed

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to pay any person, company, corporation, individual or firm, other than a bona fide employee working solely for the Contractor, any fee, commission, percentage gift or any other compensation contingent upon or resulting from the award or making of this Agreement. Further, the contractor declares and warrants that the Contractor is not subject to the restrictions in Section 287.133, Florida Statutes, for a public entity crime.

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**ARTICLE XIV: ACCESS TO RECORDS**

14.0 The access to, disclosure, non-disclosure, or exemption of records, data, documents, and/or materials associated with this Agreement shall be subject to applicable provisions of the Florida Public Records Law (Chapter 119, Florida Statutes), and any other applicable State or Federal law. Access to such public records may not be blocked,

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thwarted, or hindered by placing the public records in the possession of a third party, or an unaffiliated party.

ARTICLE XV: REVIEW OF RECORDS

15.0 As a condition of entering into this Agreement, and in order to ensure compliance, especially as it relates to any applicable law, rule, or regulation, the Contractor authorized the County to examine, review, inspect, and/or audit the books, and records (including without limitation, data, documents, and correspondence), in order to determine whether compliance has been achieved with respect to the terms, conditions, provisions, rights, and responsibilities noted in this Agreement. It is specifically noted that the Contractor is under no duty to provide access to documentation not related this Agreement, and/or is otherwise protected by County, State, and/or Federal law.

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St. Johns County  
Non Exclusive Franchise Agreement for Construction & Demolition Debris

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed  
on June 29, 2012.

**CONTRACTOR**

Environmental Land Services of  
Name of Company Plyler County Inc.

Printed Name: Nancy Morca,

Title: Vice President

Signature: Nancy Morca, Vice Pres.  
Company Officer  
(CORPORATE SEAL)

Date 6/29/12

Sonia E. Byrne  
Notary



**ST. JOHNS COUNTY, acting by and through  
its COUNTY ADMINISTRATOR**

ATTEST: \_\_\_\_\_  
Deputy Clerk

By: \_\_\_\_\_  
County Administrator

Legal Review:

\_\_\_\_\_  
Assistant County Attorney



**NON-EXCLUSIVE FRANCHISE AGREEMENT  
FOR CONSTRUCTION AND DEMOLITION DEBRIS**

This Non-Exclusive Franchise Agreement for the collection and transport of Construction and Demolition Debris ("Agreement") is made as of this 18<sup>th</sup> day of May, 20 12, by and between St. Johns County ("County"), a political subdivision of the State of Florida, and Strickland Const. Services, its successors and assigns ("Contractor").

**RECITALS**

WHEREAS, Contractor wishes to collect and transport Construction and Demolition Debris in the unincorporated areas of St. Johns County; and

WHEREAS, the County wishes to ensure that the Contractor's activities are performed in accordance with all applicable laws and is consistent with the public interest.

NOW, THEREFORE, in consideration of the mutual covenants hereinafter contained and other good and valuable consideration, the receipt and adequacy of which are hereby acknowledged, the County and Contractor agree as follows:

**ARTICLE I: DEFINITIONS**

1.0 The terms used in this Agreement shall have the same definitions and meanings set forth in the St. Johns County Solid Waste Ordinance (*see* St. Johns County Ordinance 06-98), unless a different meaning is specifically defined herein. Such terms shall be construed in a manner consistent with the definitions provided in section 403.703 of the Florida Statutes. Any inconsistency with section 403.703 of the Florida Statutes shall be resolved in favor of said statutory provision.

**ARTICLE II: CONTRACTOR'S GENERAL WARRANTY**

2.0 By executing this Agreement, Contractor acknowledges that it has read the St. Johns County Solid Waste Ordinance (together with all amendments thereto) and this

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Agreement, and Contractor agrees to comply at all times with the applicable provisions of this Agreement and the Ordinance, a copy of which is attached hereto, and incorporated herein.

**ARTICLE III: NON-EXCLUSIVE FRANCHISE**

3.0 The County hereby grants a non-exclusive Franchise to Contractor for the collection and transport of Construction and Demolition Debris in the unincorporated areas of St. Johns County, subject to the terms and conditions of this Agreement and all applicable laws. This Agreement authorizes the Contractor to only collect and transport Construction and Demolition Debris in roll-off containers or other commercial collection equipment standard to the industry for this type of service. No other collection or transportation of Construction and Demolition Debris is authorized under this Agreement.

**ARTICLE IV: TERM**

4.0 This Agreement shall be effective upon execution by the County's duly authorized representative ("Effective Date"). This Agreement shall run from the Effective Date and shall expire at 11:59 p.m. (EST) on June 30, 2015 ("Expiration Date").

**ARTICLE V: CONTRACTOR'S OPERATIONS**

5.0 The Contractor shall take all necessary steps to ensure that its operations are performed in compliance with all applicable provisions of the St. Johns County Code of Ordinances, and all other applicable local, state, and federal laws.

5.1 The Contractor's employees shall be properly trained and qualified to perform the tasks assigned to them under this Agreement.

5.2 Contractor may collect and transport Construction and Demolition Debris between 7 a.m. and 6 p.m. (EST), on Monday through Saturday of each week. Contractor shall not collect or transport Construction and Demolition Debris at other times, unless the Contractor has received the prior approval of the Manager of the St. Johns County Solid Waste Department.

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5.3 When collecting or transporting construction and Demolition Debris, Contractor's employees shall wear a company shirt or uniform, which shall have the Contractor's name or logo in a conspicuous place.

5.4 All of the trucks used by the Contractor for the collection and transportation of Construction and Demolition Debris shall be marked with the name and phone number of the Contractor in letters that are plainly visible and at least four inches high. Each commercial container used by the Contractor for the collection and transportation of Construction and Demolition Debris shall be labeled by the Contractor on each long side (two sides) in the same manner.

5.5 The Contractor's roll-off and/or commercial containers shall be securely covered when transporting Construction and Demolition Debris, as authorized under this Agreement.

5.6 All of the rolling stock used by the Contractor for collecting and transporting Construction and Demolition Debris in St. Johns County shall be maintained in a good, clean, and safe operating condition, and be properly marked with the Contractor's name and phone number on all roll-off and/or commercial containers.

5.7 Contractor shall provide the County with a list of the vehicles used by the Contractor and the license plate number for each vehicle and the Company's vehicle identification number (VIN). The Contractor shall ensure that the vehicle list is updated and submitted to the County within 30 days of any revisions including deletions and/or additions of the vehicles.

5.8 This Agreement authorizes the use of roll-off and/or commercial containers and other commercial collection equipment standard to the industry for this type of service. The Contractor may provide an unlimited number of roll-off and/or commercial containers for Construction and Demolition Debris, if the construction site is acceptable for their proper placement and there is a bona-fide need. However, any roll-off and/or commercial container holding more than a de minimis amount of Solid Waste other than Construction and Demolition Debris shall be regulated as though the container were filled with Solid Waste and shall require transport and disposal at a St. Johns County facility

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accepting such waste.

ARTICLE VI: DISPOSAL SITES

6.0 All of the Solid Waste, Construction and Demolition Debris collected by the Contractor shall be processed or disposed of at a duly licensed and permitted Solid Waste Management Facility accepting Construction and Demolition Debris.

ARTICLE VII: APPLICATION FEES

7.0 The Contractor is required to complete and submit the standard St. Johns County application form for non-exclusive Franchise to rent roll-off and/or commercial containers, collect Construction and Demolition Debris, transport said material and dispose of it in a duly licensed and permitted facility accepting Construction and Demolition Waste. A non-refundable \$500.00 application fee as well as a \$100.00 fee per vehicle shall accompany the Contractor's application to the County for the non-exclusive Franchise.

ARTICLE VIII: FRANCHISE FEES

8.0 The Contractor shall pay a Franchise fee to the County for the privilege of using the public streets, roads, alleys and other thoroughfares of the County for the collection and transportation of Construction and Demolition Debris that originates in the unincorporated areas of St. Johns County. The Franchise fee also may be used to pay the cost of implementing, administering and enforcing the County's regulations for the safe handling of Construction and Demolition Debris generated in the unincorporated areas of St. Johns County.

8.1 The Franchise fee shall be equal to ten percent (10%) of the Gross Revenues collected by the Contractor for the services provided pursuant to this Agreement, including the collection, transportation, processing and disposing of Construction and Demolition Debris originating in the unincorporated areas of St. Johns County.

8.2 Franchise fees shall be paid to the County once each quarter. Franchise fees shall

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be delivered to the County no later than January 15, April 15, July 15, and October 16 of each year or within 60 days of termination of the Agreement. Each quarterly payment shall be based upon the Gross Revenues earned by the Contractor for the services provided pursuant to this Agreement for the preceding calendar quarter.

8.3 Contractor shall provide the County with an audited financial statement to demonstrate that the Contractor has fully paid the applicable Franchise fee for the full three (3) year Agreement Term or any partial period. The financial statement shall be prepared by an independent accounting firm in accordance with generally accepted accounting principles. Unless the County instructs the Contractor otherwise, the Contractor shall deliver the audited financial statement to the County within 45 days following the Expiration Date of this Agreement or within 45 days of the termination of this Agreement for any partial period.

8.4 Each quarterly payment of the Franchise fee shall be accompanied by a true and accurate report demonstrating that the Franchise fee has been paid in full for the preceding calendar quarter.

8.5 The Contractor shall allow the County's auditors to inspect and examine the Contractor's financial books and records to confirm the Contractor's compliance with this Agreement. The inspections shall be allowed by the Contractor at any reasonable time following reasonable notice by the County. Additionally, the County's auditors may communicate directly with customers of the Contractor for the purpose of confirming the Contractor's compliance with this Agreement. To the extent authorized by Chapter 119, Florida Statutes, or other applicable laws, the information obtained by the County under this Section 8.5 shall remain confidential. Contractor shall comply with Chapter 119, Florida Statutes as related to the disclosure of public records. If the Contractor fails to pay the full amount of the Franchise fee in a timely manner, the County may suspend the Franchise until payment is made or may terminate this Agreement with no further notice and revoke the Franchise. The Contractor shall pay any and all of the County's expenses for the collection of the Franchise fee, including but not limited to court costs and reasonable attorneys' fees. Interest shall accrue on any unpaid Franchise fee at the

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maximum rate allowed by law.

8.6 If the Contractor fails to pay the full amount of the Franchise fee within 30 days of the end of each quarter, the County may suspend the Franchise until payment is made or may terminate this Agreement with no further notice and revoke the Franchise. The Contractor shall pay any and all of the County's expenses for the collection of the Franchise fee, including but not limited to court costs and reasonable attorneys' fees. Interest shall accrue on any unpaid Franchise fee at the maximum rate allowed by law.

ARTICLE IX: APPLICATION RENEWAL

9.0 Between the months of April 1 through June 1, prior to the Expiration Date of this Agreement, the Contractor may submit a renewal application to the Department of Solid Waste Management. A five hundred dollar (\$500) renewal fee and a vehicle fee of one hundred dollars (\$100) per vehicle shall accompany said renewal application. A surety bond or letter of credit in the amount of five thousand dollars (\$5,000) shall also be required with the application, in order to satisfy the surety requirements specified in the St. Johns County Solid Waste Ordinance. During review of the renewal application the Contractor shall operate as a non-exclusive Franchise for a period not to exceed 60 days or until the renewal application is approved or denied within that 60 day period. Applications for renewal not meeting all applicable criteria may be denied.

ARTICLE X: INSURANCE

10.0 The Contractor shall not begin collecting or transporting Construction and Demolition Debris under this Agreement until appropriate certificates of insurance are provided to the County that demonstrates compliance with the requirements of this Agreement. The Contractor must maintain the insurance in full force and effect at all times throughout the Term of this Agreement. The County shall be named as an additional insured on all of the insurance policies, except for workers compensation. Certificates should be issued to St. Johns County Board of County Commissioners, 500 San Sebastian View, St. Augustine, Florida, 32084.

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10.1 The Contractor shall provide workers' compensation and employer's liability insurance of not less than \$100,000 for each person/accident and each person/disease or the minimum amount required under Florida Law, whichever is greater.

10.2 The Contractor shall provide commercial general liability insurance in the amount of \$1,000,000 per occurrence, and shall include coverage for bodily injury, death, property damage and other liabilities arising from or related to Contractor's premises, operations, independent contractors, and contracts. The coverage must specify that it included the indemnification and hold harmless provisions of this Agreement.

10.3 The Contractor shall provide vehicle liability insurance with minimum combined single limits of \$1,000,000 for all owned, hired, and non-owned vehicles.

10.4 All of the companies providing insurance must be authorized to do business in the State of Florida. All of the insurance companies providing coverage must be rated A-IX or higher in the most recent edition of Best's Key Rating Guide.

10.5 No change or cancellation of any insurance required under this Agreement may be made unless thirty (30) days prior written notice is provided to the County. Each insurance certificate must name the County as an additional insured and contain a clause stating substantially as follows: "If any of the above-described policies are to be cancelled or undergo material change before the expiration date, the issuing insurance company will mail written notice to: St. Johns County Board of County Commissioners, 500 San Sebastian View, St. Augustine, Florida, 32084 at least 30 days before the effective date of the cancellation or change."

ARTICLE XI: INDEMNIFICATION

11.0 The Contractor agrees that it shall indemnify, defend and hold harmless the County, its officials, officers, employees and agents, against, and assume all liability for, any and all claims, suits, causes of action, damages, liabilities, expenditures, or proceedings of any kind (collectively "claims") arising from or related to any of the Contractor's activities or operations pursuant to this Agreement, including but not limited to claims based on bodily injury, loss of life or limb, damage to property, pollution or

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other environmental damages.

11.1 This provision relating to Indemnification, is separate and apart from, and is in no way limited by, any insurance provided by the Contractor, pursuant to this Agreement, or otherwise.

ARTICLE XII: TERMINATION BY COUNTY

12.0 If there is a material breach of any term of this Agreement by the Contractor, the County shall notify the Contractor in writing of the breach and provide the Contractor with an opportunity to correct the breach. If the breach is not corrected within one (1) day of receipt of the written notice, the County may terminate the Agreement at any time at the County's discretion by providing written notice to the Contractor, which shall be effective upon the date specified in the notice. Upon such notice, the Contractor shall immediately cease all activities under this Agreement. Among other things, a material breach of this Agreement shall be deemed to have occurred if: (a) the Contractor fails to pay Franchise fees at the times and in the amounts required by this Agreement; (b) the Contractor fails to file complete, accurate, and timely reports, as required by this Agreement; (c) the Contractor disposes of Solid Waste at a site other than a properly permitted and authorized Solid Waste Management Facility; (d) the Contractor collects or transports Solid Waste in a manner that is not authorized under this Agreement; (e) the Contractor fails to continuously maintain the types and amounts of insurance required under this Agreement; (f) the Contractor declares bankruptcy; or (g) the Contractor fails to comply with the applicable provisions of the St. Johns County Solid Waste Ordinance or this Agreement.

12.1 If the Contractor has frequently, regularly or repetitively defaulted in the performance of any of the requirements in this Agreement or any applicable local, state or federal regulation, the County may in its sole discretion deem the Contractor to be a "habitual violator," regardless of whether the Contractor has corrected each individual condition of default. Under such circumstances, the Contractor shall forfeit its right to any further grace period to correct or cure future defaults. All of the Contractor's prior



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defaults shall be considered cumulative and collectively shall constitute a condition of irredeemable default. The County shall issue the Contractor a notice that the Contractor has been deemed a "habitual violator." Thereafter, any single default by the Contractor of whatever nature shall be grounds for immediate termination of this Agreement. In the event of any such default, the County may terminate this Agreement by giving a written notice to the Contractor, which shall be effective upon the date specified in the notice. Upon such notice, the Contractor shall immediately cease all activities under this Agreement. This section creates a supplemental and additional means of terminating this Agreement and it shall not be deemed to be in lieu of any other remedy available at law or equity.

ARTICLE XIII: MISCELLANEOUS PROVISIONS

13.0 *Party Representatives.* For the purposes of this Agreement, the Authorized representative of the County (as designated by the County Administrator) shall be the Solid Waste Manager of the St. Johns County Solid Waste Department or the Manager's designee. The authorized representative of the Contractor for purposes of this Agreement shall be Adam Herrington. Either party may change its representative upon five (5) days, prior notice to the other party.

13.1 *Notice.* All notices and consents required or permitted by this Agreement shall be in writing and transmitted in person or by registered or certified mail, return receipt requested, with notice deemed to be given upon receipt, as follows:

If to the County:

Solid Waste Manager  
St. Johns County Solid Waste Department  
3005 Allen Nease Road  
Elkton, FL 32033

If to the Contractor:

SCS  
7300 Crill Ave #65

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Palatka, FL 32177

Changes in the respective addresses to which such notices may be directed may be made from time to time by either party by notice to the other party.

13.2 *Waiver.* No delay or failure to exercise a right under this Agreement shall impair such right or shall be construed to be a waiver thereof, but such right may be exercised from time to time and as often as deemed expedient. The failure of the County or Contractor at any time to require performance by the other party of any term in this Agreement shall in no way affect the right of the County or Contractor thereafter to enforce same; nor shall waiver by the County or Contractor of any breach of any term of this Agreement be taken or held to be a waiver of any succeeding breach of such term or as a waiver of any term itself. To be effective, any waiver shall be in writing and signed by the party granting such waiver. Any such waiver shall be limited to the particular right so waived and shall not be deemed to waive any other right under this Agreement.

13.3 *Agreement Governed by Florida Law and Venue.* This Agreement shall be governed by and construed in accordance with the laws of the State of Florida, and it shall be binding upon, and inure to the benefit of, the parties, their successors, and assigns. The Contractor shall submit to service of process and the jurisdiction of the State of Florida for any controversy or claim arising out of or relating to this Agreement. Any action to interpret and/or enforce this Agreement shall be brought and maintained in the State of Florida. Venue shall be in St. Johns County, Florida.

13.4 *Assignment.* This Agreement may not be sold, assigned or transferred by the Contractor without prior approval by the County. As a condition precedent to receiving the County's approval, the Contractor or the potential assignee must demonstrate to the County's satisfaction that the assignee has the ability and resources to comply with all of the applicable requirements set forth in this Agreement and all applicable local, state and federal regulations.

13.5 *Representations of the Contractor.* The Contractor represents that: (a) it is a corporation duly organized under the laws of the State of Florida or a person or an entity

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qualified to do business in the State of Florida; (b) this Agreement has been duly authorized, executed, and delivered in the State of Florida; and (c) it has the required power and authority to perform this Agreement.

13.6 *Headings.* Captions and headings contained in this Agreement are for ease of Reference only and do not constitute a part of this Agreement.

13.7 *Severability.* If any term, condition, covenant or obligation of this Agreement is declared illegal, void or unenforceable, the remaining terms shall not be affected but shall remain in full force and effect, and this Agreement shall be construed as if such illegal, void or unenforceable provision had never been contained herein.

13.8 *Survivability.* Any term, condition, covenant, or obligation that requires performance by a party subsequent to expiration or termination of this Agreement shall remain enforceable against such party subsequent to such expiration or termination.

13.9 *Third Party Beneficiaries.* It is agreed between the parties hereto that no provision of this Agreement is intended to create any third-party beneficiaries hereunder, or to authorize anyone not a party to this Agreement to maintain an action pursuant to the terms or provisions of this Agreement.

13.10 *Personal Liability.* Nothing in this Agreement shall be construed as creating any personal liability on the part of any official, officer, employee, agent or representative of the County.

13.11 *Independent Contractor.* When performing the activities required by this Agreement the Contractor will be acting in the capacity of an independent contractor and not as an agent, employee, partner, joint venture or associate of the County. The Contractor shall be solely responsible for the means, methods and procedures used by the Contractor to perform under this Agreement. Neither the Contractor nor any of its employees, officers, agents or subcontractors shall represent, act, purport to act, or be deemed to be an agent, representative, employee, or servant of the County. The Contractor shall have no authority to bind the County to any agreement or contract. No person performing any work or services for the Contractor under this Agreement shall be entitled to any benefits available or granted to employees of the County.

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13.12 *Merger Clause.* This Agreement constitutes the entire agreement and understanding of the parties as to all matters addressed or referred to herein. This Agreement supersedes all prior and contemporaneous agreements and understandings, representations and warranties, whether oral or written, relating to such matters.

13.13 *Fair Dealing.* The Contractor declares and warrants that the Contractor enters into the Agreement without reliance on or engaging in any collusion, bribery or fraud, that all of the Contractor's representations in this Agreement are made fairly and in good faith, and that no County Commissioner, County officer, or County employee, directly or indirectly owns more than 5% of the total assets or capital stock of the Contractor, nor will any such person directly or indirectly benefit by more than 5%, from the profits or emoluments of this Agreement. The Contractor warrants that it has not employed or retained any company or person, other than a bona fide employee working solely for the Contractor, to solicit or secure this Agreement and the Contractor has not paid or agreed to pay any person, company, corporation, individual or firm, other than a bona fide employee working solely for the Contractor, any fee, commission, percentage gift or any other compensation contingent upon or resulting from the award or making of this Agreement. Further, the contractor declares and warrants that the Contractor is not subject to the restrictions in Section 287.133, Florida Statutes, for a public entity crime.

13.14 *Sovereign Immunity.* Nothing in this Agreement shall be interpreted or construed to mean that the County waives sovereign immunity as provided under Section 768.28, Florida Statutes.

13.15 *Amendment.* Except as otherwise specifically provided herein, this Agreement may be amended only by written instrument specifically referring to this Agreement and executed by both parties with the same formalities as this Agreement. The term Ordinance 06-98 as used in this document, shall mean said Ordinance as may be amended from time to time.

13.16 *Terms Generally.* Whenever the context may require, any pronoun which is used in this Agreement shall include the corresponding masculine, feminine and neuter

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forms and the singular shall include the plural and vice versa. Unless otherwise specifically noted, the words "include," and "including" as used herein shall be deemed to be followed by the following phrase "without limitation". The words "agree," "agreement," "consent," "establish," "impose" as used herein shall be deemed to be followed by the phrase "which shall not be unreasonably withheld or delayed" except as specifically noted. Words or phrases which are defined herein by reference to a statute, rule or regulation shall have the meaning ascribed to such word or phrases as of the Effective Date, without regard to subsequent changes in such statutes, rules or regulations, unless otherwise provided.

**ARTICLE XIV: ACCESS TO RECORDS**

14.0 The access to, disclosure, non-disclosure, or exemption of records, data, documents, and/or materials associated with this Agreement shall be subject to applicable provisions of the Florida Public Records Law (Chapter 119, Florida Statutes), and any other applicable State or Federal law. Access to such public records may not be blocked, thwarted, or hindered by placing the public records in the possession of a third party, or an unaffiliated party.

**ARTICLE XV: REVIEW OF RECORDS**

15.0 As a condition of entering into this Agreement, and in order to ensure compliance, especially as it relates to any applicable law, rule, or regulation, the Contractor authorized the County to examine, review, inspect, and/or audit the books, and records (including without limitation, data, documents, and correspondence), in order to determine whether compliance has been achieved with respect to the terms, conditions, provisions, rights, and responsibilities noted in this Agreement. It is specifically noted that the Contractor is under no duty to provide access to documentation not related this Agreement, and/or is otherwise protected by County, State, and/or Federal law.

St. Johns County  
Non Exclusive Franchise Agreement for Construction & Demolition Debris


IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed  
on May 18, 2012.

**CONTRACTOR**

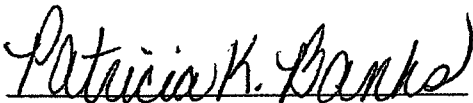
Strickland Construction Services  
Name of Company

Printed Name: Adam Herrington

Title: President

Signature:   
Company Officer  
(CORPORATE SEAL)

Date 5-18-12

  
Notary



**ST. JOHNS COUNTY, acting by and through  
its COUNTY ADMINISTRATOR**

ATTEST: \_\_\_\_\_  
Deputy Clerk

By: \_\_\_\_\_  
County Administrator

Legal Review:

\_\_\_\_\_  
Assistant County Attorney

**NON-EXCLUSIVE FRANCHISE AGREEMENT  
FOR CONSTRUCTION AND DEMOLITION DEBRIS**

This Non-Exclusive Franchise Agreement for the collection and transport of Construction and Demolition Debris ("Agreement") is made as of this 09 day of May, 2012, by and between St. Johns County ("County"), a political subdivision of the State of Florida, and Hicks Land Clearing, its successors and assigns ("Contractor").

**RECITALS**

WHEREAS, Contractor wishes to collect and transport Construction and Demolition Debris in the unincorporated areas of St. Johns County; and

WHEREAS, the County wishes to ensure that the Contractor's activities are performed in accordance with all applicable laws and is consistent with the public interest.

NOW, THEREFORE, in consideration of the mutual covenants hereinafter contained and other good and valuable consideration, the receipt and adequacy of which are hereby acknowledged, the County and Contractor agree as follows:

**ARTICLE I: DEFINITIONS**

1.0 The terms used in this Agreement shall have the same definitions and meanings set forth in the St. Johns County Solid Waste Ordinance (*see* St. Johns County Ordinance 06-98), unless a different meaning is specifically defined herein. Such terms shall be construed in a manner consistent with the definitions provided in section 403.703 of the Florida Statutes. Any inconsistency with section 403.703 of the Florida Statutes shall be resolved in favor of said statutory provision.

**ARTICLE II: CONTRACTOR'S GENERAL WARRANTY**

2.0 By executing this Agreement, Contractor acknowledges that it has read the St. Johns County Solid Waste Ordinance (together with all amendments thereto) and this Agreement, and Contractor agrees to comply at all times with the applicable provisions of

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this Agreement and the Ordinance, a copy of which is attached hereto, and incorporated herein.

ARTICLE III: NON-EXCLUSIVE FRANCHISE

3.0 The County hereby grants a non-exclusive Franchise to Contractor for the collection and transport of Construction and Demolition Debris in the unincorporated areas of St. Johns County, subject to the terms and conditions of this Agreement and all applicable laws. This Agreement authorizes the Contractor to only collect and transport Construction and Demolition Debris in roll-off containers or other commercial collection equipment standard to the industry for this type of service. No other collection or transportation of Construction and Demolition Debris is authorized under this Agreement.

ARTICLE IV: TERM

4.0 This Agreement shall be effective upon execution by the County's duly authorized representative ("Effective Date"). This Agreement shall run from the Effective Date and shall expire at 11:59 p.m. (EST) on June 30, 2015 ("Expiration Date").

ARTICLE V: CONTRACTOR'S OPERATIONS

5.0 The Contractor shall take all necessary steps to ensure that its operations are performed in compliance with all applicable provisions of the St. Johns County Code of Ordinances, and all other applicable local, state, and federal laws.

5.1 The Contractor's employees shall be properly trained and qualified to perform the tasks assigned to them under this Agreement.

5.2 Contractor may collect and transport Construction and Demolition Debris between 7 a.m. and 6 p.m. (EST), on Monday through Saturday of each week. Contractor shall not collect or transport Construction and Demolition Debris at other times, unless the Contractor has received the prior approval of the Manager of the St. Johns County Solid Waste Department.



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5.3 When collecting or transporting construction and Demolition Debris, Contractor's employees shall wear a company shirt or uniform, which shall have the Contractor's name or logo in a conspicuous place.

5.4 All of the trucks used by the Contractor for the collection and transportation of Construction and Demolition Debris shall be marked with the name and phone number of the Contractor in letters that are plainly visible and at least four inches high. Each commercial container used by the Contractor for the collection and transportation of Construction and Demolition Debris shall be labeled by the Contractor on each long side (two sides) in the same manner.

5.5 The Contractor's roll-off and/or commercial containers shall be securely covered when transporting Construction and Demolition Debris, as authorized under this Agreement.

5.6 All of the rolling stock used by the Contractor for collecting and transporting Construction and Demolition Debris in St. Johns County shall be maintained in a good, clean, and safe operating condition, and be properly marked with the Contractor's name and phone number on all roll-off and/or commercial containers.

5.7 Contractor shall provide the County with a list of the vehicles used by the Contractor and the license plate number for each vehicle and the Company's vehicle identification number (VIN). The Contractor shall ensure that the vehicle list is updated and submitted to the County within 30 days of any revisions including deletions and/or additions of the vehicles.

5.8 This Agreement authorizes the use of roll-off and/or commercial containers and other commercial collection equipment standard to the industry for this type of service. The Contractor may provide an unlimited number of roll-off and/or commercial containers for Construction and Demolition Debris, if the construction site is acceptable for their proper placement and there is a bona-fide need. However, any roll-off and/or commercial container holding more than a de minimis amount of Solid Waste other than Construction and Demolition Debris shall be regulated as though the container were filled with Solid Waste and shall require transport and disposal at a St. Johns County facility accepting such waste.

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6.0 All of the Solid Waste, Construction and Demolition Debris collected by the Contractor shall be processed or disposed of at a duly licensed and permitted Solid Waste Management Facility accepting Construction and Demolition Debris.

ARTICLE VII: APPLICATION FEES

7.0 The Contractor is required to complete and submit the standard St. Johns County application form for non-exclusive Franchise to rent roll-off and/or commercial containers, collect Construction and Demolition Debris, transport said material and dispose of it in a duly licensed and permitted facility accepting Construction and Demolition Waste. A non-refundable \$500.00 application fee as well as a \$100.00 fee per vehicle shall accompany the Contractor's application to the County for the non-exclusive Franchise.

ARTICLE VIII: FRANCHISE FEES

8.0 The Contractor shall pay a Franchise fee to the County for the privilege of using the public streets, roads, alleys and other thoroughfares of the County for the collection and transportation of Construction and Demolition Debris that originates in the unincorporated areas of St. Johns County. The Franchise fee also may be used to pay the cost of implementing, administering and enforcing the County's regulations for the safe handling of Construction and Demolition Debris generated in the unincorporated areas of St. Johns County.

8.1 The Franchise fee shall be equal to ten percent (10%) of the Gross Revenues collected by the Contractor for the services provided pursuant to this Agreement, including the collection, transportation, processing and disposing of Construction and Demolition Debris originating in the unincorporated areas of St. Johns County.

8.2 Franchise fees shall be paid to the County once each quarter. Franchise fees shall be delivered to the County no later than January 15, April 15, July 15, and October 16 of each year or within 60 days of termination of the Agreement. Each quarterly payment shall be based upon the Gross Revenues earned by the Contractor for the services provided pursuant to this Agreement for the preceding calendar quarter.

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8.3 Contractor shall provide the County with an audited financial statement to demonstrate that the Contractor has fully paid the applicable Franchise fee for the full three (3) year Agreement Term or any partial period. The financial statement shall be prepared by an independent accounting firm in accordance with generally accepted accounting principles. Unless the County instructs the Contractor otherwise, the Contractor shall deliver the audited financial statement to the County within 45 days following the Expiration Date of this Agreement or within 45 days of the termination of this Agreement for any partial period.

8.4 Each quarterly payment of the Franchise fee shall be accompanied by a true and accurate report demonstrating that the Franchise fee has been paid in full for the preceding calendar quarter.

8.5 The Contractor shall allow the County's auditors to inspect and examine the Contractor's financial books and records to confirm the Contractor's compliance with this Agreement. The inspections shall be allowed by the Contractor at any reasonable time following reasonable notice by the County. Additionally, the County's auditors may communicate directly with customers of the Contractor for the purpose of confirming the Contractor's compliance with this Agreement. To the extent authorized by Chapter 119, Florida Statutes, or other applicable laws, the information obtained by the County under this Section 8.5 shall remain confidential. Contractor shall comply with Chapter 119, Florida Statutes as related to the disclosure of public records. If the Contractor fails to pay the full amount of the Franchise fee in a timely manner, the County may suspend the Franchise until payment is made or may terminate this Agreement with no further notice and revoke the Franchise. The Contractor shall pay any and all of the County's expenses for the collection of the Franchise fee, including but not limited to court costs and reasonable attorneys' fees. Interest shall accrue on any unpaid Franchise fee at the maximum rate allowed by law.

8.6 If the Contractor fails to pay the full amount of the Franchise fee within 30 days of the end of each quarter, the County may suspend the Franchise until payment is made or may terminate this Agreement with no further notice and revoke the Franchise. The Contractor shall pay any and all of the County's expenses for the collection of the

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Franchise fee, including but not limited to court costs and reasonable attorneys' fees.  
Interest shall accrue on any unpaid Franchise fee at the maximum rate allowed by law.

ARTICLE IX: APPLICATION RENEWAL

9.0 Between the months of April 1 through June 1, prior to the Expiration Date of this Agreement, the Contractor may submit a renewal application to the Department of Solid Waste Management. A five hundred dollar (\$500) renewal fee and a vehicle fee of one hundred dollars (\$100) per vehicle shall accompany said renewal application. A surety bond or letter of credit in the amount of five thousand dollars (\$5,000) shall also be required with the application, in order to satisfy the surety requirements specified in the St. Johns County Solid Waste Ordinance. During review of the renewal application the Contractor shall operate as a non-exclusive Franchise for a period not to exceed 60 days or until the renewal application is approved or denied within that 60 day period. Applications for renewal not meeting all applicable criteria may be denied.

ARTICLE X: INSURANCE

10.0 The Contractor shall not begin collecting or transporting Construction and Demolition Debris under this Agreement until appropriate certificates of insurance are provided to the County that demonstrates compliance with the requirements of this Agreement. The Contractor must maintain the insurance in full force and effect at all times throughout the Term of this Agreement. The County shall be named as an additional insured on all of the insurance policies, except for workers compensation. Certificates should be issued to St. Johns County Board of County Commissioners, 500 San Sebastian View, St. Augustine, Florida, 32084.

10.1 The Contractor shall provide workers' compensation and employer's liability insurance of not less than \$100,000 for each person/accident and each person/disease or the minimum amount required under Florida Law, whichever is greater.

10.2 The Contractor shall provide commercial general liability insurance in the amount of \$1,000,000 per occurrence, and shall include coverage for bodily injury, death, property damage and other liabilities arising from or related to Contractor's premises,

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operations, independent contractors, and contracts. The coverage must specify that it included the indemnification and hold harmless provisions of this Agreement.

10.3 The Contractor shall provide vehicle liability insurance with minimum combined single limits of \$1,000,000 for all owned, hired, and non-owned vehicles.

10.4 All of the companies providing insurance must be authorized to do business in the State of Florida. All of the insurance companies providing coverage must be rated A-IX or higher in the most recent edition of Best's Key Rating Guide.

10.5 No change or cancellation of any insurance required under this Agreement may be made unless thirty (30) days prior written notice is provided to the County. Each insurance certificate must name the County as an additional insured and contain a clause stating substantially as follows: "If any of the above-described policies are to be cancelled or undergo material change before the expiration date, the issuing insurance company will mail written notice to: St. Johns County Board of County Commissioners, 500 San Sebastian View, St. Augustine, Florida, 32084 at least 30 days before the effective date of the cancellation or change."

ARTICLE XI: INDEMNIFICATION

11.0 The Contractor agrees that it shall indemnify, defend and hold harmless the County, its officials, officers, employees and agents, against, and assume all liability for, any and all claims, suits, causes of action, damages, liabilities, expenditures, or proceedings of any kind (collectively "claims") arising from or related to any of the Contractor's activities or operations pursuant to this Agreement, including but not limited to claims based on bodily injury, loss of life or limb, damage to property, pollution or other environmental damages.

11.1 This provision relating to Indemnification, is separate and apart from, and is in no way limited by, any insurance provided by the Contractor, pursuant to this Agreement, or otherwise.

ARTICLE XII: TERMINATION BY COUNTY

12.0 If there is a material breach of any term of this Agreement by the Contractor, the County shall notify the Contractor in writing of the breach and provide the Contractor

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with an opportunity to correct the breach. If the breach is not corrected within one (1) day of receipt of the written notice, the County may terminate the Agreement at any time at the County's discretion by providing written notice to the Contractor, which shall be effective upon the date specified in the notice. Upon such notice, the Contractor shall immediately cease all activities under this Agreement. Among other things, a material breach of this Agreement shall be deemed to have occurred if: (a) the Contractor fails to pay Franchise fees at the times and in the amounts required by this Agreement; (b) the Contractor fails to file complete, accurate, and timely reports, as required by this Agreement; (c) the Contractor disposes of Solid Waste at a site other than a properly permitted and authorized Solid Waste Management Facility; (d) the Contractor collects or transports Solid Waste in a manner that is not authorized under this Agreement; (e) the Contractor fails to continuously maintain the types and amounts of insurance required under this Agreement; (f) the Contractor declares bankruptcy; or (g) the Contractor fails to comply with the applicable provisions of the St. Johns County Solid Waste Ordinance or this Agreement.

12.1 If the Contractor has frequently, regularly or repetitively defaulted in the performance of any of the requirements in this Agreement or any applicable local, state or federal regulation, the County may in its sole discretion deem the Contractor to be a "habitual violator," regardless of whether the Contractor has corrected each individual condition of default. Under such circumstances, the Contractor shall forfeit its right to any further grace period to correct or cure future defaults. All of the Contractor's prior defaults shall be considered cumulative and collectively shall constitute a condition of irredeemable default. The County shall issue the Contractor a notice that the Contractor has been deemed a "habitual violator." Thereafter, any single default by the Contractor of whatever nature shall be grounds for immediate termination of this Agreement. In the event of any such default, the County may terminate this Agreement by giving a written notice to the Contractor, which shall be effective upon the date specified in the notice. Upon such notice, the Contractor shall immediately cease all activities under this Agreement. This section creates a supplemental and additional means of terminating this Agreement and it shall not be deemed to be in lieu of any other remedy available at law or equity.

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ARTICLE XIII: MISCELLANEOUS PROVISIONS

13.0 *Party Representatives.* For the purposes of this Agreement, the Authorized representative of the County (as designated by the County Administrator) shall be the Solid Waste Manager of the St. Johns County Solid Waste Department or the Manager's designee. The authorized representative of the Contractor for purposes of this Agreement shall be James W. Hicks. Either party may change its representative upon five (5) days, prior notice to the other party.

13.1 *Notice.* All notices and consents required or permitted by this Agreement shall be in writing and transmitted in person or by registered or certified mail, return receipt requested, with notice deemed to be given upon receipt, as follows:

If to the County:

Solid Waste Manager  
St. Johns County Solid Waste Department  
3005 Allen Nease Road  
Elkton, FL 32033

If to the Contractor:

Hicks Land Clearing + Incinerator, LLC  
P.O. Box 810358  
St. Augustine, FL 32086

Changes in the respective addresses to which such notices may be directed may be made from time to time by either party by notice to the other party.

13.2 *Waiver.* No delay or failure to exercise a right under this Agreement shall impair such right or shall be construed to be a waiver thereof, but such right may be exercised from time to time and as often as deemed expedient. The failure of the County or Contractor at any time to require performance by the other party of any term in this Agreement shall in no way affect the right of the County or Contractor thereafter to enforce same; nor shall waiver by the County or Contractor of any breach of any term of this Agreement be taken or held to be a waiver of any succeeding breach of such term or

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as a waiver of any term itself. To be effective, any waiver shall be in writing and signed by the party granting such waiver. Any such waiver shall be limited to the particular right so waived and shall not be deemed to waive any other right under this Agreement.

13.3 *Agreement Governed by Florida Law and Venue.* This Agreement shall be governed by and construed in accordance with the laws of the State of Florida, and it shall be binding upon, and inure to the benefit of, the parties, their successors, and assigns. The Contractor shall submit to service of process and the jurisdiction of the State of Florida for any controversy or claim arising out of or relating to this Agreement. Any action to interpret and/or enforce this Agreement shall be brought and maintained in the State of Florida. Venue shall be in St. Johns County, Florida.

13.4 *Assignment.* This Agreement may not be sold, assigned or transferred by the Contractor without prior approval by the County. As a condition precedent to receiving the County's approval, the Contractor or the potential assignee must demonstrate to the County's satisfaction that the assignee has the ability and resources to comply with all of the applicable requirements set forth in this Agreement and all applicable local, state and federal regulations.

13.5 *Representations of the Contractor.* The Contractor represents that: (a) it is a corporation duly organized under the laws of the State of Florida or a person or an entity qualified to do business in the State of Florida; (b) this Agreement has been duly authorized, executed, and delivered in the State of Florida; and (c) it has the required power and authority to perform this Agreement.

13.6 *Headings.* Captions and headings contained in this Agreement are for ease of Reference only and do not constitute a part of this Agreement.

13.7 *Severability.* If any term, condition, covenant or obligation of this Agreement is declared illegal, void or unenforceable, the remaining terms shall not be affected but shall remain in full force and effect, and this Agreement shall be construed as if such illegal, void or unenforceable provision had never been contained herein.

13.8 *Survivability.* Any term, condition, covenant, or obligation that requires performance by a party subsequent to expiration or termination of this Agreement shall remain enforceable against such party subsequent to such expiration or termination.



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13.9 *Third Party Beneficiaries.* It is agreed between the parties hereto that no provision of this Agreement is intended to create any third-party beneficiaries hereunder, or to authorize anyone not a party to this Agreement to maintain an action pursuant to the terms or provisions of this Agreement.

13.10 *Personal Liability.* Nothing in this Agreement shall be construed as creating any personal liability on the part of any official, officer, employee, agent or representative of the County.

13.11 *Independent Contractor.* When performing the activities required by this Agreement the Contractor will be acting in the capacity of an independent contractor and not as an agent, employee, partner, joint venture or associate of the County. The Contractor shall be solely responsible for the means, methods and procedures used by the Contractor to perform under this Agreement. Neither the Contractor nor any of its employees, officers, agents or subcontractors shall represent, act, purport to act, or be deemed to be an agent, representative, employee, or servant of the County. The Contractor shall have no authority to bind the County to any agreement or contract. No person performing any work or services for the Contractor under this Agreement shall be entitled to any benefits available or granted to employees of the County.

13.12 *Merger Clause.* This Agreement constitutes the entire agreement and understanding of the parties as to all matters addressed or referred to herein. This Agreement supersedes all prior and contemporaneous agreements and understandings, representations and warranties, whether oral or written, relating to such matters.

13.13 *Fair Dealing.* The Contractor declares and warrants that the Contractor enters into the Agreement without reliance on or engaging in any collusion, bribery or fraud, that all of the Contractor's representations in this Agreement are made fairly and in good faith, and that no County Commissioner, County officer, or County employee, directly or indirectly owns more than 5% of the total assets or capital stock of the Contractor, nor will any such person directly or indirectly benefit by more than 5%, from the profits or emoluments of this Agreement. The Contractor warrants that it has not employed or retained any company or person, other than a bona fide employee working solely for the Contractor, to solicit or secure this Agreement and the Contractor has not paid or agreed

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to pay any person, company, corporation, individual or firm, other than a bona fide employee working solely for the Contractor, any fee, commission, percentage gift or any other compensation contingent upon or resulting from the award or making of this Agreement. Further, the contractor declares and warrants that the Contractor is not subject to the restrictions in Section 287.133, Florida Statutes, for a public entity crime.

13.14 *Sovereign Immunity.* Nothing in this Agreement shall be interpreted or construed to mean that the County waives sovereign immunity as provided under Section 768.28, Florida Statutes.

13.15 *Amendment.* Except as otherwise specifically provided herein, this Agreement may be amended only by written instrument specifically referring to this Agreement and executed by both parties with the same formalities as this Agreement. The term Ordinance 06-98 as used in this document, shall mean said Ordinance as may be amended from time to time.

13.16 *Terms Generally.* Whenever the context may require, any pronoun which is used in this Agreement shall include the corresponding masculine, feminine and neuter forms and the singular shall include the plural and vice versa. Unless otherwise specifically noted, the words "include," and "including" as used herein shall be deemed to be followed by the following phrase "without limitation". The words "agree," "agreement," "consent," "establish," "impose" as used herein shall be deemed to be followed by the phrase "which shall not be unreasonably withheld or delayed" except as specifically noted. Words or phrases which are defined herein by reference to a statute, rule or regulation shall have the meaning ascribed to such word or phrases as of the Effective Date, without regard to subsequent changes in such statutes, rules or regulations, unless otherwise provided.

**ARTICLE XIV: ACCESS TO RECORDS**

14.0 The access to, disclosure, non-disclosure, or exemption of records, data, documents, and/or materials associated with this Agreement shall be subject to applicable provisions of the Florida Public Records Law (Chapter 119, Florida Statutes), and any other applicable State or Federal law. Access to such public records may not be blocked,

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thwarted, or hindered by placing the public records in the possession of a third party, or an unaffiliated party.

ARTICLE XV: REVIEW OF RECORDS

15.0 As a condition of entering into this Agreement, and in order to ensure compliance, especially as it relates to any applicable law, rule, or regulation, the Contractor authorized the County to examine, review, inspect, and/or audit the books, and records (including without limitation, data, documents, and correspondence), in order to determine whether compliance has been achieved with respect to the terms, conditions, provisions, rights, and responsibilities noted in this Agreement. It is specifically noted that the Contractor is under no duty to provide access to documentation not related this Agreement, and/or is otherwise protected by County, State, and/or Federal law.

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Non Exclusive Franchise Agreement for Construction & Demolition Debris

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed  
on May 09, 2012.

**CONTRACTOR**

Hicks Land Clearing + Incinerator, LLC  
Name of Company

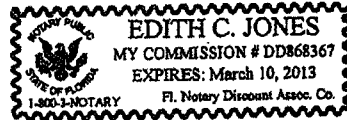
Printed Name: James W. Hicks

Title: Owner

Signature: James W. Hicks  
Company Officer  
(CORPORATE SEAL)

Date 05-09-12

Edith C. Jones  
Notary



Notary Seal

**ST. JOHNS COUNTY, acting by and through  
its COUNTY ADMINISTRATOR**

ATTEST: \_\_\_\_\_  
Deputy Clerk

By: \_\_\_\_\_  
County Administrator

Legal Review:

\_\_\_\_\_  
Assistant County Attorney

**NON-EXCLUSIVE FRANCHISE AGREEMENT  
FOR CONSTRUCTION AND DEMOLITION DEBRIS**

This Non-Exclusive Franchise Agreement for the collection and transport of Construction and Demolition Debris ("Agreement") is made as of this 1 day of May, 2012, by and between St. Johns County ("County"), a political subdivision of the State of Florida, and Realeco Recycling, its successors and assigns ("Contractor").

**RECITALS**

WHEREAS, Contractor wishes to collect and transport Construction and Demolition Debris in the unincorporated areas of St. Johns County; and

WHEREAS, the County wishes to ensure that the Contractor's activities are performed in accordance with all applicable laws and is consistent with the public interest.

NOW, THEREFORE, in consideration of the mutual covenants hereinafter contained and other good and valuable consideration, the receipt and adequacy of which are hereby acknowledged, the County and Contractor agree as follows:

**ARTICLE I: DEFINITIONS**

1.0 The terms used in this Agreement shall have the same definitions and meanings set forth in the St. Johns County Solid Waste Ordinance (*see* St. Johns County Ordinance 06-98), unless a different meaning is specifically defined herein. Such terms shall be construed in a manner consistent with the definitions provided in section 403.703 of the Florida Statutes. Any inconsistency with section 403.703 of the Florida Statutes shall be resolved in favor of said statutory provision.

**ARTICLE II: CONTRACTOR'S GENERAL WARRANTY**

2.0 By executing this Agreement, Contractor acknowledges that it has read the St. Johns County Solid Waste Ordinance (together with all amendments thereto) and this Agreement, and Contractor agrees to comply at all times with the applicable provisions of

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this Agreement and the Ordinance, a copy of which is attached hereto, and incorporated herein.

**ARTICLE III: NON-EXCLUSIVE FRANCHISE**

3.0 The County hereby grants a non-exclusive Franchise to Contractor for the collection and transport of Construction and Demolition Debris in the unincorporated areas of St. Johns County, subject to the terms and conditions of this Agreement and all applicable laws. This Agreement authorizes the Contractor to only collect and transport Construction and Demolition Debris in roll-off containers or other commercial collection equipment standard to the industry for this type of service. No other collection or transportation of Construction and Demolition Debris is authorized under this Agreement.

**ARTICLE IV: TERM**

4.0 This Agreement shall be effective upon execution by the County's duly authorized representative ("Effective Date"). This Agreement shall run from the Effective Date and shall expire at 11:59 p.m. (EST) on June 30, 2015 ("Expiration Date").

**ARTICLE V: CONTRACTOR'S OPERATIONS**

5.0 The Contractor shall take all necessary steps to ensure that its operations are performed in compliance with all applicable provisions of the St. Johns County Code of Ordinances, and all other applicable local, state, and federal laws.

5.1 The Contractor's employees shall be properly trained and qualified to perform the tasks assigned to them under this Agreement.

5.2 Contractor may collect and transport Construction and Demolition Debris between 7 a.m. and 6 p.m. (EST), on Monday through Saturday of each week. Contractor shall not collect or transport Construction and Demolition Debris at other times, unless the Contractor has received the prior approval of the Manager of the St. Johns County Solid Waste Department.

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5.3 When collecting or transporting construction and Demolition Debris, Contractor's employees shall wear a company shirt or uniform, which shall have the Contractor's name or logo in a conspicuous place.

5.4 All of the trucks used by the Contractor for the collection and transportation of Construction and Demolition Debris shall be marked with the name and phone number of the Contractor in letters that are plainly visible and at least four inches high. Each commercial container used by the Contractor for the collection and transportation of Construction and Demolition Debris shall be labeled by the Contractor on each long side (two sides) in the same manner.

5.5 The Contractor's roll-off and/or commercial containers shall be securely covered when transporting Construction and Demolition Debris, as authorized under this Agreement.

5.6 All of the rolling stock used by the Contractor for collecting and transporting Construction and Demolition Debris in St. Johns County shall be maintained in a good, clean, and safe operating condition, and be properly marked with the Contractor's name and phone number on all roll-off and/or commercial containers.

5.7 Contractor shall provide the County with a list of the vehicles used by the Contractor and the license plate number for each vehicle and the Company's vehicle identification number (VIN). The Contractor shall ensure that the vehicle list is updated and submitted to the County within 30 days of any revisions including deletions and/or additions of the vehicles.

5.8 This Agreement authorizes the use of roll-off and/or commercial containers and other commercial collection equipment standard to the industry for this type of service. The Contractor may provide an unlimited number of roll-off and/or commercial containers for Construction and Demolition Debris, if the construction site is acceptable for their proper placement and there is a bona-fide need. However, any roll-off and/or commercial container holding more than a de minimis amount of Solid Waste other than Construction and Demolition Debris shall be regulated as though the container were filled with Solid Waste and shall require transport and disposal at a St. Johns County facility accepting such waste.

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ARTICLE VI: DISPOSAL SITES

6.0 All of the Solid Waste, Construction and Demolition Debris collected by the Contractor shall be processed or disposed of at a duly licensed and permitted Solid Waste Management Facility accepting Construction and Demolition Debris.

ARTICLE VII: APPLICATION FEES

7.0 The Contractor is required to complete and submit the standard St. Johns County application form for non-exclusive Franchise to rent roll-off and/or commercial containers, collect Construction and Demolition Debris, transport said material and dispose of it in a duly licensed and permitted facility accepting Construction and Demolition Waste. A non-refundable \$500.00 application fee as well as a \$100.00 fee per vehicle shall accompany the Contractor's application to the County for the non-exclusive Franchise.

ARTICLE VIII: FRANCHISE FEES

8.0 The Contractor shall pay a Franchise fee to the County for the privilege of using the public streets, roads, alleys and other thoroughfares of the County for the collection and transportation of Construction and Demolition Debris that originates in the unincorporated areas of St. Johns County. The Franchise fee also may be used to pay the cost of implementing, administering and enforcing the County's regulations for the safe handling of Construction and Demolition Debris generated in the unincorporated areas of St. Johns County.

8.1 The Franchise fee shall be equal to ten percent (10%) of the Gross Revenues collected by the Contractor for the services provided pursuant to this Agreement, including the collection, transportation, processing and disposing of Construction and Demolition Debris originating in the unincorporated areas of St. Johns County.

8.2 Franchise fees shall be paid to the County once each quarter. Franchise fees shall be delivered to the County no later than January 15, April 15, July 15, and October 16 of each year or within 60 days of termination of the Agreement. Each quarterly payment shall be based upon the Gross Revenues earned by the Contractor for the services provided pursuant to this Agreement for the preceding calendar quarter.



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8.3 Contractor shall provide the County with an audited financial statement to demonstrate that the Contractor has fully paid the applicable Franchise fee for the full three (3) year Agreement Term or any partial period. The financial statement shall be prepared by an independent accounting firm in accordance with generally accepted accounting principles. Unless the County instructs the Contractor otherwise, the Contractor shall deliver the audited financial statement to the County within 45 days following the Expiration Date of this Agreement or within 45 days of the termination of this Agreement for any partial period.

8.4 Each quarterly payment of the Franchise fee shall be accompanied by a true and accurate report demonstrating that the Franchise fee has been paid in full for the preceding calendar quarter.

8.5 The Contractor shall allow the County's auditors to inspect and examine the Contractor's financial books and records to confirm the Contractor's compliance with this Agreement. The inspections shall be allowed by the Contractor at any reasonable time following reasonable notice by the County. Additionally, the County's auditors may communicate directly with customers of the Contractor for the purpose of confirming the Contractor's compliance with this Agreement. To the extent authorized by Chapter 119, Florida Statutes, or other applicable laws, the information obtained by the County under this Section 8.5 shall remain confidential. Contractor shall comply with Chapter 119, Florida Statutes as related to the disclosure of public records. If the Contractor fails to pay the full amount of the Franchise fee in a timely manner, the County may suspend the Franchise until payment is made or may terminate this Agreement with no further notice and revoke the Franchise. The Contractor shall pay any and all of the County's expenses for the collection of the Franchise fee, including but not limited to court costs and reasonable attorneys' fees. Interest shall accrue on any unpaid Franchise fee at the maximum rate allowed by law.

8.6 If the Contractor fails to pay the full amount of the Franchise fee within 30 days of the end of each quarter, the County may suspend the Franchise until payment is made or may terminate this Agreement with no further notice and revoke the Franchise. The Contractor shall pay any and all of the County's expenses for the collection of the

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Franchise fee, including but not limited to court costs and reasonable attorneys' fees.  
Interest shall accrue on any unpaid Franchise fee at the maximum rate allowed by law.

**ARTICLE IX: APPLICATION RENEWAL**

9.0 Between the months of April 1 through June 1, prior to the Expiration Date of this Agreement, the Contractor may submit a renewal application to the Department of Solid Waste Management. A five hundred dollar (\$500) renewal fee and a vehicle fee of one hundred dollars (\$100) per vehicle shall accompany said renewal application. A surety bond or letter of credit in the amount of five thousand dollars (\$5,000) shall also be required with the application, in order to satisfy the surety requirements specified in the St. Johns County Solid Waste Ordinance. During review of the renewal application the Contractor shall operate as a non-exclusive Franchise for a period not to exceed 60 days or until the renewal application is approved or denied within that 60 day period. Applications for renewal not meeting all applicable criteria may be denied.

**ARTICLE X: INSURANCE**

10.0 The Contractor shall not begin collecting or transporting Construction and Demolition Debris under this Agreement until appropriate certificates of insurance are provided to the County that demonstrates compliance with the requirements of this Agreement. The Contractor must maintain the insurance in full force and effect at all times throughout the Term of this Agreement. The County shall be named as an additional insured on all of the insurance policies, except for workers compensation. Certificates should be issued to St. Johns County Board of County Commissioners, 500 San Sebastian View, St. Augustine, Florida, 32084.

10.1 The Contractor shall provide workers' compensation and employer's liability insurance of not less than \$100,000 for each person/accident and each person/disease or the minimum amount required under Florida Law, whichever is greater.

10.2 The Contractor shall provide commercial general liability insurance in the amount of \$1,000,000 per occurrence, and shall include coverage for bodily injury, death, property damage and other liabilities arising from or related to Contractor's premises,

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operations, independent contractors, and contracts. The coverage must specify that it included the indemnification and hold harmless provisions of this Agreement.

10.3 The Contractor shall provide vehicle liability insurance with minimum combined single limits of \$1,000,000 for all owned, hired, and non-owned vehicles.

10.4 All of the companies providing insurance must be authorized to do business in the State of Florida. All of the insurance companies providing coverage must be rated A-IX or higher in the most recent edition of Best's Key Rating Guide.

10.5 No change or cancellation of any insurance required under this Agreement may be made unless thirty (30) days prior written notice is provided to the County. Each insurance certificate must name the County as an additional insured and contain a clause stating substantially as follows: "If any of the above-described policies are to be cancelled or undergo material change before the expiration date, the issuing insurance company will mail written notice to: St. Johns County Board of County Commissioners, 500 San Sebastian View, St. Augustine, Florida, 32084 at least 30 days before the effective date of the cancellation or change."

ARTICLE XI: INDEMNIFICATION

11.0 The Contractor agrees that it shall indemnify, defend and hold harmless the County, its officials, officers, employees and agents, against, and assume all liability for, any and all claims, suits, causes of action, damages, liabilities, expenditures, or proceedings of any kind (collectively "claims") arising from or related to any of the Contractor's activities or operations pursuant to this Agreement, including but not limited to claims based on bodily injury, loss of life or limb, damage to property, pollution or other environmental damages.

11.1 This provision relating to Indemnification, is separate and apart from, and is in no way limited by, any insurance provided by the Contractor, pursuant to this Agreement, or otherwise.

ARTICLE XII: TERMINATION BY COUNTY

12.0 If there is a material breach of any term of this Agreement by the Contractor, the County shall notify the Contractor in writing of the breach and provide the Contractor

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with an opportunity to correct the breach. If the breach is not corrected within one (1) day of receipt of the written notice, the County may terminate the Agreement at any time at the County's discretion by providing written notice to the Contractor, which shall be effective upon the date specified in the notice. Upon such notice, the Contractor shall immediately cease all activities under this Agreement. Among other things, a material breach of this Agreement shall be deemed to have occurred if: (a) the Contractor fails to pay Franchise fees at the times and in the amounts required by this Agreement; (b) the Contractor fails to file complete, accurate, and timely reports, as required by this Agreement; (c) the Contractor disposes of Solid Waste at a site other than a properly permitted and authorized Solid Waste Management Facility; (d) the Contractor collects or transports Solid Waste in a manner that is not authorized under this Agreement; (e) the Contractor fails to continuously maintain the types and amounts of insurance required under this Agreement; (f) the Contractor declares bankruptcy; or (g) the Contractor fails to comply with the applicable provisions of the St. Johns County Solid Waste Ordinance or this Agreement.

12.1 If the Contractor has frequently, regularly or repetitively defaulted in the performance of any of the requirements in this Agreement or any applicable local, state or federal regulation, the County may in its sole discretion deem the Contractor to be a "habitual violator," regardless of whether the Contractor has corrected each individual condition of default. Under such circumstances, the Contractor shall forfeit its right to any further grace period to correct or cure future defaults. All of the Contractor's prior defaults shall be considered cumulative and collectively shall constitute a condition of irredeemable default. The County shall issue the Contractor a notice that the Contractor has been deemed a "habitual violator." Thereafter, any single default by the Contractor of whatever nature shall be grounds for immediate termination of this Agreement. In the event of any such default, the County may terminate this Agreement by giving a written notice to the Contractor, which shall be effective upon the date specified in the notice. Upon such notice, the Contractor shall immediately cease all activities under this Agreement. This section creates a supplemental and additional means of terminating this Agreement and it shall not be deemed to be in lieu of any other remedy available at law or equity.

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ARTICLE XIII: MISCELLANEOUS PROVISIONS

13.0 *Party Representatives.* For the purposes of this Agreement, the Authorized representative of the County (as designated by the County Administrator) shall be the Solid Waste Manager of the St. Johns County Solid Waste Department or the Manager's designee. The authorized representative of the Contractor for purposes of this Agreement shall be <sup>Andrew Senesac</sup> Sandra Jenkins. Either party may change its representative upon five (5) days, prior notice to the other party.

13.1 *Notice.* All notices and consents required or permitted by this Agreement shall be in writing and transmitted in person or by registered or certified mail, return receipt requested, with notice deemed to be given upon receipt, as follows:

If to the County:

Solid Waste Manager  
St. Johns County Solid Waste Department  
3005 Allen Nease Road  
Elkton, FL 32033

If to the Contractor:

Realco Recycling Company, Inc.  
8707 Somers Road South  
Jacksonville, Florida 32226

Changes in the respective addresses to which such notices may be directed may be made from time to time by either party by notice to the other party.

13.2 *Waiver.* No delay or failure to exercise a right under this Agreement shall impair such right or shall be construed to be a waiver thereof, but such right may be exercised from time to time and as often as deemed expedient. The failure of the County or Contractor at any time to require performance by the other party of any term in this Agreement shall in no way affect the right of the County or Contractor thereafter to enforce same; nor shall waiver by the County or Contractor of any breach of any term of this Agreement be taken or held to be a waiver of any succeeding breach of such term or

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as a waiver of any term itself. To be effective, any waiver shall be in writing and signed by the party granting such waiver. Any such waiver shall be limited to the particular right so waived and shall not be deemed to waive any other right under this Agreement.

13.3 *Agreement Governed by Florida Law and Venue.* This Agreement shall be governed by and construed in accordance with the laws of the State of Florida, and it shall be binding upon, and inure to the benefit of, the parties, their successors, and assigns. The Contractor shall submit to service of process and the jurisdiction of the State of Florida for any controversy or claim arising out of or relating to this Agreement. Any action to interpret and/or enforce this Agreement shall be brought and maintained in the State of Florida. Venue shall be in St. Johns County, Florida.

13.4 *Assignment.* This Agreement may not be sold, assigned or transferred by the Contractor without prior approval by the County. As a condition precedent to receiving the County's approval, the Contractor or the potential assignee must demonstrate to the County's satisfaction that the assignee has the ability and resources to comply with all of the applicable requirements set forth in this Agreement and all applicable local, state and federal regulations.

13.5 *Representations of the Contractor.* The Contractor represents that: (a) it is a corporation duly organized under the laws of the State of Florida or a person or an entity qualified to do business in the State of Florida; (b) this Agreement has been duly authorized, executed, and delivered in the State of Florida; and (c) it has the required power and authority to perform this Agreement.

13.6 *Headings.* Captions and headings contained in this Agreement are for ease of Reference only and do not constitute a part of this Agreement.

13.7 *Severability.* If any term, condition, covenant or obligation of this Agreement is declared illegal, void or unenforceable, the remaining terms shall not be affected but shall remain in full force and effect, and this Agreement shall be construed as if such illegal, void or unenforceable provision had never been contained herein.

13.8 *Survivability.* Any term, condition, covenant, or obligation that requires performance by a party subsequent to expiration or termination of this Agreement shall remain enforceable against such party subsequent to such expiration or termination.

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13.9 *Third Party Beneficiaries.* It is agreed between the parties hereto that no provision of this Agreement is intended to create any third-party beneficiaries hereunder, or to authorize anyone not a party to this Agreement to maintain an action pursuant to the terms or provisions of this Agreement.

13.10 *Personal Liability.* Nothing in this Agreement shall be construed as creating any personal liability on the part of any official, officer, employee, agent or representative of the County.

13.11 *Independent Contractor.* When performing the activities required by this Agreement the Contractor will be acting in the capacity of an independent contractor and not as an agent, employee, partner, joint venture or associate of the County. The Contractor shall be solely responsible for the means, methods and procedures used by the Contractor to perform under this Agreement. Neither the Contractor nor any of its employees, officers, agents or subcontractors shall represent, act, purport to act, or be deemed to be an agent, representative, employee, or servant of the County. The Contractor shall have no authority to bind the County to any agreement or contract. No person performing any work or services for the Contractor under this Agreement shall be entitled to any benefits available or granted to employees of the County.

13.12 *Merger Clause.* This Agreement constitutes the entire agreement and understanding of the parties as to all matters addressed or referred to herein. This Agreement supersedes all prior and contemporaneous agreements and understandings, representations and warranties, whether oral or written, relating to such matters.

13.13 *Fair Dealing.* The Contractor declares and warrants that the Contractor enters into the Agreement without reliance on or engaging in any collusion, bribery or fraud, that all of the Contractor's representations in this Agreement are made fairly and in good faith, and that no County Commissioner, County officer, or County employee, directly or indirectly owns more than 5% of the total assets or capital stock of the Contractor, nor will any such person directly or indirectly benefit by more than 5%, from the profits or emoluments of this Agreement. The Contractor warrants that it has not employed or retained any company or person, other than a bona fide employee working solely for the Contractor, to solicit or secure this Agreement and the Contractor has not paid or agreed

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to pay any person, company, corporation, individual or firm, other than a bona fide employee working solely for the Contractor, any fee, commission, percentage gift or any other compensation contingent upon or resulting from the award or making of this Agreement. Further, the contractor declares and warrants that the Contractor is not subject to the restrictions in Section 287.133, Florida Statutes, for a public entity crime.

13.14 *Sovereign Immunity.* Nothing in this Agreement shall be interpreted or construed to mean that the County waives sovereign immunity as provided under Section 768.28, Florida Statutes.

13.15 *Amendment.* Except as otherwise specifically provided herein, this Agreement may be amended only by written instrument specifically referring to this Agreement and executed by both parties with the same formalities as this Agreement. The term Ordinance 06-98 as used in this document, shall mean said Ordinance as may be amended from time to time.

13.16 *Terms Generally.* Whenever the context may require, any pronoun which is used in this Agreement shall include the corresponding masculine, feminine and neuter forms and the singular shall include the plural and vice versa. Unless otherwise specifically noted, the words "include," and "including" as used herein shall be deemed to be followed by the following phrase "without limitation". The words "agree," "agreement," "consent," "establish," "impose" as used herein shall be deemed to be followed by the phrase "which shall not be unreasonably withheld or delayed" except as specifically noted. Words or phrases which are defined herein by reference to a statute, rule or regulation shall have the meaning ascribed to such word or phrases as of the Effective Date, without regard to subsequent changes in such statutes, rules or regulations, unless otherwise provided.

**ARTICLE XIV: ACCESS TO RECORDS**

14.0 The access to, disclosure, non-disclosure, or exemption of records, data, documents, and/or materials associated with this Agreement shall be subject to applicable provisions of the Florida Public Records Law (Chapter 119, Florida Statutes), and any other applicable State or Federal law. Access to such public records may not be blocked,



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thwarted, or hindered by placing the public records in the possession of a third party, or an unaffiliated party.

**ARTICLE XV: REVIEW OF RECORDS**

15.0           As a condition of entering into this Agreement, and in order to ensure compliance, especially as it relates to any applicable law, rule, or regulation, the Contractor authorized the County to examine, review, inspect, and/or audit the books, and records (including without limitation, data, documents, and correspondence), in order to determine whether compliance has been achieved with respect to the terms, conditions, provisions, rights, and responsibilities noted in this Agreement. It is specifically noted that the Contractor is under no duty to provide access to documentation not related this Agreement, and/or is otherwise protected by County, State, and/or Federal law.

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St. Johns County  
Non Exclusive Franchise Agreement for Construction & Demolition Debris

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed  
on May 1, \_\_\_\_\_, 2012.

**CONTRACTOR**

Realco Recycling Company, Inc.  
Name of Company

Printed Name: Andrew Senesac

Title: President

Signature: Andrew Senesac  
Company Officer  
(CORPORATE SEAL)

Date May 1, 2012

Sandra Y. Jenkins  
Notary Sandra Y. Jenkins

**SANDRA Y. JENKINS**  
Notary Public, State of Florida  
My Comm. Expires May 26, 2016  
Commission No. EE 167847

\_\_\_\_\_  
Notary Seal

**ST. JOHNS COUNTY, acting by and through  
its COUNTY ADMINISTRATOR**

ATTEST: \_\_\_\_\_  
Deputy Clerk

By: \_\_\_\_\_  
County Administrator

Legal Review:

\_\_\_\_\_  
Assistant County Attorney

**NON-EXCLUSIVE FRANCHISE AGREEMENT  
FOR CONSTRUCTION AND DEMOLITION DEBRIS**

This Non-Exclusive Franchise Agreement for the collection and transport of Construction and Demolition Debris ("Agreement") is made as of this 26 day of April, 2017, by and between St. Johns County ("County"), a political subdivision of the State of Florida, and Republic Services of FL, its successors and assigns ("Contractor").  
dba seaboard waste systems

**RECITALS**

WHEREAS, Contractor wishes to collect and transport Construction and Demolition Debris in the unincorporated areas of St. Johns County; and

WHEREAS, the County wishes to ensure that the Contractor's activities are performed in accordance with all applicable laws and is consistent with the public interest.

NOW, THEREFORE, in consideration of the mutual covenants hereinafter contained and other good and valuable consideration, the receipt and adequacy of which are hereby acknowledged, the County and Contractor agree as follows:

**ARTICLE I: DEFINITIONS**

1.0 The terms used in this Agreement shall have the same definitions and meanings set forth in the St. Johns County Solid Waste Ordinance (*see* St. Johns County Ordinance 06-98), unless a different meaning is specifically defined herein. Such terms shall be construed in a manner consistent with the definitions provided in section 403.703 of the Florida Statutes. Any inconsistency with section 403.703 of the Florida Statutes shall be resolved in favor of said statutory provision.

**ARTICLE II: CONTRACTOR'S GENERAL WARRANTY**

2.0 By executing this Agreement, Contractor acknowledges that it has read the St. Johns County Solid Waste Ordinance (together with all amendments thereto) and this Agreement, and Contractor agrees to comply at all times with the applicable provisions of

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Non Exclusive Franchise Agreement for Construction & Demolition Debris*

this Agreement and the Ordinance, a copy of which is attached hereto, and incorporated herein.

ARTICLE III: NON-EXCLUSIVE FRANCHISE

3.0 The County hereby grants a non-exclusive Franchise to Contractor for the collection and transport of Construction and Demolition Debris in the unincorporated areas of St. Johns County, subject to the terms and conditions of this Agreement and all applicable laws. This Agreement authorizes the Contractor to only collect and transport Construction and Demolition Debris in roll-off containers or other commercial collection equipment standard to the industry for this type of service. No other collection or transportation of Construction and Demolition Debris is authorized under this Agreement.

ARTICLE IV: TERM

4.0 This Agreement shall be effective upon execution by the County's duly authorized representative ("Effective Date"). This Agreement shall run from the Effective Date and shall expire at 11:59 p.m. (EST) on June 30, 2015 ("Expiration Date").

ARTICLE V: CONTRACTOR'S OPERATIONS

5.0 The Contractor shall take all necessary steps to ensure that its operations are performed in compliance with all applicable provisions of the St. Johns County Code of Ordinances, and all other applicable local, state, and federal laws.

5.1 The Contractor's employees shall be properly trained and qualified to perform the tasks assigned to them under this Agreement.

5.2 Contractor may collect and transport Construction and Demolition Debris between 7 a.m. and 6 p.m. (EST), on Monday through Saturday of each week. Contractor shall not collect or transport Construction and Demolition Debris at other times, unless the Contractor has received the prior approval of the Manager of the St. Johns County Solid Waste Department.

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5.3 When collecting or transporting construction and Demolition Debris, Contractor's employees shall wear a company shirt or uniform, which shall have the Contractor's name or logo in a conspicuous place.

5.4 All of the trucks used by the Contractor for the collection and transportation of Construction and Demolition Debris shall be marked with the name and phone number of the Contractor in letters that are plainly visible and at least four inches high. Each commercial container used by the Contractor for the collection and transportation of Construction and Demolition Debris shall be labeled by the Contractor on each long side (two sides) in the same manner.

5.5 The Contractor's roll-off and/or commercial containers shall be securely covered when transporting Construction and Demolition Debris, as authorized under this Agreement.

5.6 All of the rolling stock used by the Contractor for collecting and transporting Construction and Demolition Debris in St. Johns County shall be maintained in a good, clean, and safe operating condition, and be properly marked with the Contractor's name and phone number on all roll-off and/or commercial containers.

5.7 Contractor shall provide the County with a list of the vehicles used by the Contractor and the license plate number for each vehicle and the Company's vehicle identification number (VIN). The Contractor shall ensure that the vehicle list is updated and submitted to the County within 30 days of any revisions including deletions and/or additions of the vehicles.

5.8 This Agreement authorizes the use of roll-off and/or commercial containers and other commercial collection equipment standard to the industry for this type of service. The Contractor may provide an unlimited number of roll-off and/or commercial containers for Construction and Demolition Debris, if the construction site is acceptable for their proper placement and there is a bona-fide need. However, any roll-off and/or commercial container holding more than a de minimis amount of Solid Waste other than Construction and Demolition Debris shall be regulated as though the container were filled with Solid Waste and shall require transport and disposal at a St. Johns County facility accepting such waste.

**ARTICLE VI: DISPOSAL SITES**

6.0 All of the Solid Waste, Construction and Demolition Debris collected by the Contractor shall be processed or disposed of at a duly licensed and permitted Solid Waste Management Facility accepting Construction and Demolition Debris.

**ARTICLE VII: APPLICATION FEES**

7.0 The Contractor is required to complete and submit the standard St. Johns County application form for non-exclusive Franchise to rent roll-off and/or commercial containers, collect Construction and Demolition Debris, transport said material and dispose of it in a duly licensed and permitted facility accepting Construction and Demolition Waste. A non-refundable \$500.00 application fee as well as a \$100.00 fee per vehicle shall accompany the Contractor's application to the County for the non-exclusive Franchise.

**ARTICLE VIII: FRANCHISE FEES**

8.0 The Contractor shall pay a Franchise fee to the County for the privilege of using the public streets, roads, alleys and other thoroughfares of the County for the collection and transportation of Construction and Demolition Debris that originates in the unincorporated areas of St. Johns County. The Franchise fee also may be used to pay the cost of implementing, administering and enforcing the County's regulations for the safe handling of Construction and Demolition Debris generated in the unincorporated areas of St. Johns County.

8.1 The Franchise fee shall be equal to ten percent (10%) of the Gross Revenues collected by the Contractor for the services provided pursuant to this Agreement, including the collection, transportation, processing and disposing of Construction and Demolition Debris originating in the unincorporated areas of St. Johns County.

8.2 Franchise fees shall be paid to the County once each quarter. Franchise fees shall be delivered to the County no later than January 15, April 15, July 15, and October 16 of each year or within 60 days of termination of the Agreement. Each quarterly payment shall be based upon the Gross Revenues earned by the Contractor for the services provided pursuant to this Agreement for the preceding calendar quarter.

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Non Exclusive Franchise Agreement for Construction & Demolition Debris*

8.3 Contractor shall provide the County with an audited financial statement to demonstrate that the Contractor has fully paid the applicable Franchise fee for the full three (3) year Agreement Term or any partial period. The financial statement shall be prepared by an independent accounting firm in accordance with generally accepted accounting principles. Unless the County instructs the Contractor otherwise, the Contractor shall deliver the audited financial statement to the County within 45 days following the Expiration Date of this Agreement or within 45 days of the termination of this Agreement for any partial period.

8.4 Each quarterly payment of the Franchise fee shall be accompanied by a true and accurate report demonstrating that the Franchise fee has been paid in full for the preceding calendar quarter.

8.5 The Contractor shall allow the County's auditors to inspect and examine the Contractor's financial books and records to confirm the Contractor's compliance with this Agreement. The inspections shall be allowed by the Contractor at any reasonable time following reasonable notice by the County. Additionally, the County's auditors may communicate directly with customers of the Contractor for the purpose of confirming the Contractor's compliance with this Agreement. To the extent authorized by Chapter 119, Florida Statutes, or other applicable laws, the information obtained by the County under this Section 8.5 shall remain confidential. Contractor shall comply with Chapter 119, Florida Statutes as related to the disclosure of public records. If the Contractor fails to pay the full amount of the Franchise fee in a timely manner, the County may suspend the Franchise until payment is made or may terminate this Agreement with no further notice and revoke the Franchise. The Contractor shall pay any and all of the County's expenses for the collection of the Franchise fee, including but not limited to court costs and reasonable attorneys' fees. Interest shall accrue on any unpaid Franchise fee at the maximum rate allowed by law.

8.6 If the Contractor fails to pay the full amount of the Franchise fee within 30 days of the end of each quarter, the County may suspend the Franchise until payment is made or may terminate this Agreement with no further notice and revoke the Franchise. The Contractor shall pay any and all of the County's expenses for the collection of the

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Franchise fee, including but not limited to court costs and reasonable attorneys' fees.  
Interest shall accrue on any unpaid Franchise fee at the maximum rate allowed by law.

ARTICLE IX: APPLICATION RENEWAL

9.0 Between the months of April 1 through June 1, prior to the Expiration Date of this Agreement, the Contractor may submit a renewal application to the Department of Solid Waste Management. A five hundred dollar (\$500) renewal fee and a vehicle fee of one hundred dollars (\$100) per vehicle shall accompany said renewal application. A surety bond or letter of credit in the amount of five thousand dollars (\$5,000) shall also be required with the application, in order to satisfy the surety requirements specified in the St. Johns County Solid Waste Ordinance. During review of the renewal application the Contractor shall operate as a non-exclusive Franchise for a period not to exceed 60 days or until the renewal application is approved or denied within that 60 day period. Applications for renewal not meeting all applicable criteria may be denied.

ARTICLE X: INSURANCE

10.0 The Contractor shall not begin collecting or transporting Construction and Demolition Debris under this Agreement until appropriate certificates of insurance are provided to the County that demonstrates compliance with the requirements of this Agreement. The Contractor must maintain the insurance in full force and effect at all times throughout the Term of this Agreement. The County shall be named as an additional insured on all of the insurance policies, except for workers compensation. Certificates should be issued to St. Johns County Board of County Commissioners, 500 San Sebastian View, St. Augustine, Florida, 32084.

10.1 The Contractor shall provide workers' compensation and employer's liability insurance of not less than \$100,000 for each person/accident and each person/disease or the minimum amount required under Florida Law, whichever is greater.

10.2 The Contractor shall provide commercial general liability insurance in the amount of \$1,000,000 per occurrence, and shall include coverage for bodily injury, death, property damage and other liabilities arising from or related to Contractor's premises,



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operations, independent contractors, and contracts. The coverage must specify that it included the indemnification and hold harmless provisions of this Agreement.

10.3 The Contractor shall provide vehicle liability insurance with minimum combined single limits of \$1,000,000 for all owned, hired, and non-owned vehicles.

10.4 All of the companies providing insurance must be authorized to do business in the State of Florida. All of the insurance companies providing coverage must be rated A-IX or higher in the most recent edition of Best's Key Rating Guide.

10.5 No change or cancellation of any insurance required under this Agreement may be made unless thirty (30) days prior written notice is provided to the County. Each insurance certificate must name the County as an additional insured and contain a clause stating substantially as follows: "If any of the above-described policies are to be cancelled or undergo material change before the expiration date, the issuing insurance company will mail written notice to: St. Johns County Board of County Commissioners, 500 San Sebastian View, St. Augustine, Florida, 32084 at least 30 days before the effective date of the cancellation or change."

ARTICLE XI: INDEMNIFICATION

11.0 The Contractor agrees that it shall indemnify, defend and hold harmless the County, its officials, officers, employees and agents, against, and assume all liability for, any and all claims, suits, causes of action, damages, liabilities, expenditures, or proceedings of any kind (collectively "claims") arising from or related to any of the Contractor's activities or operations pursuant to this Agreement, including but not limited to claims based on bodily injury, loss of life or limb, damage to property, pollution or other environmental damages.

11.1 This provision relating to Indemnification, is separate and apart from, and is in no way limited by, any insurance provided by the Contractor, pursuant to this Agreement, or otherwise.

ARTICLE XII: TERMINATION BY COUNTY

12.0 If there is a material breach of any term of this Agreement by the Contractor, the County shall notify the Contractor in writing of the breach and provide the Contractor

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with an opportunity to correct the breach. If the breach is not corrected within one (1) day of receipt of the written notice, the County may terminate the Agreement at any time at the County's discretion by providing written notice to the Contractor, which shall be effective upon the date specified in the notice. Upon such notice, the Contractor shall immediately cease all activities under this Agreement. Among other things, a material breach of this Agreement shall be deemed to have occurred if: (a) the Contractor fails to pay Franchise fees at the times and in the amounts required by this Agreement; (b) the Contractor fails to file complete, accurate, and timely reports, as required by this Agreement; (c) the Contractor disposes of Solid Waste at a site other than a properly permitted and authorized Solid Waste Management Facility; (d) the Contractor collects or transports Solid Waste in a manner that is not authorized under this Agreement; (e) the Contractor fails to continuously maintain the types and amounts of insurance required under this Agreement; (f) the Contractor declares bankruptcy; or (g) the Contractor fails to comply with the applicable provisions of the St. Johns County Solid Waste Ordinance or this Agreement.

12.1 If the Contractor has frequently, regularly or repetitively defaulted in the performance of any of the requirements in this Agreement or any applicable local, state or federal regulation, the County may in its sole discretion deem the Contractor to be a "habitual violator," regardless of whether the Contractor has corrected each individual condition of default. Under such circumstances, the Contractor shall forfeit its right to any further grace period to correct or cure future defaults. All of the Contractor's prior defaults shall be considered cumulative and collectively shall constitute a condition of irredeemable default. The County shall issue the Contractor a notice that the Contractor has been deemed a "habitual violator." Thereafter, any single default by the Contractor of whatever nature shall be grounds for immediate termination of this Agreement. In the event of any such default, the County may terminate this Agreement by giving a written notice to the Contractor, which shall be effective upon the date specified in the notice. Upon such notice, the Contractor shall immediately cease all activities under this Agreement. This section creates a supplemental and additional means of terminating this Agreement and it shall not be deemed to be in lieu of any other remedy available at law or equity.

ARTICLE XIII: MISCELLANEOUS PROVISIONS

13.0 *Party Representatives.* For the purposes of this Agreement, the Authorized representative of the County (as designated by the County Administrator) shall be the Solid Waste Manager of the St. Johns County Solid Waste Department or the Manager's designee. The authorized representative of the Contractor for purposes of this Agreement shall be Jenna Yanyan. Either party may change its representative upon five (5) days, prior notice to the other party.

13.1 *Notice.* All notices and consents required or permitted by this Agreement shall be in writing and transmitted in person or by registered or certified mail, return receipt requested, with notice deemed to be given upon receipt, as follows:

If to the County:

Solid Waste Manager  
St. Johns County Solid Waste Department  
3005 Allen Nease Road  
Elkton, FL 32033

If to the Contractor:

Seaboard Waste Systems  
445 International Golf Parkway  
St. Augustine, FL 32095

Changes in the respective addresses to which such notices may be directed may be made from time to time by either party by notice to the other party.

13.2 *Waiver.* No delay or failure to exercise a right under this Agreement shall impair such right or shall be construed to be a waiver thereof, but such right may be exercised from time to time and as often as deemed expedient. The failure of the County or Contractor at any time to require performance by the other party of any term in this Agreement shall in no way affect the right of the County or Contractor thereafter to enforce same; nor shall waiver by the County or Contractor of any breach of any term of this Agreement be taken or held to be a waiver of any succeeding breach of such term or

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as a waiver of any term itself. To be effective, any waiver shall be in writing and signed by the party granting such waiver. Any such waiver shall be limited to the particular right so waived and shall not be deemed to waive any other right under this Agreement.

13.3 *Agreement Governed by Florida Law and Venue.* This Agreement shall be governed by and construed in accordance with the laws of the State of Florida, and it shall be binding upon, and inure to the benefit of, the parties, their successors, and assigns. The Contractor shall submit to service of process and the jurisdiction of the State of Florida for any controversy or claim arising out of or relating to this Agreement. Any action to interpret and/or enforce this Agreement shall be brought and maintained in the State of Florida. Venue shall be in St. Johns County, Florida.

13.4 *Assignment.* This Agreement may not be sold, assigned or transferred by the Contractor without prior approval by the County. As a condition precedent to receiving the County's approval, the Contractor or the potential assignee must demonstrate to the County's satisfaction that the assignee has the ability and resources to comply with all of the applicable requirements set forth in this Agreement and all applicable local, state and federal regulations.

13.5 *Representations of the Contractor.* The Contractor represents that: (a) it is a corporation duly organized under the laws of the State of Florida or a person or an entity qualified to do business in the State of Florida; (b) this Agreement has been duly authorized, executed, and delivered in the State of Florida; and (c) it has the required power and authority to perform this Agreement.

13.6 *Headings.* Captions and headings contained in this Agreement are for ease of Reference only and do not constitute a part of this Agreement.

13.7 *Severability.* If any term, condition, covenant or obligation of this Agreement is declared illegal, void or unenforceable, the remaining terms shall not be affected but shall remain in full force and effect, and this Agreement shall be construed as if such illegal, void or unenforceable provision had never been contained herein.

13.8 *Survivability.* Any term, condition, covenant, or obligation that requires performance by a party subsequent to expiration or termination of this Agreement shall remain enforceable against such party subsequent to such expiration or termination.

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13.9 *Third Party Beneficiaries.* It is agreed between the parties hereto that no provision of this Agreement is intended to create any third-party beneficiaries hereunder, or to authorize anyone not a party to this Agreement to maintain an action pursuant to the terms or provisions of this Agreement.

13.10 *Personal Liability.* Nothing in this Agreement shall be construed as creating any personal liability on the part of any official, officer, employee, agent or representative of the County.

13.11 *Independent Contractor.* When performing the activities required by this Agreement the Contractor will be acting in the capacity of an independent contractor and not as an agent, employee, partner, joint venture or associate of the County. The Contractor shall be solely responsible for the means, methods and procedures used by the Contractor to perform under this Agreement. Neither the Contractor nor any of its employees, officers, agents or subcontractors shall represent, act, purport to act, or be deemed to be an agent, representative, employee, or servant of the County. The Contractor shall have no authority to bind the County to any agreement or contract. No person performing any work or services for the Contractor under this Agreement shall be entitled to any benefits available or granted to employees of the County.

13.12 *Merger Clause.* This Agreement constitutes the entire agreement and understanding of the parties as to all matters addressed or referred to herein. This Agreement supersedes all prior and contemporaneous agreements and understandings, representations and warranties, whether oral or written, relating to such matters.

13.13 *Fair Dealing.* The Contractor declares and warrants that the Contractor enters into the Agreement without reliance on or engaging in any collusion, bribery or fraud, that all of the Contractor's representations in this Agreement are made fairly and in good faith, and that no County Commissioner, County officer, or County employee, directly or indirectly owns more than 5% of the total assets or capital stock of the Contractor, nor will any such person directly or indirectly benefit by more than 5%, from the profits or emoluments of this Agreement. The Contractor warrants that it has not employed or retained any company or person, other than a bona fide employee working solely for the Contractor, to solicit or secure this Agreement and the Contractor has not paid or agreed

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Non Exclusive Franchise Agreement for Construction & Demolition Debris*

to pay any person, company, corporation, individual or firm, other than a bona fide employee working solely for the Contractor, any fee, commission, percentage gift or any other compensation contingent upon or resulting from the award or making of this Agreement. Further, the contractor declares and warrants that the Contractor is not subject to the restrictions in Section 287.133, Florida Statutes, for a public entity crime.

13.14 *Sovereign Immunity.* Nothing in this Agreement shall be interpreted or construed to mean that the County waives sovereign immunity as provided under Section 768.28, Florida Statutes.

13.15 *Amendment.* Except as otherwise specifically provided herein, this Agreement may be amended only by written instrument specifically referring to this Agreement and executed by both parties with the same formalities as this Agreement. The term Ordinance 06-98 as used in this document, shall mean said Ordinance as may be amended from time to time.

13.16 *Terms Generally.* Whenever the context may require, any pronoun which is used in this Agreement shall include the corresponding masculine, feminine and neuter forms and the singular shall include the plural and vice versa. Unless otherwise specifically noted, the words "include," and "including" as used herein shall be deemed to be followed by the following phrase "without limitation". The words "agree," "agreement," "consent," "establish," "impose" as used herein shall be deemed to be followed by the phrase "which shall not be unreasonably withheld or delayed" except as specifically noted. Words or phrases which are defined herein by reference to a statute, rule or regulation shall have the meaning ascribed to such word or phrases as of the Effective Date, without regard to subsequent changes in such statutes, rules or regulations, unless otherwise provided.

**ARTICLE XIV: ACCESS TO RECORDS**

14.0 The access to, disclosure, non-disclosure, or exemption of records, data, documents, and/or materials associated with this Agreement shall be subject to applicable provisions of the Florida Public Records Law (Chapter 119, Florida Statutes), and any other applicable State or Federal law. Access to such public records may not be blocked,

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thwarted, or hindered by placing the public records in the possession of a third party, or an unaffiliated party.

ARTICLE XV: REVIEW OF RECORDS

15.0 As a condition of entering into this Agreement, and in order to ensure compliance, especially as it relates to any applicable law, rule, or regulation, the Contractor authorized the County to examine, review, inspect, and/or audit the books, and records (including without limitation, data, documents, and correspondence), in order to determine whether compliance has been achieved with respect to the terms, conditions, provisions, rights, and responsibilities noted in this Agreement. It is specifically noted that the Contractor is under no duty to provide access to documentation not related this Agreement, and/or is otherwise protected by County, State, and/or Federal law.

-----

St. Johns County  
Non Exclusive Franchise Agreement for Construction & Demolition Debris

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed  
on April 26<sup>th</sup>, 2012.

**CONTRACTOR**  
Republic Services of FL  
DBA Seaboard Waste Systems  
Name of Company

Printed Name: Jenna Yahyari  
Title: Assistant Division Controller

Signature: [Handwritten Signature]  
Company Officer  
(CORPORATE SEAL)

Date 4/26/12

[Handwritten Signature]  
Notary



Notary Seal

**ST. JOHNS COUNTY, acting by and through  
its COUNTY ADMINISTRATOR**

ATTEST: \_\_\_\_\_  
Deputy Clerk

By: \_\_\_\_\_  
County Administrator

Legal Review:

\_\_\_\_\_  
Assistant County Attorney



**NON-EXCLUSIVE FRANCHISE AGREEMENT  
FOR CONSTRUCTION AND DEMOLITION DEBRIS**

This Non-Exclusive Franchise Agreement for the collection and transport of Construction and Demolition Debris ("Agreement") is made as of this 2 day of MAY, 2012, by and between St. Johns County ("County"), a political subdivision of the State of Florida, and Shapells, INC, its successors and assigns ("Contractor").

**RECITALS**

WHEREAS, Contractor wishes to collect and transport Construction and Demolition Debris in the unincorporated areas of St. Johns County; and

WHEREAS, the County wishes to ensure that the Contractor's activities are performed in accordance with all applicable laws and is consistent with the public interest.

NOW, THEREFORE, in consideration of the mutual covenants hereinafter contained and other good and valuable consideration, the receipt and adequacy of which are hereby acknowledged, the County and Contractor agree as follows:

**ARTICLE I: DEFINITIONS**

1.0 The terms used in this Agreement shall have the same definitions and meanings set forth in the St. Johns County Solid Waste Ordinance (*see* St. Johns County Ordinance 06-98), unless a different meaning is specifically defined herein. Such terms shall be construed in a manner consistent with the definitions provided in section 403.703 of the Florida Statutes. Any inconsistency with section 403.703 of the Florida Statutes shall be resolved in favor of said statutory provision.

**ARTICLE II: CONTRACTOR'S GENERAL WARRANTY**

2.0 By executing this Agreement, Contractor acknowledges that it has read the St. Johns County Solid Waste Ordinance (together with all amendments thereto) and this Agreement, and Contractor agrees to comply at all times with the applicable provisions of

*St. Johns County  
Non Exclusive Franchise Agreement for Construction & Demolition Debris*

this Agreement and the Ordinance, a copy of which is attached hereto, and incorporated herein.

ARTICLE III: NON-EXCLUSIVE FRANCHISE

3.0 The County hereby grants a non-exclusive Franchise to Contractor for the collection and transport of Construction and Demolition Debris in the unincorporated areas of St. Johns County, subject to the terms and conditions of this Agreement and all applicable laws. This Agreement authorizes the Contractor to only collect and transport Construction and Demolition Debris in roll-off containers or other commercial collection equipment standard to the industry for this type of service. No other collection or transportation of Construction and Demolition Debris is authorized under this Agreement.

ARTICLE IV: TERM

4.0 This Agreement shall be effective upon execution by the County's duly authorized representative ("Effective Date"). This Agreement shall run from the Effective Date and shall expire at 11:59 p.m. (EST) on June 30, 2015 ("Expiration Date").

ARTICLE V: CONTRACTOR'S OPERATIONS

5.0 The Contractor shall take all necessary steps to ensure that its operations are performed in compliance with all applicable provisions of the St. Johns County Code of Ordinances, and all other applicable local, state, and federal laws.

5.1 The Contractor's employees shall be properly trained and qualified to perform the tasks assigned to them under this Agreement.

5.2 Contractor may collect and transport Construction and Demolition Debris between 7 a.m. and 6 p.m. (EST), on Monday through Saturday of each week. Contractor shall not collect or transport Construction and Demolition Debris at other times, unless the Contractor has received the prior approval of the Manager of the St. Johns County Solid Waste Department.

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Non Exclusive Franchise Agreement for Construction & Demolition Debris*

5.3 When collecting or transporting construction and Demolition Debris, Contractor's employees shall wear a company shirt or uniform, which shall have the Contractor's name or logo in a conspicuous place.

5.4 All of the trucks used by the Contractor for the collection and transportation of Construction and Demolition Debris shall be marked with the name and phone number of the Contractor in letters that are plainly visible and at least four inches high. Each commercial container used by the Contractor for the collection and transportation of Construction and Demolition Debris shall be labeled by the Contractor on each long side (two sides) in the same manner.

5.5 The Contractor's roll-off and/or commercial containers shall be securely covered when transporting Construction and Demolition Debris, as authorized under this Agreement.

5.6 All of the rolling stock used by the Contractor for collecting and transporting Construction and Demolition Debris in St. Johns County shall be maintained in a good, clean, and safe operating condition, and be properly marked with the Contractor's name and phone number on all roll-off and/or commercial containers.

5.7 Contractor shall provide the County with a list of the vehicles used by the Contractor and the license plate number for each vehicle and the Company's vehicle identification number (VIN). The Contractor shall ensure that the vehicle list is updated and submitted to the County within 30 days of any revisions including deletions and/or additions of the vehicles.

5.8 This Agreement authorizes the use of roll-off and/or commercial containers and other commercial collection equipment standard to the industry for this type of service. The Contractor may provide an unlimited number of roll-off and/or commercial containers for Construction and Demolition Debris, if the construction site is acceptable for their proper placement and there is a bona-fide need. However, any roll-off and/or commercial container holding more than a de minimis amount of Solid Waste other than Construction and Demolition Debris shall be regulated as though the container were filled with Solid Waste and shall require transport and disposal at a St. Johns County facility accepting such waste.

ARTICLE VI: DISPOSAL SITES

6.0 All of the Solid Waste, Construction and Demolition Debris collected by the Contractor shall be processed or disposed of at a duly licensed and permitted Solid Waste Management Facility accepting Construction and Demolition Debris.

ARTICLE VII: APPLICATION FEES

7.0 The Contractor is required to complete and submit the standard St. Johns County application form for non-exclusive Franchise to rent roll-off and/or commercial containers, collect Construction and Demolition Debris, transport said material and dispose of it in a duly licensed and permitted facility accepting Construction and Demolition Waste. A non-refundable \$500.00 application fee as well as a \$100.00 fee per vehicle shall accompany the Contractor's application to the County for the non-exclusive Franchise.

ARTICLE VIII: FRANCHISE FEES

8.0 The Contractor shall pay a Franchise fee to the County for the privilege of using the public streets, roads, alleys and other thoroughfares of the County for the collection and transportation of Construction and Demolition Debris that originates in the unincorporated areas of St. Johns County. The Franchise fee also may be used to pay the cost of implementing, administering and enforcing the County's regulations for the safe handling of Construction and Demolition Debris generated in the unincorporated areas of St. Johns County.

8.1 The Franchise fee shall be equal to ten percent (10%) of the Gross Revenues collected by the Contractor for the services provided pursuant to this Agreement, including the collection, transportation, processing and disposing of Construction and Demolition Debris originating in the unincorporated areas of St. Johns County.

8.2 Franchise fees shall be paid to the County once each quarter. Franchise fees shall be delivered to the County no later than January 15, April 15, July 15, and October 16 of each year or within 60 days of termination of the Agreement. Each quarterly payment shall be based upon the Gross Revenues earned by the Contractor for the services provided pursuant to this Agreement for the preceding calendar quarter.

*St. Johns County  
Non Exclusive Franchise Agreement for Construction & Demolition Debris*

8.3 Contractor shall provide the County with an audited financial statement to demonstrate that the Contractor has fully paid the applicable Franchise fee for the full three (3) year Agreement Term or any partial period. The financial statement shall be prepared by an independent accounting firm in accordance with generally accepted accounting principles. Unless the County instructs the Contractor otherwise, the Contractor shall deliver the audited financial statement to the County within 45 days following the Expiration Date of this Agreement or within 45 days of the termination of this Agreement for any partial period.

8.4 Each quarterly payment of the Franchise fee shall be accompanied by a true and accurate report demonstrating that the Franchise fee has been paid in full for the preceding calendar quarter.

8.5 The Contractor shall allow the County's auditors to inspect and examine the Contractor's financial books and records to confirm the Contractor's compliance with this Agreement. The inspections shall be allowed by the Contractor at any reasonable time following reasonable notice by the County. Additionally, the County's auditors may communicate directly with customers of the Contractor for the purpose of confirming the Contractor's compliance with this Agreement. To the extent authorized by Chapter 119, Florida Statutes, or other applicable laws, the information obtained by the County under this Section 8.5 shall remain confidential. Contractor shall comply with Chapter 119, Florida Statutes as related to the disclosure of public records. If the Contractor fails to pay the full amount of the Franchise fee in a timely manner, the County may suspend the Franchise until payment is made or may terminate this Agreement with no further notice and revoke the Franchise. The Contractor shall pay any and all of the County's expenses for the collection of the Franchise fee, including but not limited to court costs and reasonable attorneys' fees. Interest shall accrue on any unpaid Franchise fee at the maximum rate allowed by law.

8.6 If the Contractor fails to pay the full amount of the Franchise fee within 30 days of the end of each quarter, the County may suspend the Franchise until payment is made or may terminate this Agreement with no further notice and revoke the Franchise. The Contractor shall pay any and all of the County's expenses for the collection of the

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Franchise fee, including but not limited to court costs and reasonable attorneys' fees.  
Interest shall accrue on any unpaid Franchise fee at the maximum rate allowed by law.

ARTICLE IX: APPLICATION RENEWAL

9.0 Between the months of April 1 through June 1, prior to the Expiration Date of this Agreement, the Contractor may submit a renewal application to the Department of Solid Waste Management. A five hundred dollar (\$500) renewal fee and a vehicle fee of one hundred dollars (\$100) per vehicle shall accompany said renewal application. A surety bond or letter of credit in the amount of five thousand dollars (\$5,000) shall also be required with the application, in order to satisfy the surety requirements specified in the St. Johns County Solid Waste Ordinance. During review of the renewal application the Contractor shall operate as a non-exclusive Franchise for a period not to exceed 60 days or until the renewal application is approved or denied within that 60 day period. Applications for renewal not meeting all applicable criteria may be denied.

ARTICLE X: INSURANCE

10.0 The Contractor shall not begin collecting or transporting Construction and Demolition Debris under this Agreement until appropriate certificates of insurance are provided to the County that demonstrates compliance with the requirements of this Agreement. The Contractor must maintain the insurance in full force and effect at all times throughout the Term of this Agreement. The County shall be named as an additional insured on all of the insurance policies, except for workers compensation. Certificates should be issued to St. Johns County Board of County Commissioners, 500 San Sebastian View, St. Augustine, Florida, 32084.

10.1 The Contractor shall provide workers' compensation and employer's liability insurance of not less than \$100,000 for each person/accident and each person/disease or the minimum amount required under Florida Law, whichever is greater.

10.2 The Contractor shall provide commercial general liability insurance in the amount of \$1,000,000 per occurrence, and shall include coverage for bodily injury, death, property damage and other liabilities arising from or related to Contractor's premises,

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operations, independent contractors, and contracts. The coverage must specify that it included the indemnification and hold harmless provisions of this Agreement.

10.3 The Contractor shall provide vehicle liability insurance with minimum combined single limits of \$1,000,000 for all owned, hired, and non-owned vehicles.

10.4 All of the companies providing insurance must be authorized to do business in the State of Florida. All of the insurance companies providing coverage must be rated A-IX or higher in the most recent edition of Best's Key Rating Guide.

10.5 No change or cancellation of any insurance required under this Agreement may be made unless thirty (30) days prior written notice is provided to the County. Each insurance certificate must name the County as an additional insured and contain a clause stating substantially as follows: "If any of the above-described policies are to be cancelled or undergo material change before the expiration date, the issuing insurance company will mail written notice to: St. Johns County Board of County Commissioners, 500 San Sebastian View, St. Augustine, Florida, 32084 at least 30 days before the effective date of the cancellation or change."

ARTICLE XI: INDEMNIFICATION

11.0 The Contractor agrees that it shall indemnify, defend and hold harmless the County, its officials, officers, employees and agents, against, and assume all liability for, any and all claims, suits, causes of action, damages, liabilities, expenditures, or proceedings of any kind (collectively "claims") arising from or related to any of the Contractor's activities or operations pursuant to this Agreement, including but not limited to claims based on bodily injury, loss of life or limb, damage to property, pollution or other environmental damages.

11.1 This provision relating to Indemnification, is separate and apart from, and is in no way limited by, any insurance provided by the Contractor, pursuant to this Agreement, or otherwise.

ARTICLE XII: TERMINATION BY COUNTY

12.0 If there is a material breach of any term of this Agreement by the Contractor, the County shall notify the Contractor in writing of the breach and provide the Contractor

*St. Johns County  
Non Exclusive Franchise Agreement for Construction & Demolition Debris*

with an opportunity to correct the breach. If the breach is not corrected within one (1) day of receipt of the written notice, the County may terminate the Agreement at any time at the County's discretion by providing written notice to the Contractor, which shall be effective upon the date specified in the notice. Upon such notice, the Contractor shall immediately cease all activities under this Agreement. Among other things, a material breach of this Agreement shall be deemed to have occurred if: (a) the Contractor fails to pay Franchise fees at the times and in the amounts required by this Agreement; (b) the Contractor fails to file complete, accurate, and timely reports, as required by this Agreement; (c) the Contractor disposes of Solid Waste at a site other than a properly permitted and authorized Solid Waste Management Facility; (d) the Contractor collects or transports Solid Waste in a manner that is not authorized under this Agreement; (e) the Contractor fails to continuously maintain the types and amounts of insurance required under this Agreement; (f) the Contractor declares bankruptcy; or (g) the Contractor fails to comply with the applicable provisions of the St. Johns County Solid Waste Ordinance or this Agreement.

12.1 If the Contractor has frequently, regularly or repetitively defaulted in the performance of any of the requirements in this Agreement or any applicable local, state or federal regulation, the County may in its sole discretion deem the Contractor to be a "habitual violator," regardless of whether the Contractor has corrected each individual condition of default. Under such circumstances, the Contractor shall forfeit its right to any further grace period to correct or cure future defaults. All of the Contractor's prior defaults shall be considered cumulative and collectively shall constitute a condition of irredeemable default. The County shall issue the Contractor a notice that the Contractor has been deemed a "habitual violator." Thereafter, any single default by the Contractor of whatever nature shall be grounds for immediate termination of this Agreement. In the event of any such default, the County may terminate this Agreement by giving a written notice to the Contractor, which shall be effective upon the date specified in the notice. Upon such notice, the Contractor shall immediately cease all activities under this Agreement. This section creates a supplemental and additional means of terminating this Agreement and it shall not be deemed to be in lieu of any other remedy available at law or equity.



ARTICLE XIII: MISCELLANEOUS PROVISIONS

13.0 *Party Representatives.* For the purposes of this Agreement, the Authorized representative of the County (as designated by the County Administrator) shall be the Solid Waste Manager of the St. Johns County Solid Waste Department or the Manager's designee. The authorized representative of the Contractor for purposes of this Agreement shall be Guy Lachapelle. Either party may change its representative upon five (5) days, prior notice to the other party.

13.1 *Notice.* All notices and consents required or permitted by this Agreement shall be in writing and transmitted in person or by registered or certified mail, return receipt requested, with notice deemed to be given upon receipt, as follows:

If to the County:

Solid Waste Manager  
St. Johns County Solid Waste Department  
3005 Allen Nease Road  
Elkton, FL 32033

If to the Contractor:

Shapells, INC  
8565 STOCKS Rd  
JACKSONVILLE, FL 32220

Changes in the respective addresses to which such notices may be directed may be made from time to time by either party by notice to the other party.

13.2 *Waiver.* No delay or failure to exercise a right under this Agreement shall impair such right or shall be construed to be a waiver thereof, but such right may be exercised from time to time and as often as deemed expedient. The failure of the County or Contractor at any time to require performance by the other party of any term in this Agreement shall in no way affect the right of the County or Contractor thereafter to enforce same; nor shall waiver by the County or Contractor of any breach of any term of this Agreement be taken or held to be a waiver of any succeeding breach of such term or

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Non Exclusive Franchise Agreement for Construction & Demolition Debris*

as a waiver of any term itself. To be effective, any waiver shall be in writing and signed by the party granting such waiver. Any such waiver shall be limited to the particular right so waived and shall not be deemed to waive any other right under this Agreement.

13.3 *Agreement Governed by Florida Law and Venue.* This Agreement shall be governed by and construed in accordance with the laws of the State of Florida, and it shall be binding upon, and inure to the benefit of, the parties, their successors, and assigns. The Contractor shall submit to service of process and the jurisdiction of the State of Florida for any controversy or claim arising out of or relating to this Agreement. Any action to interpret and/or enforce this Agreement shall be brought and maintained in the State of Florida. Venue shall be in St. Johns County, Florida.

13.4 *Assignment.* This Agreement may not be sold, assigned or transferred by the Contractor without prior approval by the County. As a condition precedent to receiving the County's approval, the Contractor or the potential assignee must demonstrate to the County's satisfaction that the assignee has the ability and resources to comply with all of the applicable requirements set forth in this Agreement and all applicable local, state and federal regulations.

13.5 *Representations of the Contractor.* The Contractor represents that: (a) it is a corporation duly organized under the laws of the State of Florida or a person or an entity qualified to do business in the State of Florida; (b) this Agreement has been duly authorized, executed, and delivered in the State of Florida; and (c) it has the required power and authority to perform this Agreement.

13.6 *Headings.* Captions and headings contained in this Agreement are for ease of Reference only and do not constitute a part of this Agreement.

13.7 *Severability.* If any term, condition, covenant or obligation of this Agreement is declared illegal, void or unenforceable, the remaining terms shall not be affected but shall remain in full force and effect, and this Agreement shall be construed as if such illegal, void or unenforceable provision had never been contained herein.

13.8 *Survivability.* Any term, condition, covenant, or obligation that requires performance by a party subsequent to expiration or termination of this Agreement shall remain enforceable against such party subsequent to such expiration or termination.

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Non Exclusive Franchise Agreement for Construction & Demolition Debris*

13.9 *Third Party Beneficiaries.* It is agreed between the parties hereto that no provision of this Agreement is intended to create any third-party beneficiaries hereunder, or to authorize anyone not a party to this Agreement to maintain an action pursuant to the terms or provisions of this Agreement.

13.10 *Personal Liability.* Nothing in this Agreement shall be construed as creating any personal liability on the part of any official, officer, employee, agent or representative of the County.

13.11 *Independent Contractor.* When performing the activities required by this Agreement the Contractor will be acting in the capacity of an independent contractor and not as an agent, employee, partner, joint venture or associate of the County. The Contractor shall be solely responsible for the means, methods and procedures used by the Contractor to perform under this Agreement. Neither the Contractor nor any of its employees, officers, agents or subcontractors shall represent, act, purport to act, or be deemed to be an agent, representative, employee, or servant of the County. The Contractor shall have no authority to bind the County to any agreement or contract. No person performing any work or services for the Contractor under this Agreement shall be entitled to any benefits available or granted to employees of the County.

13.12 *Merger Clause.* This Agreement constitutes the entire agreement and understanding of the parties as to all matters addressed or referred to herein. This Agreement supersedes all prior and contemporaneous agreements and understandings, representations and warranties, whether oral or written, relating to such matters.

13.13 *Fair Dealing.* The Contractor declares and warrants that the Contractor enters into the Agreement without reliance on or engaging in any collusion, bribery or fraud, that all of the Contractor's representations in this Agreement are made fairly and in good faith, and that no County Commissioner, County officer, or County employee, directly or indirectly owns more than 5% of the total assets or capital stock of the Contractor, nor will any such person directly or indirectly benefit by more than 5%, from the profits or emoluments of this Agreement. The Contractor warrants that it has not employed or retained any company or person, other than a bona fide employee working solely for the Contractor, to solicit or secure this Agreement and the Contractor has not paid or agreed

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to pay any person, company, corporation, individual or firm, other than a bona fide employee working solely for the Contractor, any fee, commission, percentage gift or any other compensation contingent upon or resulting from the award or making of this Agreement. Further, the contractor declares and warrants that the Contractor is not subject to the restrictions in Section 287.133, Florida Statutes, for a public entity crime.

13.14 *Sovereign Immunity.* Nothing in this Agreement shall be interpreted or construed to mean that the County waives sovereign immunity as provided under Section 768.28, Florida Statutes.

13.15 *Amendment.* Except as otherwise specifically provided herein, this Agreement may be amended only by written instrument specifically referring to this Agreement and executed by both parties with the same formalities as this Agreement. The term Ordinance 06-98 as used in this document, shall mean said Ordinance as may be amended from time to time.

13.16 *Terms Generally.* Whenever the context may require, any pronoun which is used in this Agreement shall include the corresponding masculine, feminine and neuter forms and the singular shall include the plural and vice versa. Unless otherwise specifically noted, the words "include," and "including" as used herein shall be deemed to be followed by the following phrase "without limitation". The words "agree," "agreement," "consent," "establish," "impose" as used herein shall be deemed to be followed by the phrase "which shall not be unreasonably withheld or delayed" except as specifically noted. Words or phrases which are defined herein by reference to a statute, rule or regulation shall have the meaning ascribed to such word or phrases as of the Effective Date, without regard to subsequent changes in such statutes, rules or regulations, unless otherwise provided.

**ARTICLE XIV: ACCESS TO RECORDS**

14.0 The access to, disclosure, non-disclosure, or exemption of records, data, documents, and/or materials associated with this Agreement shall be subject to applicable provisions of the Florida Public Records Law (Chapter 119, Florida Statutes), and any other applicable State or Federal law. Access to such public records may not be blocked,

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thwarted, or hindered by placing the public records in the possession of a third party, or an unaffiliated party.

**ARTICLE XV: REVIEW OF RECORDS**

15.0 As a condition of entering into this Agreement, and in order to ensure compliance, especially as it relates to any applicable law, rule, or regulation, the Contractor authorized the County to examine, review, inspect, and/or audit the books, and records (including without limitation, data, documents, and correspondence), in order to determine whether compliance has been achieved with respect to the terms, conditions, provisions, rights, and responsibilities noted in this Agreement. It is specifically noted that the Contractor is under no duty to provide access to documentation not related this Agreement, and/or is otherwise protected by County, State, and/or Federal law.

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St. Johns County  
Non Exclusive Franchise Agreement for Construction & Demolition Debris

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed  
on May 2, 2012.

**CONTRACTOR**

Shapells, INC  
Name of Company

Printed Name: Guy Lachapelle

Title: President

Signature: [Handwritten Signature]  
Company Officer  
(CORPORATE SEAL)

Date 5/2/12

Christian Nicole Kurlin  
Notary



Notary Seal

**ST. JOHNS COUNTY, acting by and through  
its COUNTY ADMINISTRATOR**

ATTEST: \_\_\_\_\_  
Deputy Clerk

By: \_\_\_\_\_  
County Administrator

Legal Review:

\_\_\_\_\_  
Assistant County Attorney

**NON-EXCLUSIVE FRANCHISE AGREEMENT  
FOR CONSTRUCTION AND DEMOLITION DEBRIS**

This Non-Exclusive Franchise Agreement for the collection and transport of Construction and Demolition Debris ("Agreement") is made as of this 31<sup>st</sup> day of May, 2012, by and between St. Johns County ("County"), a political subdivision of the State of Florida, and Southern Comfort, its successors and assigns ("Contractor").  
Moving Inc.

**RECITALS**

WHEREAS, Contractor wishes to collect and transport Construction and Demolition Debris in the unincorporated areas of St. Johns County; and

WHEREAS, the County wishes to ensure that the Contractor's activities are performed in accordance with all applicable laws and is consistent with the public interest.

NOW, THEREFORE, in consideration of the mutual covenants hereinafter contained and other good and valuable consideration, the receipt and adequacy of which are hereby acknowledged, the County and Contractor agree as follows:

**ARTICLE I: DEFINITIONS**

1.0 The terms used in this Agreement shall have the same definitions and meanings set forth in the St. Johns County Solid Waste Ordinance (*see* St. Johns County Ordinance 06-98), unless a different meaning is specifically defined herein. Such terms shall be construed in a manner consistent with the definitions provided in section 403.703 of the Florida Statutes. Any inconsistency with section 403.703 of the Florida Statutes shall be resolved in favor of said statutory provision.

**ARTICLE II: CONTRACTOR'S GENERAL WARRANTY**

2.0 By executing this Agreement, Contractor acknowledges that it has read the St. Johns County Solid Waste Ordinance (together with all amendments thereto) and this Agreement, and Contractor agrees to comply at all times with the applicable provisions of

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this Agreement and the Ordinance, a copy of which is attached hereto, and incorporated herein.

ARTICLE III: NON-EXCLUSIVE FRANCHISE

3.0 The County hereby grants a non-exclusive Franchise to Contractor for the collection and transport of Construction and Demolition Debris in the unincorporated areas of St. Johns County, subject to the terms and conditions of this Agreement and all applicable laws. This Agreement authorizes the Contractor to only collect and transport Construction and Demolition Debris in roll-off containers or other commercial collection equipment standard to the industry for this type of service. No other collection or transportation of Construction and Demolition Debris is authorized under this Agreement.

ARTICLE IV: TERM

4.0 This Agreement shall be effective upon execution by the County's duly authorized representative ("Effective Date"). This Agreement shall run from the Effective Date and shall expire at 11:59 p.m. (EST) on June 30, 2015 ("Expiration Date").

ARTICLE V: CONTRACTOR'S OPERATIONS

5.0 The Contractor shall take all necessary steps to ensure that its operations are performed in compliance with all applicable provisions of the St. Johns County Code of Ordinances, and all other applicable local, state, and federal laws.

5.1 The Contractor's employees shall be properly trained and qualified to perform the tasks assigned to them under this Agreement.

5.2 Contractor may collect and transport Construction and Demolition Debris between 7 a.m. and 6 p.m. (EST), on Monday through Saturday of each week. Contractor shall not collect or transport Construction and Demolition Debris at other times, unless the Contractor has received the prior approval of the Manager of the St. Johns County Solid Waste Department.



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5.3 When collecting or transporting construction and Demolition Debris, Contractor's employees shall wear a company shirt or uniform, which shall have the Contractor's name or logo in a conspicuous place.

5.4 All of the trucks used by the Contractor for the collection and transportation of Construction and Demolition Debris shall be marked with the name and phone number of the Contractor in letters that are plainly visible and at least four inches high. Each commercial container used by the Contractor for the collection and transportation of Construction and Demolition Debris shall be labeled by the Contractor on each long side (two sides) in the same manner.

5.5 The Contractor's roll-off and/or commercial containers shall be securely covered when transporting Construction and Demolition Debris, as authorized under this Agreement.

5.6 All of the rolling stock used by the Contractor for collecting and transporting Construction and Demolition Debris in St. Johns County shall be maintained in a good, clean, and safe operating condition, and be properly marked with the Contractor's name and phone number on all roll-off and/or commercial containers.

5.7 Contractor shall provide the County with a list of the vehicles used by the Contractor and the license plate number for each vehicle and the Company's vehicle identification number (VIN). The Contractor shall ensure that the vehicle list is updated and submitted to the County within 30 days of any revisions including deletions and/or additions of the vehicles.

5.8 This Agreement authorizes the use of roll-off and/or commercial containers and other commercial collection equipment standard to the industry for this type of service. The Contractor may provide an unlimited number of roll-off and/or commercial containers for Construction and Demolition Debris, if the construction site is acceptable for their proper placement and there is a bona-fide need. However, any roll-off and/or commercial container holding more than a de minimis amount of Solid Waste other than Construction and Demolition Debris shall be regulated as though the container were filled with Solid Waste and shall require transport and disposal at a St. Johns County facility accepting such waste.

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ARTICLE VI: DISPOSAL SITES

6.0 All of the Solid Waste, Construction and Demolition Debris collected by the Contractor shall be processed or disposed of at a duly licensed and permitted Solid Waste Management Facility accepting Construction and Demolition Debris.

ARTICLE VII: APPLICATION FEES

7.0 The Contractor is required to complete and submit the standard St. Johns County application form for non-exclusive Franchise to rent roll-off and/or commercial containers, collect Construction and Demolition Debris, transport said material and dispose of it in a duly licensed and permitted facility accepting Construction and Demolition Waste. A non-refundable \$500.00 application fee as well as a \$100.00 fee per vehicle shall accompany the Contractor's application to the County for the non-exclusive Franchise.

ARTICLE VIII: FRANCHISE FEES

8.0 The Contractor shall pay a Franchise fee to the County for the privilege of using the public streets, roads, alleys and other thoroughfares of the County for the collection and transportation of Construction and Demolition Debris that originates in the unincorporated areas of St. Johns County. The Franchise fee also may be used to pay the cost of implementing, administering and enforcing the County's regulations for the safe handling of Construction and Demolition Debris generated in the unincorporated areas of St. Johns County.

8.1 The Franchise fee shall be equal to ten percent (10%) of the Gross Revenues collected by the Contractor for the services provided pursuant to this Agreement, including the collection, transportation, processing and disposing of Construction and Demolition Debris originating in the unincorporated areas of St. Johns County.

8.2 Franchise fees shall be paid to the County once each quarter. Franchise fees shall be delivered to the County no later than January 15, April 15, July 15, and October 16 of each year or within 60 days of termination of the Agreement. Each quarterly payment shall be based upon the Gross Revenues earned by the Contractor for the services provided pursuant to this Agreement for the preceding calendar quarter.

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8.3 Contractor shall provide the County with an audited financial statement to demonstrate that the Contractor has fully paid the applicable Franchise fee for the full three (3) year Agreement Term or any partial period. The financial statement shall be prepared by an independent accounting firm in accordance with generally accepted accounting principles. Unless the County instructs the Contractor otherwise, the Contractor shall deliver the audited financial statement to the County within 45 days following the Expiration Date of this Agreement or within 45 days of the termination of this Agreement for any partial period.

8.4 Each quarterly payment of the Franchise fee shall be accompanied by a true and accurate report demonstrating that the Franchise fee has been paid in full for the preceding calendar quarter.

8.5 The Contractor shall allow the County's auditors to inspect and examine the Contractor's financial books and records to confirm the Contractor's compliance with this Agreement. The inspections shall be allowed by the Contractor at any reasonable time following reasonable notice by the County. Additionally, the County's auditors may communicate directly with customers of the Contractor for the purpose of confirming the Contractor's compliance with this Agreement. To the extent authorized by Chapter 119, Florida Statutes, or other applicable laws, the information obtained by the County under this Section 8.5 shall remain confidential. Contractor shall comply with Chapter 119, Florida Statutes as related to the disclosure of public records. If the Contractor fails to pay the full amount of the Franchise fee in a timely manner, the County may suspend the Franchise until payment is made or may terminate this Agreement with no further notice and revoke the Franchise. The Contractor shall pay any and all of the County's expenses for the collection of the Franchise fee, including but not limited to court costs and reasonable attorneys' fees. Interest shall accrue on any unpaid Franchise fee at the maximum rate allowed by law.

8.6 If the Contractor fails to pay the full amount of the Franchise fee within 30 days of the end of each quarter, the County may suspend the Franchise until payment is made or may terminate this Agreement with no further notice and revoke the Franchise. The Contractor shall pay any and all of the County's expenses for the collection of the

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Franchise fee, including but not limited to court costs and reasonable attorneys' fees.  
Interest shall accrue on any unpaid Franchise fee at the maximum rate allowed by law.

**ARTICLE IX: APPLICATION RENEWAL**

9.0 Between the months of April 1 through June 1, prior to the Expiration Date of this Agreement, the Contractor may submit a renewal application to the Department of Solid Waste Management. A five hundred dollar (\$500) renewal fee and a vehicle fee of one hundred dollars (\$100) per vehicle shall accompany said renewal application. A surety bond or letter of credit in the amount of five thousand dollars (\$5,000) shall also be required with the application, in order to satisfy the surety requirements specified in the St. Johns County Solid Waste Ordinance. During review of the renewal application the Contractor shall operate as a non-exclusive Franchise for a period not to exceed 60 days or until the renewal application is approved or denied within that 60 day period. Applications for renewal not meeting all applicable criteria may be denied.

**ARTICLE X: INSURANCE**

10.0 The Contractor shall not begin collecting or transporting Construction and Demolition Debris under this Agreement until appropriate certificates of insurance are provided to the County that demonstrates compliance with the requirements of this Agreement. The Contractor must maintain the insurance in full force and effect at all times throughout the Term of this Agreement. The County shall be named as an additional insured on all of the insurance policies, except for workers compensation. Certificates should be issued to St. Johns County Board of County Commissioners, 500 San Sebastian View, St. Augustine, Florida, 32084.

10.1 The Contractor shall provide workers' compensation and employer's liability insurance of not less than \$100,000 for each person/accident and each person/disease or the minimum amount required under Florida Law, whichever is greater.

10.2 The Contractor shall provide commercial general liability insurance in the amount of \$1,000,000 per occurrence, and shall include coverage for bodily injury, death, property damage and other liabilities arising from or related to Contractor's premises,

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operations, independent contractors, and contracts. The coverage must specify that it included the indemnification and hold harmless provisions of this Agreement.

10.3 The Contractor shall provide vehicle liability insurance with minimum combined single limits of \$1,000,000 for all owned, hired, and non-owned vehicles.

10.4 All of the companies providing insurance must be authorized to do business in the State of Florida. All of the insurance companies providing coverage must be rated A-IX or higher in the most recent edition of Best's Key Rating Guide.

10.5 No change or cancellation of any insurance required under this Agreement may be made unless thirty (30) days prior written notice is provided to the County. Each insurance certificate must name the County as an additional insured and contain a clause stating substantially as follows: "If any of the above-described policies are to be cancelled or undergo material change before the expiration date, the issuing insurance company will mail written notice to: St. Johns County Board of County Commissioners, 500 San Sebastian View, St. Augustine, Florida, 32084 at least 30 days before the effective date of the cancellation or change."

ARTICLE XI: INDEMNIFICATION

11.0 The Contractor agrees that it shall indemnify, defend and hold harmless the County, its officials, officers, employees and agents, against, and assume all liability for, any and all claims, suits, causes of action, damages, liabilities, expenditures, or proceedings of any kind (collectively "claims") arising from or related to any of the Contractor's activities or operations pursuant to this Agreement, including but not limited to claims based on bodily injury, loss of life or limb, damage to property, pollution or other environmental damages.

11.1 This provision relating to Indemnification, is separate and apart from, and is in no way limited by, any insurance provided by the Contractor, pursuant to this Agreement, or otherwise.

ARTICLE XII: TERMINATION BY COUNTY

12.0 If there is a material breach of any term of this Agreement by the Contractor, the County shall notify the Contractor in writing of the breach and provide the Contractor

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with an opportunity to correct the breach. If the breach is not corrected within one (1) day of receipt of the written notice, the County may terminate the Agreement at any time at the County's discretion by providing written notice to the Contractor, which shall be effective upon the date specified in the notice. Upon such notice, the Contractor shall immediately cease all activities under this Agreement. Among other things, a material breach of this Agreement shall be deemed to have occurred if: (a) the Contractor fails to pay Franchise fees at the times and in the amounts required by this Agreement; (b) the Contractor fails to file complete, accurate, and timely reports, as required by this Agreement; (c) the Contractor disposes of Solid Waste at a site other than a properly permitted and authorized Solid Waste Management Facility; (d) the Contractor collects or transports Solid Waste in a manner that is not authorized under this Agreement; (e) the Contractor fails to continuously maintain the types and amounts of insurance required under this Agreement; (f) the Contractor declares bankruptcy; or (g) the Contractor fails to comply with the applicable provisions of the St. Johns County Solid Waste Ordinance or this Agreement.

12.1 If the Contractor has frequently, regularly or repetitively defaulted in the performance of any of the requirements in this Agreement or any applicable local, state or federal regulation, the County may in its sole discretion deem the Contractor to be a "habitual violator," regardless of whether the Contractor has corrected each individual condition of default. Under such circumstances, the Contractor shall forfeit its right to any further grace period to correct or cure future defaults. All of the Contractor's prior defaults shall be considered cumulative and collectively shall constitute a condition of irredeemable default. The County shall issue the Contractor a notice that the Contractor has been deemed a "habitual violator." Thereafter, any single default by the Contractor of whatever nature shall be grounds for immediate termination of this Agreement. In the event of any such default, the County may terminate this Agreement by giving a written notice to the Contractor, which shall be effective upon the date specified in the notice. Upon such notice, the Contractor shall immediately cease all activities under this Agreement. This section creates a supplemental and additional means of terminating this Agreement and it shall not be deemed to be in lieu of any other remedy available at law or equity.

ARTICLE XIII: MISCELLANEOUS PROVISIONS

13.0 *Party Representatives.* For the purposes of this Agreement, the Authorized representative of the County (as designated by the County Administrator) shall be the Solid Waste Manager of the St. Johns County Solid Waste Department or the Manager's designee. The authorized representative of the Contractor for purposes of this Agreement shall be Sam James. Either party may change its representative upon five (5) days, prior notice to the other party.

13.1 *Notice.* All notices and consents required or permitted by this Agreement shall be in writing and transmitted in person or by registered or certified mail, return receipt requested, with notice deemed to be given upon receipt, as follows:

If to the County:

Solid Waste Manager  
St. Johns County Solid Waste Department  
3005 Allen Nease Road  
Elkton, FL 32033

If to the Contractor:

Southern Comfort  
3175 US 1 S. Ste. 9  
St. Augustine, FL 32086

Changes in the respective addresses to which such notices may be directed may be made from time to time by either party by notice to the other party.

13.2 *Waiver.* No delay or failure to exercise a right under this Agreement shall impair such right or shall be construed to be a waiver thereof, but such right may be exercised from time to time and as often as deemed expedient. The failure of the County or Contractor at any time to require performance by the other party of any term in this Agreement shall in no way affect the right of the County or Contractor thereafter to enforce same; nor shall waiver by the County or Contractor of any breach of any term of this Agreement be taken or held to be a waiver of any succeeding breach of such term or

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as a waiver of any term itself. To be effective, any waiver shall be in writing and signed by the party granting such waiver. Any such waiver shall be limited to the particular right so waived and shall not be deemed to waive any other right under this Agreement.

13.3 *Agreement Governed by Florida Law and Venue.* This Agreement shall be governed by and construed in accordance with the laws of the State of Florida, and it shall be binding upon, and inure to the benefit of, the parties, their successors, and assigns. The Contractor shall submit to service of process and the jurisdiction of the State of Florida for any controversy or claim arising out of or relating to this Agreement. Any action to interpret and/or enforce this Agreement shall be brought and maintained in the State of Florida. Venue shall be in St. Johns County, Florida.

13.4 *Assignment.* This Agreement may not be sold, assigned or transferred by the Contractor without prior approval by the County. As a condition precedent to receiving the County's approval, the Contractor or the potential assignee must demonstrate to the County's satisfaction that the assignee has the ability and resources to comply with all of the applicable requirements set forth in this Agreement and all applicable local, state and federal regulations.

13.5 *Representations of the Contractor.* The Contractor represents that: (a) it is a corporation duly organized under the laws of the State of Florida or a person or an entity qualified to do business in the State of Florida; (b) this Agreement has been duly authorized, executed, and delivered in the State of Florida; and (c) it has the required power and authority to perform this Agreement.

13.6 *Headings.* Captions and headings contained in this Agreement are for ease of Reference only and do not constitute a part of this Agreement.

13.7 *Severability.* If any term, condition, covenant or obligation of this Agreement is declared illegal, void or unenforceable, the remaining terms shall not be affected but shall remain in full force and effect, and this Agreement shall be construed as if such illegal, void or unenforceable provision had never been contained herein.

13.8 *Survivability.* Any term, condition, covenant, or obligation that requires performance by a party subsequent to expiration or termination of this Agreement shall remain enforceable against such party subsequent to such expiration or termination.



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13.9 *Third Party Beneficiaries.* It is agreed between the parties hereto that no provision of this Agreement is intended to create any third-party beneficiaries hereunder, or to authorize anyone not a party to this Agreement to maintain an action pursuant to the terms or provisions of this Agreement.

13.10 *Personal Liability.* Nothing in this Agreement shall be construed as creating any personal liability on the part of any official, officer, employee, agent or representative of the County.

13.11 *Independent Contractor.* When performing the activities required by this Agreement the Contractor will be acting in the capacity of an independent contractor and not as an agent, employee, partner, joint venture or associate of the County. The Contractor shall be solely responsible for the means, methods and procedures used by the Contractor to perform under this Agreement. Neither the Contractor nor any of its employees, officers, agents or subcontractors shall represent, act, purport to act, or be deemed to be an agent, representative, employee, or servant of the County. The Contractor shall have no authority to bind the County to any agreement or contract. No person performing any work or services for the Contractor under this Agreement shall be entitled to any benefits available or granted to employees of the County.

13.12 *Merger Clause.* This Agreement constitutes the entire agreement and understanding of the parties as to all matters addressed or referred to herein. This Agreement supersedes all prior and contemporaneous agreements and understandings, representations and warranties, whether oral or written, relating to such matters.

13.13 *Fair Dealing.* The Contractor declares and warrants that the Contractor enters into the Agreement without reliance on or engaging in any collusion, bribery or fraud, that all of the Contractor's representations in this Agreement are made fairly and in good faith, and that no County Commissioner, County officer, or County employee, directly or indirectly owns more than 5% of the total assets or capital stock of the Contractor, nor will any such person directly or indirectly benefit by more than 5%, from the profits or emoluments of this Agreement. The Contractor warrants that it has not employed or retained any company or person, other than a bona fide employee working solely for the Contractor, to solicit or secure this Agreement and the Contractor has not paid or agreed

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to pay any person, company, corporation, individual or firm, other than a bona fide employee working solely for the Contractor, any fee, commission, percentage gift or any other compensation contingent upon or resulting from the award or making of this Agreement. Further, the contractor declares and warrants that the Contractor is not subject to the restrictions in Section 287.133, Florida Statutes, for a public entity crime.

13.14 *Sovereign Immunity.* Nothing in this Agreement shall be interpreted or construed to mean that the County waives sovereign immunity as provided under Section 768.28, Florida Statutes.

13.15 *Amendment.* Except as otherwise specifically provided herein, this Agreement may be amended only by written instrument specifically referring to this Agreement and executed by both parties with the same formalities as this Agreement. The term Ordinance 06-98 as used in this document, shall mean said Ordinance as may be amended from time to time.

13.16 *Terms Generally.* Whenever the context may require, any pronoun which is used in this Agreement shall include the corresponding masculine, feminine and neuter forms and the singular shall include the plural and vice versa. Unless otherwise specifically noted, the words "include," and "including" as used herein shall be deemed to be followed by the following phrase "without limitation". The words "agree," "agreement," "consent," "establish," "impose" as used herein shall be deemed to be followed by the phrase "which shall not be unreasonably withheld or delayed" except as specifically noted. Words or phrases which are defined herein by reference to a statute, rule or regulation shall have the meaning ascribed to such word or phrases as of the Effective Date, without regard to subsequent changes in such statutes, rules or regulations, unless otherwise provided.

**ARTICLE XIV: ACCESS TO RECORDS**

14.0 The access to, disclosure, non-disclosure, or exemption of records, data, documents, and/or materials associated with this Agreement shall be subject to applicable provisions of the Florida Public Records Law (Chapter 119, Florida Statutes), and any other applicable State or Federal law. Access to such public records may not be blocked,

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thwarted, or hindered by placing the public records in the possession of a third party, or an unaffiliated party.

**ARTICLE XV: REVIEW OF RECORDS**

15.0 As a condition of entering into this Agreement, and in order to ensure compliance, especially as it relates to any applicable law, rule, or regulation, the Contractor authorized the County to examine, review, inspect, and/or audit the books, and records (including without limitation, data, documents, and correspondence), in order to determine whether compliance has been achieved with respect to the terms, conditions, provisions, rights, and responsibilities noted in this Agreement. It is specifically noted that the Contractor is under no duty to provide access to documentation not related this Agreement, and/or is otherwise protected by County, State, and/or Federal law.

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St. Johns County  
Non Exclusive Franchise Agreement for Construction & Demolition Debris

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed  
on May 31, 2012.

**CONTRACTOR,**

Southern Comfort Mowing, Inc.  
Name of Company

Printed Name: Samuel James

Title: President

Signature: [Signature]  
Company Officer  
(CORPORATE SEAL)

Date 5-31-12

[Signature]  
Notary Christina Hutchins



**ST. JOHNS COUNTY, acting by and through  
its COUNTY ADMINISTRATOR**

ATTEST: \_\_\_\_\_  
Deputy Clerk

By: \_\_\_\_\_  
County Administrator

Legal Review:

\_\_\_\_\_  
Assistant County Attorney

**NON-EXCLUSIVE FRANCHISE AGREEMENT  
FOR CONSTRUCTION AND DEMOLITION DEBRIS**

This Non-Exclusive Franchise Agreement for the collection and transport of Construction and Demolition Debris ("Agreement") is made as of this 15 day of MAY, 2012, by and between St. Johns County ("County"), a political subdivision of the State of Florida, and Shushine Recycling its successors and assigns ("Contractor").

**RECITALS**

WHEREAS, Contractor wishes to collect and transport Construction and Demolition Debris in the unincorporated areas of St. Johns County; and

WHEREAS, the County wishes to ensure that the Contractor's activities are performed in accordance with all applicable laws and is consistent with the public interest.

NOW, THEREFORE, in consideration of the mutual covenants hereinafter contained and other good and valuable consideration, the receipt and adequacy of which are hereby acknowledged, the County and Contractor agree as follows:

**ARTICLE I: DEFINITIONS**

1.0 The terms used in this Agreement shall have the same definitions and meanings set forth in the St. Johns County Solid Waste Ordinance (*see* St. Johns County Ordinance 06-98), unless a different meaning is specifically defined herein. Such terms shall be construed in a manner consistent with the definitions provided in section 403.703 of the Florida Statutes. Any inconsistency with section 403.703 of the Florida Statutes shall be resolved in favor of said statutory provision.

**ARTICLE II: CONTRACTOR'S GENERAL WARRANTY**

2.0 By executing this Agreement, Contractor acknowledges that it has read the St. Johns County Solid Waste Ordinance (together with all amendments thereto) and this Agreement, and Contractor agrees to comply at all times with the applicable provisions of

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*Non Exclusive Franchise Agreement for Construction & Demolition Debris*

this Agreement and the Ordinance, a copy of which is attached hereto, and incorporated herein.

ARTICLE III: NON-EXCLUSIVE FRANCHISE

3.0 The County hereby grants a non-exclusive Franchise to Contractor for the collection and transport of Construction and Demolition Debris in the unincorporated areas of St. Johns County, subject to the terms and conditions of this Agreement and all applicable laws. This Agreement authorizes the Contractor to only collect and transport Construction and Demolition Debris in roll-off containers or other commercial collection equipment standard to the industry for this type of service. No other collection or transportation of Construction and Demolition Debris is authorized under this Agreement.

ARTICLE IV: TERM

4.0 This Agreement shall be effective upon execution by the County's duly authorized representative ("Effective Date"). This Agreement shall run from the Effective Date and shall expire at 11:59 p.m. (EST) on June 30, 2015 ("Expiration Date").

ARTICLE V: CONTRACTOR'S OPERATIONS

5.0 The Contractor shall take all necessary steps to ensure that its operations are performed in compliance with all applicable provisions of the St. Johns County Code of Ordinances, and all other applicable local, state, and federal laws.

5.1 The Contractor's employees shall be properly trained and qualified to perform the tasks assigned to them under this Agreement.

5.2 Contractor may collect and transport Construction and Demolition Debris between 7 a.m. and 6 p.m. (EST), on Monday through Saturday of each week. Contractor shall not collect or transport Construction and Demolition Debris at other times, unless the Contractor has received the prior approval of the Manager of the St. Johns County Solid Waste Department.

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- 5.3 When collecting or transporting construction and Demolition Debris, Contractor's employees shall wear a company shirt or uniform, which shall have the Contractor's name or logo in a conspicuous place.
- 5.4 All of the trucks used by the Contractor for the collection and transportation of Construction and Demolition Debris shall be marked with the name and phone number of the Contractor in letters that are plainly visible and at least four inches high. Each commercial container used by the Contractor for the collection and transportation of Construction and Demolition Debris shall be labeled by the Contractor on each long side (two sides) in the same manner.
- 5.5 The Contractor's roll-off and/or commercial containers shall be securely covered when transporting Construction and Demolition Debris, as authorized under this Agreement.
- 5.6 All of the rolling stock used by the Contractor for collecting and transporting Construction and Demolition Debris in St. Johns County shall be maintained in a good, clean, and safe operating condition, and be properly marked with the Contractor's name and phone number on all roll-off and/or commercial containers.
- 5.7 Contractor shall provide the County with a list of the vehicles used by the Contractor and the license plate number for each vehicle and the Company's vehicle identification number (VIN). The Contractor shall ensure that the vehicle list is updated and submitted to the County within 30 days of any revisions including deletions and/or additions of the vehicles.
- 5.8 This Agreement authorizes the use of roll-off and/or commercial containers and other commercial collection equipment standard to the industry for this type of service. The Contractor may provide an unlimited number of roll-off and/or commercial containers for Construction and Demolition Debris, if the construction site is acceptable for their proper placement and there is a bona-fide need. However, any roll-off and/or commercial container holding more than a de minimis amount of Solid Waste other than Construction and Demolition Debris shall be regulated as though the container were filled with Solid Waste and shall require transport and disposal at a St. Johns County facility accepting such waste.

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ARTICLE VI: DISPOSAL SITES

6.0 All of the Solid Waste, Construction and Demolition Debris collected by the Contractor shall be processed or disposed of at a duly licensed and permitted Solid Waste Management Facility accepting Construction and Demolition Debris.

ARTICLE VII: APPLICATION FEES

7.0 The Contractor is required to complete and submit the standard St. Johns County application form for non-exclusive Franchise to rent roll-off and/or commercial containers, collect Construction and Demolition Debris, transport said material and dispose of it in a duly licensed and permitted facility accepting Construction and Demolition Waste. A non-refundable \$500.00 application fee as well as a \$100.00 fee per vehicle shall accompany the Contractor's application to the County for the non-exclusive Franchise.

ARTICLE VIII: FRANCHISE FEES

8.0 The Contractor shall pay a Franchise fee to the County for the privilege of using the public streets, roads, alleys and other thoroughfares of the County for the collection and transportation of Construction and Demolition Debris that originates in the unincorporated areas of St. Johns County. The Franchise fee also may be used to pay the cost of implementing, administering and enforcing the County's regulations for the safe handling of Construction and Demolition Debris generated in the unincorporated areas of St. Johns County.

8.1 The Franchise fee shall be equal to ten percent (10%) of the Gross Revenues collected by the Contractor for the services provided pursuant to this Agreement, including the collection, transportation, processing and disposing of Construction and Demolition Debris originating in the unincorporated areas of St. Johns County.

8.2 Franchise fees shall be paid to the County once each quarter. Franchise fees shall be delivered to the County no later than January 15, April 15, July 15, and October 16 of each year or within 60 days of termination of the Agreement. Each quarterly payment shall be based upon the Gross Revenues earned by the Contractor for the services provided pursuant to this Agreement for the preceding calendar quarter.



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8.3 Contractor shall provide the County with an audited financial statement to demonstrate that the Contractor has fully paid the applicable Franchise fee for the full three (3) year Agreement Term or any partial period. The financial statement shall be prepared by an independent accounting firm in accordance with generally accepted accounting principles. Unless the County instructs the Contractor otherwise, the Contractor shall deliver the audited financial statement to the County within 45 days following the Expiration Date of this Agreement or within 45 days of the termination of this Agreement for any partial period.

8.4 Each quarterly payment of the Franchise fee shall be accompanied by a true and accurate report demonstrating that the Franchise fee has been paid in full for the preceding calendar quarter.

8.5 The Contractor shall allow the County's auditors to inspect and examine the Contractor's financial books and records to confirm the Contractor's compliance with this Agreement. The inspections shall be allowed by the Contractor at any reasonable time following reasonable notice by the County. Additionally, the County's auditors may communicate directly with customers of the Contractor for the purpose of confirming the Contractor's compliance with this Agreement. To the extent authorized by Chapter 119, Florida Statutes, or other applicable laws, the information obtained by the County under this Section 8.5 shall remain confidential. Contractor shall comply with Chapter 119, Florida Statutes as related to the disclosure of public records. If the Contractor fails to pay the full amount of the Franchise fee in a timely manner, the County may suspend the Franchise until payment is made or may terminate this Agreement with no further notice and revoke the Franchise. The Contractor shall pay any and all of the County's expenses for the collection of the Franchise fee, including but not limited to court costs and reasonable attorneys' fees. Interest shall accrue on any unpaid Franchise fee at the maximum rate allowed by law.

8.6 If the Contractor fails to pay the full amount of the Franchise fee within 30 days of the end of each quarter, the County may suspend the Franchise until payment is made or may terminate this Agreement with no further notice and revoke the Franchise. The Contractor shall pay any and all of the County's expenses for the collection of the

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Franchise fee, including but not limited to court costs and reasonable attorneys' fees.  
Interest shall accrue on any unpaid Franchise fee at the maximum rate allowed by law.

ARTICLE IX: APPLICATION RENEWAL

9.0 Between the months of April 1 through June 1, prior to the Expiration Date of this Agreement, the Contractor may submit a renewal application to the Department of Solid Waste Management. A five hundred dollar (\$500) renewal fee and a vehicle fee of one hundred dollars (\$100) per vehicle shall accompany said renewal application. A surety bond or letter of credit in the amount of five thousand dollars (\$5,000) shall also be required with the application, in order to satisfy the surety requirements specified in the St. Johns County Solid Waste Ordinance. During review of the renewal application the Contractor shall operate as a non-exclusive Franchise for a period not to exceed 60 days or until the renewal application is approved or denied within that 60 day period. Applications for renewal not meeting all applicable criteria may be denied.

ARTICLE X: INSURANCE

10.0 The Contractor shall not begin collecting or transporting Construction and Demolition Debris under this Agreement until appropriate certificates of insurance are provided to the County that demonstrates compliance with the requirements of this Agreement. The Contractor must maintain the insurance in full force and effect at all times throughout the Term of this Agreement. The County shall be named as an additional insured on all of the insurance policies, except for workers compensation. Certificates should be issued to St. Johns County Board of County Commissioners, 500 San Sebastian View, St. Augustine, Florida, 32084.

10.1 The Contractor shall provide workers' compensation and employer's liability insurance of not less than \$100,000 for each person/accident and each person/disease or the minimum amount required under Florida Law, whichever is greater.

10.2 The Contractor shall provide commercial general liability insurance in the amount of \$1,000,000 per occurrence, and shall include coverage for bodily injury, death, property damage and other liabilities arising from or related to Contractor's premises,

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operations, independent contractors, and contracts. The coverage must specify that it included the indemnification and hold harmless provisions of this Agreement.

10.3 The Contractor shall provide vehicle liability insurance with minimum combined single limits of \$1,000,000 for all owned, hired, and non-owned vehicles.

10.4 All of the companies providing insurance must be authorized to do business in the State of Florida. All of the insurance companies providing coverage must be rated A-IX or higher in the most recent edition of Best's Key Rating Guide.

10.5 No change or cancellation of any insurance required under this Agreement may be made unless thirty (30) days prior written notice is provided to the County. Each insurance certificate must name the County as an additional insured and contain a clause stating substantially as follows: "If any of the above-described policies are to be cancelled or undergo material change before the expiration date, the issuing insurance company will mail written notice to: St. Johns County Board of County Commissioners, 500 San Sebastian View, St. Augustine, Florida, 32084 at least 30 days before the effective date of the cancellation or change."

ARTICLE XI: INDEMNIFICATION

11.0 The Contractor agrees that it shall indemnify, defend and hold harmless the County, its officials, officers, employees and agents, against, and assume all liability for, any and all claims, suits, causes of action, damages, liabilities, expenditures, or proceedings of any kind (collectively "claims") arising from or related to any of the Contractor's activities or operations pursuant to this Agreement, including but not limited to claims based on bodily injury, loss of life or limb, damage to property, pollution or other environmental damages.

11.1 This provision relating to Indemnification, is separate and apart from, and is in no way limited by, any insurance provided by the Contractor, pursuant to this Agreement, or otherwise.

ARTICLE XII: TERMINATION BY COUNTY

12.0 If there is a material breach of any term of this Agreement by the Contractor, the County shall notify the Contractor in writing of the breach and provide the Contractor

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with an opportunity to correct the breach. If the breach is not corrected within one (1) day of receipt of the written notice, the County may terminate the Agreement at any time at the County's discretion by providing written notice to the Contractor, which shall be effective upon the date specified in the notice. Upon such notice, the Contractor shall immediately cease all activities under this Agreement. Among other things, a material breach of this Agreement shall be deemed to have occurred if: (a) the Contractor fails to pay Franchise fees at the times and in the amounts required by this Agreement; (b) the Contractor fails to file complete, accurate, and timely reports, as required by this Agreement; (c) the Contractor disposes of Solid Waste at a site other than a properly permitted and authorized Solid Waste Management Facility; (d) the Contractor collects or transports Solid Waste in a manner that is not authorized under this Agreement; (e) the Contractor fails to continuously maintain the types and amounts of insurance required under this Agreement; (f) the Contractor declares bankruptcy; or (g) the Contractor fails to comply with the applicable provisions of the St. Johns County Solid Waste Ordinance or this Agreement.

12.1 If the Contractor has frequently, regularly or repetitively defaulted in the performance of any of the requirements in this Agreement or any applicable local, state or federal regulation, the County may in its sole discretion deem the Contractor to be a "habitual violator," regardless of whether the Contractor has corrected each individual condition of default. Under such circumstances, the Contractor shall forfeit its right to any further grace period to correct or cure future defaults. All of the Contractor's prior defaults shall be considered cumulative and collectively shall constitute a condition of irredeemable default. The County shall issue the Contractor a notice that the Contractor has been deemed a "habitual violator." Thereafter, any single default by the Contractor of whatever nature shall be grounds for immediate termination of this Agreement. In the event of any such default, the County may terminate this Agreement by giving a written notice to the Contractor, which shall be effective upon the date specified in the notice. Upon such notice, the Contractor shall immediately cease all activities under this Agreement. This section creates a supplemental and additional means of terminating this Agreement and it shall not be deemed to be in lieu of any other remedy available at law or equity.

ARTICLE XIII: MISCELLANEOUS PROVISIONS

13.0 *Party Representatives.* For the purposes of this Agreement, the Authorized representative of the County (as designated by the County Administrator) shall be the Solid Waste Manager of the St. Johns County Solid Waste Department or the Manager's designee. The authorized representative of the Contractor for purposes of this Agreement shall be Sunshine Recycling, Inc. Either party may change its representative upon five (5) days, prior notice to the other party.

13.1 *Notice.* All notices and consents required or permitted by this Agreement shall be in writing and transmitted in person or by registered or certified mail, return receipt requested, with notice deemed to be given upon receipt, as follows:

If to the County:

Solid Waste Manager  
St. Johns County Solid Waste Department  
3005 Allen Nease Road  
Elkton, FL 32033

If to the Contractor:

Sunshine Recycling, Inc.  
1263 W Landstreet Rd.  
Orlando, FL 32824

Changes in the respective addresses to which such notices may be directed may be made from time to time by either party by notice to the other party.

13.2 *Waiver.* No delay or failure to exercise a right under this Agreement shall impair such right or shall be construed to be a waiver thereof, but such right may be exercised from time to time and as often as deemed expedient. The failure of the County or Contractor at any time to require performance by the other party of any term in this Agreement shall in no way affect the right of the County or Contractor thereafter to enforce same; nor shall waiver by the County or Contractor of any breach of any term of this Agreement be taken or held to be a waiver of any succeeding breach of such term or

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as a waiver of any term itself. To be effective, any waiver shall be in writing and signed by the party granting such waiver. Any such waiver shall be limited to the particular right so waived and shall not be deemed to waive any other right under this Agreement.

13.3 *Agreement Governed by Florida Law and Venue.* This Agreement shall be governed by and construed in accordance with the laws of the State of Florida, and it shall be binding upon, and inure to the benefit of, the parties, their successors, and assigns. The Contractor shall submit to service of process and the jurisdiction of the State of Florida for any controversy or claim arising out of or relating to this Agreement. Any action to interpret and/or enforce this Agreement shall be brought and maintained in the State of Florida. Venue shall be in St. Johns County, Florida.

13.4 *Assignment.* This Agreement may not be sold, assigned or transferred by the Contractor without prior approval by the County. As a condition precedent to receiving the County's approval, the Contractor or the potential assignee must demonstrate to the County's satisfaction that the assignee has the ability and resources to comply with all of the applicable requirements set forth in this Agreement and all applicable local, state and federal regulations.

13.5 *Representations of the Contractor.* The Contractor represents that: (a) it is a corporation duly organized under the laws of the State of Florida or a person or an entity qualified to do business in the State of Florida; (b) this Agreement has been duly authorized, executed, and delivered in the State of Florida; and (c) it has the required power and authority to perform this Agreement.

13.6 *Headings.* Captions and headings contained in this Agreement are for ease of Reference only and do not constitute a part of this Agreement.

13.7 *Severability.* If any term, condition, covenant or obligation of this Agreement is declared illegal, void or unenforceable, the remaining terms shall not be affected but shall remain in full force and effect, and this Agreement shall be construed as if such illegal, void or unenforceable provision had never been contained herein.

13.8 *Survivability.* Any term, condition, covenant, or obligation that requires performance by a party subsequent to expiration or termination of this Agreement shall remain enforceable against such party subsequent to such expiration or termination.

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13.9 *Third Party Beneficiaries.* It is agreed between the parties hereto that no provision of this Agreement is intended to create any third-party beneficiaries hereunder, or to authorize anyone not a party to this Agreement to maintain an action pursuant to the terms or provisions of this Agreement.

13.10 *Personal Liability.* Nothing in this Agreement shall be construed as creating any personal liability on the part of any official, officer, employee, agent or representative of the County.

13.11 *Independent Contractor.* When performing the activities required by this Agreement the Contractor will be acting in the capacity of an independent contractor and not as an agent, employee, partner, joint venture or associate of the County. The Contractor shall be solely responsible for the means, methods and procedures used by the Contractor to perform under this Agreement. Neither the Contractor nor any of its employees, officers, agents or subcontractors shall represent, act, purport to act, or be deemed to be an agent, representative, employee, or servant of the County. The Contractor shall have no authority to bind the County to any agreement or contract. No person performing any work or services for the Contractor under this Agreement shall be entitled to any benefits available or granted to employees of the County.

13.12 *Merger Clause.* This Agreement constitutes the entire agreement and understanding of the parties as to all matters addressed or referred to herein. This Agreement supersedes all prior and contemporaneous agreements and understandings, representations and warranties, whether oral or written, relating to such matters.

13.13 *Fair Dealing.* The Contractor declares and warrants that the Contractor enters into the Agreement without reliance on or engaging in any collusion, bribery or fraud, that all of the Contractor's representations in this Agreement are made fairly and in good faith, and that no County Commissioner, County officer, or County employee, directly or indirectly owns more than 5% of the total assets or capital stock of the Contractor, nor will any such person directly or indirectly benefit by more than 5%, from the profits or emoluments of this Agreement. The Contractor warrants that it has not employed or retained any company or person, other than a bona fide employee working solely for the Contractor, to solicit or secure this Agreement and the Contractor has not paid or agreed

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to pay any person, company, corporation, individual or firm, other than a bona fide employee working solely for the Contractor, any fee, commission, percentage gift or any other compensation contingent upon or resulting from the award or making of this Agreement. Further, the contractor declares and warrants that the Contractor is not subject to the restrictions in Section 287.133, Florida Statutes, for a public entity crime.

13.14 *Sovereign Immunity.* Nothing in this Agreement shall be interpreted or construed to mean that the County waives sovereign immunity as provided under Section 768.28, Florida Statutes.

13.15 *Amendment.* Except as otherwise specifically provided herein, this Agreement may be amended only by written instrument specifically referring to this Agreement and executed by both parties with the same formalities as this Agreement. The term Ordinance 06-98 as used in this document, shall mean said Ordinance as may be amended from time to time.

13.16 *Terms Generally.* Whenever the context may require, any pronoun which is used in this Agreement shall include the corresponding masculine, feminine and neuter forms and the singular shall include the plural and vice versa. Unless otherwise specifically noted, the words "include," and "including" as used herein shall be deemed to be followed by the following phrase "without limitation". The words "agree," "agreement," "consent," "establish," "impose" as used herein shall be deemed to be followed by the phrase "which shall not be unreasonably withheld or delayed" except as specifically noted. Words or phrases which are defined herein by reference to a statute, rule or regulation shall have the meaning ascribed to such word or phrases as of the Effective Date, without regard to subsequent changes in such statutes, rules or regulations, unless otherwise provided.

**ARTICLE XIV: ACCESS TO RECORDS**

14.0 The access to, disclosure, non-disclosure, or exemption of records, data, documents, and/or materials associated with this Agreement shall be subject to applicable provisions of the Florida Public Records Law (Chapter 119, Florida Statutes), and any other applicable State or Federal law. Access to such public records may not be blocked,



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thwarted, or hindered by placing the public records in the possession of a third party, or an unaffiliated party.

**ARTICLE XV: REVIEW OF RECORDS**

15.0           As a condition of entering into this Agreement, and in order to ensure compliance, especially as it relates to any applicable law, rule, or regulation, the Contractor authorized the County to examine, review, inspect, and/or audit the books, and records (including without limitation, data, documents, and correspondence), in order to determine whether compliance has been achieved with respect to the terms, conditions, provisions, rights, and responsibilities noted in this Agreement. It is specifically noted that the Contractor is under no duty to provide access to documentation not related this Agreement, and/or is otherwise protected by County, State, and/or Federal law.

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St. Johns County  
Non Exclusive Franchise Agreement for Construction & Demolition Debris

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed

on May 29, 2012.

**CONTRACTOR**

Sunshine Recycling  
Name of Company

Printed Name: Chuck Nero

Title: VP

Signature: X [Signature]  
Company Officer  
(CORPORATE SEAL)

Date 5/24/12

[Signature]  
Notary



\_\_\_\_\_  
Notary Seal

**ST. JOHNS COUNTY, acting by and through  
its COUNTY ADMINISTRATOR**

ATTEST: \_\_\_\_\_  
Deputy Clerk

By: \_\_\_\_\_  
County Administrator

Legal Review:

\_\_\_\_\_  
Assistant County Attorney

**NON-EXCLUSIVE FRANCHISE AGREEMENT  
FOR CONSTRUCTION AND DEMOLITION DEBRIS**

This Non-Exclusive Franchise Agreement for the collection and transport of Construction and Demolition Debris ("Agreement") is made as of this 16<sup>th</sup> day of May, 2012, by and between St. Johns County ("County"), a political subdivision of the State of Florida, and ~~Waste Management~~ its successors and assigns ("Contractor").

**RECITALS**

WHEREAS, Contractor wishes to collect and transport Construction and Demolition Debris in the unincorporated areas of St. Johns County; and

WHEREAS, the County wishes to ensure that the Contractor's activities are performed in accordance with all applicable laws and is consistent with the public interest.

NOW, THEREFORE, in consideration of the mutual covenants hereinafter contained and other good and valuable consideration, the receipt and adequacy of which are hereby acknowledged, the County and Contractor agree as follows:

**ARTICLE I: DEFINITIONS**

1.0 The terms used in this Agreement shall have the same definitions and meanings set forth in the St. Johns County Solid Waste Ordinance (*see* St. Johns County Ordinance 06-98), unless a different meaning is specifically defined herein. Such terms shall be construed in a manner consistent with the definitions provided in section 403.703 of the Florida Statutes. Any inconsistency with section 403.703 of the Florida Statutes shall be resolved in favor of said statutory provision.

**ARTICLE II: CONTRACTOR'S GENERAL WARRANTY**

2.0 By executing this Agreement, Contractor acknowledges that it has read the St. Johns County Solid Waste Ordinance (together with all amendments thereto) and this Agreement, and Contractor agrees to comply at all times with the applicable provisions of

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this Agreement and the Ordinance, a copy of which is attached hereto, and incorporated herein.

**ARTICLE III: NON-EXCLUSIVE FRANCHISE**

3.0 The County hereby grants a non-exclusive Franchise to Contractor for the collection and transport of Construction and Demolition Debris in the unincorporated areas of St. Johns County, subject to the terms and conditions of this Agreement and all applicable laws. This Agreement authorizes the Contractor to only collect and transport Construction and Demolition Debris in roll-off containers or other commercial collection equipment standard to the industry for this type of service. No other collection or transportation of Construction and Demolition Debris is authorized under this Agreement.

**ARTICLE IV: TERM**

4.0 This Agreement shall be effective upon execution by the County's duly authorized representative ("Effective Date"). This Agreement shall run from the Effective Date and shall expire at 11:59 p.m. (EST) on June 30, 2015 ("Expiration Date").

**ARTICLE V: CONTRACTOR'S OPERATIONS**

5.0 The Contractor shall take all necessary steps to ensure that its operations are performed in compliance with all applicable provisions of the St. Johns County Code of Ordinances, and all other applicable local, state, and federal laws.

5.1 The Contractor's employees shall be properly trained and qualified to perform the tasks assigned to them under this Agreement.

5.2 Contractor may collect and transport Construction and Demolition Debris between 7 a.m. and 6 p.m. (EST), on Monday through Saturday of each week. Contractor shall not collect or transport Construction and Demolition Debris at other times, unless the Contractor has received the prior approval of the Manager of the St. Johns County Solid Waste Department.

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5.3 When collecting or transporting construction and Demolition Debris, Contractor's employees shall wear a company shirt or uniform, which shall have the Contractor's name or logo in a conspicuous place.

5.4 All of the trucks used by the Contractor for the collection and transportation of Construction and Demolition Debris shall be marked with the name and phone number of the Contractor in letters that are plainly visible and at least four inches high. Each commercial container used by the Contractor for the collection and transportation of Construction and Demolition Debris shall be labeled by the Contractor on each long side (two sides) in the same manner.

5.5 The Contractor's roll-off and/or commercial containers shall be securely covered when transporting Construction and Demolition Debris, as authorized under this Agreement.

5.6 All of the rolling stock used by the Contractor for collecting and transporting Construction and Demolition Debris in St. Johns County shall be maintained in a good, clean, and safe operating condition, and be properly marked with the Contractor's name and phone number on all roll-off and/or commercial containers.

5.7 Contractor shall provide the County with a list of the vehicles used by the Contractor and the license plate number for each vehicle and the Company's vehicle identification number (VIN). The Contractor shall ensure that the vehicle list is updated and submitted to the County within 30 days of any revisions including deletions and/or additions of the vehicles.

5.8 This Agreement authorizes the use of roll-off and/or commercial containers and other commercial collection equipment standard to the industry for this type of service. The Contractor may provide an unlimited number of roll-off and/or commercial containers for Construction and Demolition Debris, if the construction site is acceptable for their proper placement and there is a bona-fide need. However, any roll-off and/or commercial container holding more than a de minimis amount of Solid Waste other than Construction and Demolition Debris shall be regulated as though the container were filled with Solid Waste and shall require transport and disposal at a St. Johns County facility accepting such waste.

**ARTICLE VI: DISPOSAL SITES**

6.0 All of the Solid Waste, Construction and Demolition Debris collected by the Contractor shall be processed or disposed of at a duly licensed and permitted Solid Waste Management Facility accepting Construction and Demolition Debris.

**ARTICLE VII: APPLICATION FEES**

7.0 The Contractor is required to complete and submit the standard St. Johns County application form for non-exclusive Franchise to rent roll-off and/or commercial containers, collect Construction and Demolition Debris, transport said material and dispose of it in a duly licensed and permitted facility accepting Construction and Demolition Waste. A non-refundable \$500.00 application fee as well as a \$100.00 fee per vehicle shall accompany the Contractor's application to the County for the non-exclusive Franchise.

**ARTICLE VIII: FRANCHISE FEES**

8.0 The Contractor shall pay a Franchise fee to the County for the privilege of using the public streets, roads, alleys and other thoroughfares of the County for the collection and transportation of Construction and Demolition Debris that originates in the unincorporated areas of St. Johns County. The Franchise fee also may be used to pay the cost of implementing, administering and enforcing the County's regulations for the safe handling of Construction and Demolition Debris generated in the unincorporated areas of St. Johns County.

8.1 The Franchise fee shall be equal to ten percent (10%) of the Gross Revenues collected by the Contractor for the services provided pursuant to this Agreement, including the collection, transportation, processing and disposing of Construction and Demolition Debris originating in the unincorporated areas of St. Johns County.

8.2 Franchise fees shall be paid to the County once each quarter. Franchise fees shall be delivered to the County no later than January 15, April 15, July 15, and October 16 of each year or within 60 days of termination of the Agreement. Each quarterly payment shall be based upon the Gross Revenues earned by the Contractor for the services provided pursuant to this Agreement for the preceding calendar quarter.

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8.3 Contractor shall provide the County with an audited financial statement to demonstrate that the Contractor has fully paid the applicable Franchise fee for the full three (3) year Agreement Term or any partial period. The financial statement shall be prepared by an independent accounting firm in accordance with generally accepted accounting principles. Unless the County instructs the Contractor otherwise, the Contractor shall deliver the audited financial statement to the County within 45 days following the Expiration Date of this Agreement or within 45 days of the termination of this Agreement for any partial period.

8.4 Each quarterly payment of the Franchise fee shall be accompanied by a true and accurate report demonstrating that the Franchise fee has been paid in full for the preceding calendar quarter.

8.5 The Contractor shall allow the County's auditors to inspect and examine the Contractor's financial books and records to confirm the Contractor's compliance with this Agreement. The inspections shall be allowed by the Contractor at any reasonable time following reasonable notice by the County. Additionally, the County's auditors may communicate directly with customers of the Contractor for the purpose of confirming the Contractor's compliance with this Agreement. To the extent authorized by Chapter 119, Florida Statutes, or other applicable laws, the information obtained by the County under this Section 8.5 shall remain confidential. Contractor shall comply with Chapter 119, Florida Statutes as related to the disclosure of public records. If the Contractor fails to pay the full amount of the Franchise fee in a timely manner, the County may suspend the Franchise until payment is made or may terminate this Agreement with no further notice and revoke the Franchise. The Contractor shall pay any and all of the County's expenses for the collection of the Franchise fee, including but not limited to court costs and reasonable attorneys' fees. Interest shall accrue on any unpaid Franchise fee at the maximum rate allowed by law.

8.6 If the Contractor fails to pay the full amount of the Franchise fee within 30 days of the end of each quarter, the County may suspend the Franchise until payment is made or may terminate this Agreement with no further notice and revoke the Franchise. The Contractor shall pay any and all of the County's expenses for the collection of the

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Franchise fee, including but not limited to court costs and reasonable attorneys' fees.  
Interest shall accrue on any unpaid Franchise fee at the maximum rate allowed by law.

**ARTICLE IX: APPLICATION RENEWAL**

9.0 Between the months of April 1 through June 1, prior to the Expiration Date of this Agreement, the Contractor may submit a renewal application to the Department of Solid Waste Management. A five hundred dollar (\$500) renewal fee and a vehicle fee of one hundred dollars (\$100) per vehicle shall accompany said renewal application. A surety bond or letter of credit in the amount of five thousand dollars (\$5,000) shall also be required with the application, in order to satisfy the surety requirements specified in the St. Johns County Solid Waste Ordinance. During review of the renewal application the Contractor shall operate as a non-exclusive Franchise for a period not to exceed 60 days or until the renewal application is approved or denied within that 60 day period. Applications for renewal not meeting all applicable criteria may be denied.

**ARTICLE X: INSURANCE**

10.0 The Contractor shall not begin collecting or transporting Construction and Demolition Debris under this Agreement until appropriate certificates of insurance are provided to the County that demonstrates compliance with the requirements of this Agreement. The Contractor must maintain the insurance in full force and effect at all times throughout the Term of this Agreement. The County shall be named as an additional insured on all of the insurance policies, except for workers compensation. Certificates should be issued to St. Johns County Board of County Commissioners, 500 San Sebastian View, St. Augustine, Florida, 32084.

10.1 The Contractor shall provide workers' compensation and employer's liability insurance of not less than \$100,000 for each person/accident and each person/disease or the minimum amount required under Florida Law, whichever is greater.

10.2 The Contractor shall provide commercial general liability insurance in the amount of \$1,000,000 per occurrence, and shall include coverage for bodily injury, death, property damage and other liabilities arising from or related to Contractor's premises,



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operations, independent contractors, and contracts. The coverage must specify that it included the indemnification and hold harmless provisions of this Agreement.

10.3 The Contractor shall provide vehicle liability insurance with minimum combined single limits of \$1,000,000 for all owned, hired, and non-owned vehicles.

10.4 All of the companies providing insurance must be authorized to do business in the State of Florida. All of the insurance companies providing coverage must be rated A-IX or higher in the most recent edition of Best's Key Rating Guide.

10.5 No change or cancellation of any insurance required under this Agreement may be made unless thirty (30) days prior written notice is provided to the County. Each insurance certificate must name the County as an additional insured and contain a clause stating substantially as follows: "If any of the above-described policies are to be cancelled or undergo material change before the expiration date, the issuing insurance company will mail written notice to: St. Johns County Board of County Commissioners, 500 San Sebastian View, St. Augustine, Florida, 32084 at least 30 days before the effective date of the cancellation or change."

ARTICLE XI: INDEMNIFICATION

11.0 The Contractor agrees that it shall indemnify, defend and hold harmless the County, its officials, officers, employees and agents, against, and assume all liability for, any and all claims, suits, causes of action, damages, liabilities, expenditures, or proceedings of any kind (collectively "claims") arising from or related to any of the Contractor's activities or operations pursuant to this Agreement, including but not limited to claims based on bodily injury, loss of life or limb, damage to property, pollution or other environmental damages.

11.1 This provision relating to Indemnification, is separate and apart from, and is in no way limited by, any insurance provided by the Contractor, pursuant to this Agreement, or otherwise.

ARTICLE XII: TERMINATION BY COUNTY

12.0 If there is a material breach of any term of this Agreement by the Contractor, the County shall notify the Contractor in writing of the breach and provide the Contractor

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with an opportunity to correct the breach. If the breach is not corrected within one (1) day of receipt of the written notice, the County may terminate the Agreement at any time at the County's discretion by providing written notice to the Contractor, which shall be effective upon the date specified in the notice. Upon such notice, the Contractor shall immediately cease all activities under this Agreement. Among other things, a material breach of this Agreement shall be deemed to have occurred if: (a) the Contractor fails to pay Franchise fees at the times and in the amounts required by this Agreement; (b) the Contractor fails to file complete, accurate, and timely reports, as required by this Agreement; (c) the Contractor disposes of Solid Waste at a site other than a properly permitted and authorized Solid Waste Management Facility; (d) the Contractor collects or transports Solid Waste in a manner that is not authorized under this Agreement; (e) the Contractor fails to continuously maintain the types and amounts of insurance required under this Agreement; (f) the Contractor declares bankruptcy; or (g) the Contractor fails to comply with the applicable provisions of the St. Johns County Solid Waste Ordinance or this Agreement.

12.1 If the Contractor has frequently, regularly or repetitively defaulted in the performance of any of the requirements in this Agreement or any applicable local, state or federal regulation, the County may in its sole discretion deem the Contractor to be a "habitual violator," regardless of whether the Contractor has corrected each individual condition of default. Under such circumstances, the Contractor shall forfeit its right to any further grace period to correct or cure future defaults. All of the Contractor's prior defaults shall be considered cumulative and collectively shall constitute a condition of irredeemable default. The County shall issue the Contractor a notice that the Contractor has been deemed a "habitual violator." Thereafter, any single default by the Contractor of whatever nature shall be grounds for immediate termination of this Agreement. In the event of any such default, the County may terminate this Agreement by giving a written notice to the Contractor, which shall be effective upon the date specified in the notice. Upon such notice, the Contractor shall immediately cease all activities under this Agreement. This section creates a supplemental and additional means of terminating this Agreement and it shall not be deemed to be in lieu of any other remedy available at law or equity.

**ARTICLE XIII: MISCELLANEOUS PROVISIONS**

13.0 *Party Representatives.* For the purposes of this Agreement, the Authorized representative of the County (as designated by the County Administrator) shall be the Solid Waste Manager of the St. Johns County Solid Waste Department or the Manager's designee. The authorized representative of the Contractor for purposes of this Agreement shall be Scott Kishton. Either party may change its representative upon five (5) days, prior notice to the other party.

13.1 *Notice.* All notices and consents required or permitted by this Agreement shall be in writing and transmitted in person or by registered or certified mail, return receipt requested, with notice deemed to be given upon receipt, as follows:

If to the County:

Solid Waste Manager  
St. Johns County Solid Waste Department  
3005 Allen Nease Road  
Elkton, FL 32033

If to the Contractor:

Scott Kishton  
6501 Greenland Rd  
Jacksonville, FL 32258

Changes in the respective addresses to which such notices may be directed may be made from time to time by either party by notice to the other party.

13.2 *Waiver.* No delay or failure to exercise a right under this Agreement shall impair such right or shall be construed to be a waiver thereof, but such right may be exercised from time to time and as often as deemed expedient. The failure of the County or Contractor at any time to require performance by the other party of any term in this Agreement shall in no way affect the right of the County or Contractor thereafter to enforce same; nor shall waiver by the County or Contractor of any breach of any term of this Agreement be taken or held to be a waiver of any succeeding breach of such term or

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as a waiver of any term itself. To be effective, any waiver shall be in writing and signed by the party granting such waiver. Any such waiver shall be limited to the particular right so waived and shall not be deemed to waive any other right under this Agreement.

13.3 *Agreement Governed by Florida Law and Venue.* This Agreement shall be governed by and construed in accordance with the laws of the State of Florida, and it shall be binding upon, and inure to the benefit of, the parties, their successors, and assigns. The Contractor shall submit to service of process and the jurisdiction of the State of Florida for any controversy or claim arising out of or relating to this Agreement. Any action to interpret and/or enforce this Agreement shall be brought and maintained in the State of Florida. Venue shall be in St. Johns County, Florida.

13.4 *Assignment.* This Agreement may not be sold, assigned or transferred by the Contractor without prior approval by the County. As a condition precedent to receiving the County's approval, the Contractor or the potential assignee must demonstrate to the County's satisfaction that the assignee has the ability and resources to comply with all of the applicable requirements set forth in this Agreement and all applicable local, state and federal regulations.

13.5 *Representations of the Contractor.* The Contractor represents that: (a) it is a corporation duly organized under the laws of the State of Florida or a person or an entity qualified to do business in the State of Florida; (b) this Agreement has been duly authorized, executed, and delivered in the State of Florida; and (c) it has the required power and authority to perform this Agreement.

13.6 *Headings.* Captions and headings contained in this Agreement are for ease of Reference only and do not constitute a part of this Agreement.

13.7 *Severability.* If any term, condition, covenant or obligation of this Agreement is declared illegal, void or unenforceable, the remaining terms shall not be affected but shall remain in full force and effect, and this Agreement shall be construed as if such illegal, void or unenforceable provision had never been contained herein.

13.8 *Survivability.* Any term, condition, covenant, or obligation that requires performance by a party subsequent to expiration or termination of this Agreement shall remain enforceable against such party subsequent to such expiration or termination.

*St. Johns County  
Non Exclusive Franchise Agreement for Construction & Demolition Debris*

13.9 *Third Party Beneficiaries.* It is agreed between the parties hereto that no provision of this Agreement is intended to create any third-party beneficiaries hereunder, or to authorize anyone not a party to this Agreement to maintain an action pursuant to the terms or provisions of this Agreement.

13.10 *Personal Liability.* Nothing in this Agreement shall be construed as creating any personal liability on the part of any official, officer, employee, agent or representative of the County.

13.11 *Independent Contractor.* When performing the activities required by this Agreement the Contractor will be acting in the capacity of an independent contractor and not as an agent, employee, partner, joint venture or associate of the County. The Contractor shall be solely responsible for the means, methods and procedures used by the Contractor to perform under this Agreement. Neither the Contractor nor any of its employees, officers, agents or subcontractors shall represent, act, purport to act, or be deemed to be an agent, representative, employee, or servant of the County. The Contractor shall have no authority to bind the County to any agreement or contract. No person performing any work or services for the Contractor under this Agreement shall be entitled to any benefits available or granted to employees of the County.

13.12 *Merger Clause.* This Agreement constitutes the entire agreement and understanding of the parties as to all matters addressed or referred to herein. This Agreement supersedes all prior and contemporaneous agreements and understandings, representations and warranties, whether oral or written, relating to such matters.

13.13 *Fair Dealing.* The Contractor declares and warrants that the Contractor enters into the Agreement without reliance on or engaging in any collusion, bribery or fraud, that all of the Contractor's representations in this Agreement are made fairly and in good faith, and that no County Commissioner, County officer, or County employee, directly or indirectly owns more than 5% of the total assets or capital stock of the Contractor, nor will any such person directly or indirectly benefit by more than 5%, from the profits or emoluments of this Agreement. The Contractor warrants that it has not employed or retained any company or person, other than a bona fide employee working solely for the Contractor, to solicit or secure this Agreement and the Contractor has not paid or agreed

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to pay any person, company, corporation, individual or firm, other than a bona fide employee working solely for the Contractor, any fee, commission, percentage gift or any other compensation contingent upon or resulting from the award or making of this Agreement. Further, the contractor declares and warrants that the Contractor is not subject to the restrictions in Section 287.133, Florida Statutes, for a public entity crime.

13.14 *Sovereign Immunity.* Nothing in this Agreement shall be interpreted or construed to mean that the County waives sovereign immunity as provided under Section 768.28, Florida Statutes.

13.15 *Amendment.* Except as otherwise specifically provided herein, this Agreement may be amended only by written instrument specifically referring to this Agreement and executed by both parties with the same formalities as this Agreement. The term Ordinance 06-98 as used in this document, shall mean said Ordinance as may be amended from time to time.

13.16 *Terms Generally.* Whenever the context may require, any pronoun which is used in this Agreement shall include the corresponding masculine, feminine and neuter forms and the singular shall include the plural and vice versa. Unless otherwise specifically noted, the words "include," and "including" as used herein shall be deemed to be followed by the following phrase "without limitation". The words "agree," "agreement," "consent," "establish," "impose" as used herein shall be deemed to be followed by the phrase "which shall not be unreasonably withheld or delayed" except as specifically noted. Words or phrases which are defined herein by reference to a statute, rule or regulation shall have the meaning ascribed to such word or phrases as of the Effective Date, without regard to subsequent changes in such statutes, rules or regulations, unless otherwise provided.

**ARTICLE XIV: ACCESS TO RECORDS**

14.0 The access to, disclosure, non-disclosure, or exemption of records, data, documents, and/or materials associated with this Agreement shall be subject to applicable provisions of the Florida Public Records Law (Chapter 119, Florida Statutes), and any other applicable State or Federal law. Access to such public records may not be blocked,

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thwarted, or hindered by placing the public records in the possession of a third party, or an unaffiliated party.

**ARTICLE XV: REVIEW OF RECORDS**

15.0 As a condition of entering into this Agreement, and in order to ensure compliance, especially as it relates to any applicable law, rule, or regulation, the Contractor authorized the County to examine, review, inspect, and/or audit the books, and records (including without limitation, data, documents, and correspondence), in order to determine whether compliance has been achieved with respect to the terms, conditions, provisions, rights, and responsibilities noted in this Agreement. It is specifically noted that the Contractor is under no duty to provide access to documentation not related this Agreement, and/or is otherwise protected by County, State, and/or Federal law.

-----

*St. Johns County*  
*Non Exclusive Franchise Agreement for Construction & Demolition Debris*

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed  
on May 16, 2012.

**CONTRACTOR**

Waste Management Inc. of Florida  
Name of Company

Printed Name: Tim Hawkins

Title: Vice President

Signature: [Handwritten Signature]  
Company Officer  
(CORPORATE SEAL)

Date 5-16-12

Rosalina Vega  
Notary



ROSALINA VEGA  
MY COMMISSION # EE 019003  
EXPIRES: October 9, 2014  
Bonded Thru Budget Notary Services

\_\_\_\_\_  
Notary Seal

**ST. JOHNS COUNTY, acting by and through  
its COUNTY ADMINISTRATOR**

ATTEST: \_\_\_\_\_  
Deputy Clerk

By: \_\_\_\_\_  
County Administrator

Legal Review:  
\_\_\_\_\_  
Assistant County Attorney



*St. Johns County  
Non Exclusive Franchise Agreement for Construction & Demolition Debris*

**NON-EXCLUSIVE FRANCHISE AGREEMENT  
FOR CONSTRUCTION AND DEMOLITION DEBRIS**

This Non-Exclusive Franchise Agreement for the collection and transport of Construction and Demolition Debris ("Agreement") is made as of this 22<sup>nd</sup> day of May, 2012, by and between St. Johns County ("County"), a political subdivision of the State of Florida, and WASTE PRO OF FLORIDA, its successors and assigns ("Contractor"). **INC.**

**RECITALS**

WHEREAS, Contractor wishes to collect and transport Construction and Demolition Debris in the unincorporated areas of St. Johns County; and

WHEREAS, the County wishes to ensure that the Contractor's activities are performed in accordance with all applicable laws and is consistent with the public interest.

NOW, THEREFORE, in consideration of the mutual covenants hereinafter contained and other good and valuable consideration, the receipt and adequacy of which are hereby acknowledged, the County and Contractor agree as follows:

**ARTICLE I: DEFINITIONS**

1.0 The terms used in this Agreement shall have the same definitions and meanings set forth in the St. Johns County Solid Waste Ordinance (*see* St. Johns County Ordinance 06-98), unless a different meaning is specifically defined herein. Such terms shall be construed in a manner consistent with the definitions provided in section 403.703 of the Florida Statutes. Any inconsistency with section 403.703 of the Florida Statutes shall be resolved in favor of said statutory provision.

**ARTICLE II: CONTRACTOR'S GENERAL WARRANTY**

2.0 By executing this Agreement, Contractor acknowledges that it has read the St. Johns County Solid Waste Ordinance (together with all amendments thereto) and this Agreement, and Contractor agrees to comply at all times with the applicable provisions of

*St. Johns County  
Non Exclusive Franchise Agreement for Construction & Demolition Debris*

this Agreement and the Ordinance, a copy of which is attached hereto, and incorporated herein.

**ARTICLE III: NON-EXCLUSIVE FRANCHISE**

3.0 The County hereby grants a non-exclusive Franchise to Contractor for the collection and transport of Construction and Demolition Debris in the unincorporated areas of St. Johns County, subject to the terms and conditions of this Agreement and all applicable laws. This Agreement authorizes the Contractor to only collect and transport Construction and Demolition Debris in roll-off containers or other commercial collection equipment standard to the industry for this type of service. No other collection or transportation of Construction and Demolition Debris is authorized under this Agreement.

**ARTICLE IV: TERM**

4.0 This Agreement shall be effective upon execution by the County's duly authorized representative ("Effective Date"). This Agreement shall run from the Effective Date and shall expire at 11:59 p.m. (EST) on June 30, 2015 ("Expiration Date").

**ARTICLE V: CONTRACTOR'S OPERATIONS**

5.0 The Contractor shall take all necessary steps to ensure that its operations are performed in compliance with all applicable provisions of the St. Johns County Code of Ordinances, and all other applicable local, state, and federal laws.

5.1 The Contractor's employees shall be properly trained and qualified to perform the tasks assigned to them under this Agreement.

5.2 Contractor may collect and transport Construction and Demolition Debris between 7 a.m. and 6 p.m. (EST), on Monday through Saturday of each week. Contractor shall not collect or transport Construction and Demolition Debris at other times, unless the Contractor has received the prior approval of the Manager of the St. Johns County Solid Waste Department.

*St. Johns County  
Non Exclusive Franchise Agreement for Construction & Demolition Debris*

5.3 When collecting or transporting construction and Demolition Debris, Contractor's employees shall wear a company shirt or uniform, which shall have the Contractor's name or logo in a conspicuous place.

5.4 All of the trucks used by the Contractor for the collection and transportation of Construction and Demolition Debris shall be marked with the name and phone number of the Contractor in letters that are plainly visible and at least four inches high. Each commercial container used by the Contractor for the collection and transportation of Construction and Demolition Debris shall be labeled by the Contractor on each long side (two sides) in the same manner.

5.5 The Contractor's roll-off and/or commercial containers shall be securely covered when transporting Construction and Demolition Debris, as authorized under this Agreement.

5.6 All of the rolling stock used by the Contractor for collecting and transporting Construction and Demolition Debris in St. Johns County shall be maintained in a good, clean, and safe operating condition, and be properly marked with the Contractor's name and phone number on all roll-off and/or commercial containers.

5.7 Contractor shall provide the County with a list of the vehicles used by the Contractor and the license plate number for each vehicle and the Company's vehicle identification number (VIN). The Contractor shall ensure that the vehicle list is updated and submitted to the County within 30 days of any revisions including deletions and/or additions of the vehicles.

5.8 This Agreement authorizes the use of roll-off and/or commercial containers and other commercial collection equipment standard to the industry for this type of service. The Contractor may provide an unlimited number of roll-off and/or commercial containers for Construction and Demolition Debris, if the construction site is acceptable for their proper placement and there is a bona-fide need. However, any roll-off and/or commercial container holding more than a de minimis amount of Solid Waste other than Construction and Demolition Debris shall be regulated as though the container were filled with Solid Waste and shall require transport and disposal at a St. Johns County facility accepting such waste.

*St. Johns County*  
*Non Exclusive Franchise Agreement for Construction & Demolition Debris*

**ARTICLE VI: DISPOSAL SITES**

6.0 All of the Solid Waste, Construction and Demolition Debris collected by the Contractor shall be processed or disposed of at a duly licensed and permitted Solid Waste Management Facility accepting Construction and Demolition Debris.

**ARTICLE VII: APPLICATION FEES**

7.0 The Contractor is required to complete and submit the standard St. Johns County application form for non-exclusive Franchise to rent roll-off and/or commercial containers, collect Construction and Demolition Debris, transport said material and dispose of it in a duly licensed and permitted facility accepting Construction and Demolition Waste. A non-refundable \$500.00 application fee as well as a \$100.00 fee per vehicle shall accompany the Contractor's application to the County for the non-exclusive Franchise.

**ARTICLE VIII: FRANCHISE FEES**

8.0 The Contractor shall pay a Franchise fee to the County for the privilege of using the public streets, roads, alleys and other thoroughfares of the County for the collection and transportation of Construction and Demolition Debris that originates in the unincorporated areas of St. Johns County. The Franchise fee also may be used to pay the cost of implementing, administering and enforcing the County's regulations for the safe handling of Construction and Demolition Debris generated in the unincorporated areas of St. Johns County.

8.1 The Franchise fee shall be equal to ten percent (10%) of the Gross Revenues collected by the Contractor for the services provided pursuant to this Agreement, including the collection, transportation, processing and disposing of Construction and Demolition Debris originating in the unincorporated areas of St. Johns County.

8.2 Franchise fees shall be paid to the County once each quarter. Franchise fees shall be delivered to the County no later than January 15, April 15, July 15, and October 16 of each year or within 60 days of termination of the Agreement. Each quarterly payment shall be based upon the Gross Revenues earned by the Contractor for the services provided pursuant to this Agreement for the preceding calendar quarter.

*St. Johns County  
Non Exclusive Franchise Agreement for Construction & Demolition Debris*

8.3 Contractor shall provide the County with an audited financial statement to demonstrate that the Contractor has fully paid the applicable Franchise fee for the full three (3) year Agreement Term or any partial period. The financial statement shall be prepared by an independent accounting firm in accordance with generally accepted accounting principles. Unless the County instructs the Contractor otherwise, the Contractor shall deliver the audited financial statement to the County within 45 days following the Expiration Date of this Agreement or within 45 days of the termination of this Agreement for any partial period.

8.4 Each quarterly payment of the Franchise fee shall be accompanied by a true and accurate report demonstrating that the Franchise fee has been paid in full for the preceding calendar quarter.

8.5 The Contractor shall allow the County's auditors to inspect and examine the Contractor's financial books and records to confirm the Contractor's compliance with this Agreement. The inspections shall be allowed by the Contractor at any reasonable time following reasonable notice by the County. Additionally, the County's auditors may communicate directly with customers of the Contractor for the purpose of confirming the Contractor's compliance with this Agreement. To the extent authorized by Chapter 119, Florida Statutes, or other applicable laws, the information obtained by the County under this Section 8.5 shall remain confidential. Contractor shall comply with Chapter 119, Florida Statutes as related to the disclosure of public records. If the Contractor fails to pay the full amount of the Franchise fee in a timely manner, the County may suspend the Franchise until payment is made or may terminate this Agreement with no further notice and revoke the Franchise. The Contractor shall pay any and all of the County's expenses for the collection of the Franchise fee, including but not limited to court costs and reasonable attorneys' fees. Interest shall accrue on any unpaid Franchise fee at the maximum rate allowed by law.

8.6 If the Contractor fails to pay the full amount of the Franchise fee within 30 days of the end of each quarter, the County may suspend the Franchise until payment is made or may terminate this Agreement with no further notice and revoke the Franchise. The Contractor shall pay any and all of the County's expenses for the collection of the

*St. Johns County  
Non Exclusive Franchise Agreement for Construction & Demolition Debris*

Franchise fee, including but not limited to court costs and reasonable attorneys' fees.  
Interest shall accrue on any unpaid Franchise fee at the maximum rate allowed by law.

**ARTICLE IX: APPLICATION RENEWAL**

9.0 Between the months of April 1 through June 1, prior to the Expiration Date of this Agreement, the Contractor may submit a renewal application to the Department of Solid Waste Management. A five hundred dollar (\$500) renewal fee and a vehicle fee of one hundred dollars (\$100) per vehicle shall accompany said renewal application. A surety bond or letter of credit in the amount of five thousand dollars (\$5,000) shall also be required with the application, in order to satisfy the surety requirements specified in the St. Johns County Solid Waste Ordinance. During review of the renewal application the Contractor shall operate as a non-exclusive Franchise for a period not to exceed 60 days or until the renewal application is approved or denied within that 60 day period. Applications for renewal not meeting all applicable criteria may be denied.

**ARTICLE X: INSURANCE**

10.0 The Contractor shall not begin collecting or transporting Construction and Demolition Debris under this Agreement until appropriate certificates of insurance are provided to the County that demonstrates compliance with the requirements of this Agreement. The Contractor must maintain the insurance in full force and effect at all times throughout the Term of this Agreement. The County shall be named as an additional insured on all of the insurance policies, except for workers compensation. Certificates should be issued to St. Johns County Board of County Commissioners, 500 San Sebastian View, St. Augustine, Florida, 32084.

10.1 The Contractor shall provide workers' compensation and employer's liability insurance of not less than \$100,000 for each person/accident and each person/disease or the minimum amount required under Florida Law, whichever is greater.

10.2 The Contractor shall provide commercial general liability insurance in the amount of \$1,000,000 per occurrence, and shall include coverage for bodily injury, death, property damage and other liabilities arising from or related to Contractor's premises,

*St. Johns County  
Non Exclusive Franchise Agreement for Construction & Demolition Debris*

operations, independent contractors, and contracts. The coverage must specify that it included the indemnification and hold harmless provisions of this Agreement.

10.3 The Contractor shall provide vehicle liability insurance with minimum combined single limits of \$1,000,000 for all owned, hired, and non-owned vehicles.

10.4 All of the companies providing insurance must be authorized to do business in the State of Florida. All of the insurance companies providing coverage must be rated A-IX or higher in the most recent edition of Best's Key Rating Guide.

10.5 No change or cancellation of any insurance required under this Agreement may be made unless thirty (30) days prior written notice is provided to the County. Each insurance certificate must name the County as an additional insured and contain a clause stating substantially as follows: "If any of the above-described policies are to be cancelled or undergo material change before the expiration date, the issuing insurance company will mail written notice to: St. Johns County Board of County Commissioners, 500 San Sebastian View, St. Augustine, Florida, 32084 at least 30 days before the effective date of the cancellation or change."

**ARTICLE XI: INDEMNIFICATION**

11.0 The Contractor agrees that it shall indemnify, defend and hold harmless the County, its officials, officers, employees and agents, against, and assume all liability for, any and all claims, suits, causes of action, damages, liabilities, expenditures, or proceedings of any kind (collectively "claims") arising from or related to any of the Contractor's activities or operations pursuant to this Agreement, including but not limited to claims based on bodily injury, loss of life or limb, damage to property, pollution or other environmental damages.

11.1 This provision relating to Indemnification, is separate and apart from, and is in no way limited by, any insurance provided by the Contractor, pursuant to this Agreement, or otherwise.

**ARTICLE XII: TERMINATION BY COUNTY**

12.0 If there is a material breach of any term of this Agreement by the Contractor, the County shall notify the Contractor in writing of the breach and provide the Contractor

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Non Exclusive Franchise Agreement for Construction & Demolition Debris*

with an opportunity to correct the breach. If the breach is not corrected within one (1) day of receipt of the written notice, the County may terminate the Agreement at any time at the County's discretion by providing written notice to the Contractor, which shall be effective upon the date specified in the notice. Upon such notice, the Contractor shall immediately cease all activities under this Agreement. Among other things, a material breach of this Agreement shall be deemed to have occurred if: (a) the Contractor fails to pay Franchise fees at the times and in the amounts required by this Agreement; (b) the Contractor fails to file complete, accurate, and timely reports, as required by this Agreement; (c) the Contractor disposes of Solid Waste at a site other than a properly permitted and authorized Solid Waste Management Facility; (d) the Contractor collects or transports Solid Waste in a manner that is not authorized under this Agreement; (e) the Contractor fails to continuously maintain the types and amounts of insurance required under this Agreement; (f) the Contractor declares bankruptcy; or (g) the Contractor fails to comply with the applicable provisions of the St. Johns County Solid Waste Ordinance or this Agreement.

12.1 If the Contractor has frequently, regularly or repetitively defaulted in the performance of any of the requirements in this Agreement or any applicable local, state or federal regulation, the County may in its sole discretion deem the Contractor to be a "habitual violator," regardless of whether the Contractor has corrected each individual condition of default. Under such circumstances, the Contractor shall forfeit its right to any further grace period to correct or cure future defaults. All of the Contractor's prior defaults shall be considered cumulative and collectively shall constitute a condition of irredeemable default. The County shall issue the Contractor a notice that the Contractor has been deemed a "habitual violator." Thereafter, any single default by the Contractor of whatever nature shall be grounds for immediate termination of this Agreement. In the event of any such default, the County may terminate this Agreement by giving a written notice to the Contractor, which shall be effective upon the date specified in the notice. Upon such notice, the Contractor shall immediately cease all activities under this Agreement. This section creates a supplemental and additional means of terminating this Agreement and it shall not be deemed to be in lieu of any other remedy available at law or equity.



*St. Johns County*  
*Non Exclusive Franchise Agreement for Construction & Demolition Debris*

**ARTICLE XIII: MISCELLANEOUS PROVISIONS**

13.0 *Party Representatives.* For the purposes of this Agreement, the Authorized representative of the County (as designated by the County Administrator) shall be the Solid Waste Manager of the St. Johns County Solid Waste Department or the Manager's designee. The authorized representative of the Contractor for purposes of this Agreement shall be JAMES V. CINELLI. Either party may change its representative upon five (5) days, prior notice to the other party.

13.1 *Notice.* All notices and consents required or permitted by this Agreement shall be in writing and transmitted in person or by registered or certified mail, return receipt requested, with notice deemed to be given upon receipt, as follows:

If to the County:

Solid Waste Manager  
St. Johns County Solid Waste Department  
3005 Allen Nease Road  
Elkton, FL 32033

If to the Contractor:

WASTE PRO OF FLORIDA, INC.  
P.O. BOX 4530  
ST. AUGUSTINE FL 32085

Changes in the respective addresses to which such notices may be directed may be made from time to time by either party by notice to the other party.

13.2 *Waiver.* No delay or failure to exercise a right under this Agreement shall impair such right or shall be construed to be a waiver thereof, but such right may be exercised from time to time and as often as deemed expedient. The failure of the County or Contractor at any time to require performance by the other party of any term in this Agreement shall in no way affect the right of the County or Contractor thereafter to enforce same; nor shall waiver by the County or Contractor of any breach of any term of this Agreement be taken or held to be a waiver of any succeeding breach of such term or

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as a waiver of any term itself. To be effective, any waiver shall be in writing and signed by the party granting such waiver. Any such waiver shall be limited to the particular right so waived and shall not be deemed to waive any other right under this Agreement.

13.3 *Agreement Governed by Florida Law and Venue.* This Agreement shall be governed by and construed in accordance with the laws of the State of Florida, and it shall be binding upon, and inure to the benefit of, the parties, their successors, and assigns. The Contractor shall submit to service of process and the jurisdiction of the State of Florida for any controversy or claim arising out of or relating to this Agreement. Any action to interpret and/or enforce this Agreement shall be brought and maintained in the State of Florida. Venue shall be in St. Johns County, Florida.

13.4 *Assignment.* This Agreement may not be sold, assigned or transferred by the Contractor without prior approval by the County. As a condition precedent to receiving the County's approval, the Contractor or the potential assignee must demonstrate to the County's satisfaction that the assignee has the ability and resources to comply with all of the applicable requirements set forth in this Agreement and all applicable local, state and federal regulations.

13.5 *Representations of the Contractor.* The Contractor represents that: (a) it is a corporation duly organized under the laws of the State of Florida or a person or an entity qualified to do business in the State of Florida; (b) this Agreement has been duly authorized, executed, and delivered in the State of Florida; and (c) it has the required power and authority to perform this Agreement.

13.6 *Headings.* Captions and headings contained in this Agreement are for ease of Reference only and do not constitute a part of this Agreement.

13.7 *Severability.* If any term, condition, covenant or obligation of this Agreement is declared illegal, void or unenforceable, the remaining terms shall not be affected but shall remain in full force and effect, and this Agreement shall be construed as if such illegal, void or unenforceable provision had never been contained herein.

13.8 *Survivability.* Any term, condition, covenant, or obligation that requires performance by a party subsequent to expiration or termination of this Agreement shall remain enforceable against such party subsequent to such expiration or termination.

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Non Exclusive Franchise Agreement for Construction & Demolition Debris*

13.9 *Third Party Beneficiaries.* It is agreed between the parties hereto that no provision of this Agreement is intended to create any third-party beneficiaries hereunder, or to authorize anyone not a party to this Agreement to maintain an action pursuant to the terms or provisions of this Agreement.

13.10 *Personal Liability.* Nothing in this Agreement shall be construed as creating any personal liability on the part of any official, officer, employee, agent or representative of the County.

13.11 *Independent Contractor.* When performing the activities required by this Agreement the Contractor will be acting in the capacity of an independent contractor and not as an agent, employee, partner, joint venture or associate of the County. The Contractor shall be solely responsible for the means, methods and procedures used by the Contractor to perform under this Agreement. Neither the Contractor nor any of its employees, officers, agents or subcontractors shall represent, act, purport to act, or be deemed to be an agent, representative, employee, or servant of the County. The Contractor shall have no authority to bind the County to any agreement or contract. No person performing any work or services for the Contractor under this Agreement shall be entitled to any benefits available or granted to employees of the County.

13.12 *Merger Clause.* This Agreement constitutes the entire agreement and understanding of the parties as to all matters addressed or referred to herein. This Agreement supersedes all prior and contemporaneous agreements and understandings, representations and warranties, whether oral or written, relating to such matters.

13.13 *Fair Dealing.* The Contractor declares and warrants that the Contractor enters into the Agreement without reliance on or engaging in any collusion, bribery or fraud, that all of the Contractor's representations in this Agreement are made fairly and in good faith, and that no County Commissioner, County officer, or County employee, directly or indirectly owns more than 5% of the total assets or capital stock of the Contractor, nor will any such person directly or indirectly benefit by more than 5%, from the profits or emoluments of this Agreement. The Contractor warrants that it has not employed or retained any company or person, other than a bona fide employee working solely for the Contractor, to solicit or secure this Agreement and the Contractor has not paid or agreed

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Non Exclusive Franchise Agreement for Construction & Demolition Debris*

to pay any person, company, corporation, individual or firm, other than a bona fide employee working solely for the Contractor, any fee, commission, percentage gift or any other compensation contingent upon or resulting from the award or making of this Agreement. Further, the contractor declares and warrants that the Contractor is not subject to the restrictions in Section 287.133, Florida Statutes, for a public entity crime.

13.14 *Sovereign Immunity.* Nothing in this Agreement shall be interpreted or construed to mean that the County waives sovereign immunity as provided under Section 768.28, Florida Statutes.

13.15 *Amendment.* Except as otherwise specifically provided herein, this Agreement may be amended only by written instrument specifically referring to this Agreement and executed by both parties with the same formalities as this Agreement. The term Ordinance 06-98 as used in this document, shall mean said Ordinance as may be amended from time to time.

13.16 *Terms Generally.* Whenever the context may require, any pronoun which is used in this Agreement shall include the corresponding masculine, feminine and neuter forms and the singular shall include the plural and vice versa. Unless otherwise specifically noted, the words "include," and "including" as used herein shall be deemed to be followed by the following phrase "without limitation". The words "agree," "agreement," "consent," "establish," "impose" as used herein shall be deemed to be followed by the phrase "which shall not be unreasonably withheld or delayed" except as specifically noted. Words or phrases which are defined herein by reference to a statute, rule or regulation shall have the meaning ascribed to such word or phrases as of the Effective Date, without regard to subsequent changes in such statutes, rules or regulations, unless otherwise provided.

**ARTICLE XIV: ACCESS TO RECORDS**

14.0 The access to, disclosure, non-disclosure, or exemption of records, data, documents, and/or materials associated with this Agreement shall be subject to applicable provisions of the Florida Public Records Law (Chapter 119, Florida Statutes), and any other applicable State or Federal law. Access to such public records may not be blocked,

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Non Exclusive Franchise Agreement for Construction & Demolition Debris*

thwarted, or hindered by placing the public records in the possession of a third party, or an unaffiliated party.

**ARTICLE XV: REVIEW OF RECORDS**

15.0 As a condition of entering into this Agreement, and in order to ensure compliance, especially as it relates to any applicable law, rule, or regulation, the Contractor authorized the County to examine, review, inspect, and/or audit the books, and records (including without limitation, data, documents, and correspondence), in order to determine whether compliance has been achieved with respect to the terms, conditions, provisions, rights, and responsibilities noted in this Agreement. It is specifically noted that the Contractor is under no duty to provide access to documentation not related this Agreement, and/or is otherwise protected by County, State, and/or Federal law.

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St. Johns County  
Non Exclusive Franchise Agreement for Construction & Demolition Debris

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed  
on May 22, 2012.

**CONTRACTOR**

WASTE PRO OF FLORIDA INC.  
Name of Company

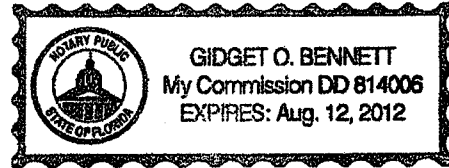
Printed Name: JAMES V. CINELLI

Title: RVP

Signature: [Handwritten Signature]  
Company Officer  
(CORPORATE SEAL)

Date 5/22/12

[Handwritten Signature]  
Notary



\_\_\_\_\_  
Notary Seal

**ST. JOHNS COUNTY, acting by and through  
its COUNTY ADMINISTRATOR**

ATTEST: \_\_\_\_\_  
Deputy Clerk

By: \_\_\_\_\_  
County Administrator

Legal Review:

\_\_\_\_\_  
Assistant County Attorney

**NON-EXCLUSIVE FRANCHISE AGREEMENT  
FOR CONSTRUCTION AND DEMOLITION DEBRIS**

This Non-Exclusive Franchise Agreement for the collection and transport of Construction and Demolition Debris ("Agreement") is made as of this 18th \_\_\_\_\_ day of \_\_\_\_\_ May \_\_\_\_\_, 2012, by and between St. Johns County ("County"), a political subdivision of the State of Florida, and \_\_\_\_\_ Waste Watchers of Jacksonville LLC \_\_\_\_\_, its successors and assigns ("Contractor").

**RECITALS**

WHEREAS, Contractor wishes to collect and transport Construction and Demolition Debris in the unincorporated areas of St. Johns County; and

WHEREAS, the County wishes to ensure that the Contractor's activities are performed in accordance with all applicable laws and is consistent with the public interest.

NOW, THEREFORE, in consideration of the mutual covenants hereinafter contained and other good and valuable consideration, the receipt and adequacy of which are hereby acknowledged, the County and Contractor agree as follows:

**ARTICLE I: DEFINITIONS**

1.0 The terms used in this Agreement shall have the same definitions and meanings set forth in the St. Johns County Solid Waste Ordinance (*see* St. Johns County Ordinance 06-98), unless a different meaning is specifically defined herein. Such terms shall be construed in a manner consistent with the definitions provided in section 403.703 of the Florida Statutes. Any inconsistency with section 403.703 of the Florida Statutes shall be resolved in favor of said statutory provision.

**ARTICLE II: CONTRACTOR'S GENERAL WARRANTY**

2.0 By executing this Agreement, Contractor acknowledges that it has read the St. Johns County Solid Waste Ordinance (together with all amendments thereto) and this Agreement, and Contractor agrees to comply at all times with the applicable provisions of

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this Agreement and the Ordinance, a copy of which is attached hereto, and incorporated herein.

ARTICLE III: NON-EXCLUSIVE FRANCHISE

3.0 The County hereby grants a non-exclusive Franchise to Contractor for the collection and transport of Construction and Demolition Debris in the unincorporated areas of St. Johns County, subject to the terms and conditions of this Agreement and all applicable laws. This Agreement authorizes the Contractor to only collect and transport Construction and Demolition Debris in roll-off containers or other commercial collection equipment standard to the industry for this type of service. No other collection or transportation of Construction and Demolition Debris is authorized under this Agreement.

ARTICLE IV: TERM

4.0 This Agreement shall be effective upon execution by the County's duly authorized representative ("Effective Date"). This Agreement shall run from the Effective Date and shall expire at 11:59 p.m. (EST) on June 30, 2015 ("Expiration Date").

ARTICLE V: CONTRACTOR'S OPERATIONS

5.0 The Contractor shall take all necessary steps to ensure that its operations are performed in compliance with all applicable provisions of the St. Johns County Code of Ordinances, and all other applicable local, state, and federal laws.

5.1 The Contractor's employees shall be properly trained and qualified to perform the tasks assigned to them under this Agreement.

5.2 Contractor may collect and transport Construction and Demolition Debris between 7 a.m. and 6 p.m. (EST), on Monday through Saturday of each week. Contractor shall not collect or transport Construction and Demolition Debris at other times, unless the Contractor has received the prior approval of the Manager of the St. Johns County Solid Waste Department.



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5.3 When collecting or transporting construction and Demolition Debris, Contractor's employees shall wear a company shirt or uniform, which shall have the Contractor's name or logo in a conspicuous place.

5.4 All of the trucks used by the Contractor for the collection and transportation of Construction and Demolition Debris shall be marked with the name and phone number of the Contractor in letters that are plainly visible and at least four inches high. Each commercial container used by the Contractor for the collection and transportation of Construction and Demolition Debris shall be labeled by the Contractor on each long side (two sides) in the same manner.

5.5 The Contractor's roll-off and/or commercial containers shall be securely covered when transporting Construction and Demolition Debris, as authorized under this Agreement.

5.6 All of the rolling stock used by the Contractor for collecting and transporting Construction and Demolition Debris in St. Johns County shall be maintained in a good, clean, and safe operating condition, and be properly marked with the Contractor's name and phone number on all roll-off and/or commercial containers.

5.7 Contractor shall provide the County with a list of the vehicles used by the Contractor and the license plate number for each vehicle and the Company's vehicle identification number (VIN). The Contractor shall ensure that the vehicle list is updated and submitted to the County within 30 days of any revisions including deletions and/or additions of the vehicles.

5.8 This Agreement authorizes the use of roll-off and/or commercial containers and other commercial collection equipment standard to the industry for this type of service. The Contractor may provide an unlimited number of roll-off and/or commercial containers for Construction and Demolition Debris, if the construction site is acceptable for their proper placement and there is a bona-fide need. However, any roll-off and/or commercial container holding more than a de minimis amount of Solid Waste other than Construction and Demolition Debris shall be regulated as though the container were filled with Solid Waste and shall require transport and disposal at a St. Johns County facility accepting such waste.

**ARTICLE VI: DISPOSAL SITES**

6.0 All of the Solid Waste, Construction and Demolition Debris collected by the Contractor shall be processed or disposed of at a duly licensed and permitted Solid Waste Management Facility accepting Construction and Demolition Debris.

**ARTICLE VII: APPLICATION FEES**

7.0 The Contractor is required to complete and submit the standard St. Johns County application form for non-exclusive Franchise to rent roll-off and/or commercial containers, collect Construction and Demolition Debris, transport said material and dispose of it in a duly licensed and permitted facility accepting Construction and Demolition Waste. A non-refundable \$500.00 application fee as well as a \$100.00 fee per vehicle shall accompany the Contractor's application to the County for the non-exclusive Franchise.

**ARTICLE VIII: FRANCHISE FEES**

8.0 The Contractor shall pay a Franchise fee to the County for the privilege of using the public streets, roads, alleys and other thoroughfares of the County for the collection and transportation of Construction and Demolition Debris that originates in the unincorporated areas of St. Johns County. The Franchise fee also may be used to pay the cost of implementing, administering and enforcing the County's regulations for the safe handling of Construction and Demolition Debris generated in the unincorporated areas of St. Johns County.

8.1 The Franchise fee shall be equal to ten percent (10%) of the Gross Revenues collected by the Contractor for the services provided pursuant to this Agreement, including the collection, transportation, processing and disposing of Construction and Demolition Debris originating in the unincorporated areas of St. Johns County.

8.2 Franchise fees shall be paid to the County once each quarter. Franchise fees shall be delivered to the County no later than January 15, April 15, July 15, and October 16 of each year or within 60 days of termination of the Agreement. Each quarterly payment shall be based upon the Gross Revenues earned by the Contractor for the services provided pursuant to this Agreement for the preceding calendar quarter.

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8.3 Contractor shall provide the County with an audited financial statement to demonstrate that the Contractor has fully paid the applicable Franchise fee for the full three (3) year Agreement Term or any partial period. The financial statement shall be prepared by an independent accounting firm in accordance with generally accepted accounting principles. Unless the County instructs the Contractor otherwise, the Contractor shall deliver the audited financial statement to the County within 45 days following the Expiration Date of this Agreement or within 45 days of the termination of this Agreement for any partial period.

8.4 Each quarterly payment of the Franchise fee shall be accompanied by a true and accurate report demonstrating that the Franchise fee has been paid in full for the preceding calendar quarter.

8.5 The Contractor shall allow the County's auditors to inspect and examine the Contractor's financial books and records to confirm the Contractor's compliance with this Agreement. The inspections shall be allowed by the Contractor at any reasonable time following reasonable notice by the County. Additionally, the County's auditors may communicate directly with customers of the Contractor for the purpose of confirming the Contractor's compliance with this Agreement. To the extent authorized by Chapter 119, Florida Statutes, or other applicable laws, the information obtained by the County under this Section 8.5 shall remain confidential. Contractor shall comply with Chapter 119, Florida Statutes as related to the disclosure of public records. If the Contractor fails to pay the full amount of the Franchise fee in a timely manner, the County may suspend the Franchise until payment is made or may terminate this Agreement with no further notice and revoke the Franchise. The Contractor shall pay any and all of the County's expenses for the collection of the Franchise fee, including but not limited to court costs and reasonable attorneys' fees. Interest shall accrue on any unpaid Franchise fee at the maximum rate allowed by law.

8.6 If the Contractor fails to pay the full amount of the Franchise fee within 30 days of the end of each quarter, the County may suspend the Franchise until payment is made or may terminate this Agreement with no further notice and revoke the Franchise. The Contractor shall pay any and all of the County's expenses for the collection of the

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Franchise fee, including but not limited to court costs and reasonable attorneys' fees.  
Interest shall accrue on any unpaid Franchise fee at the maximum rate allowed by law.

ARTICLE IX: APPLICATION RENEWAL

9.0 Between the months of April 1 through June 1, prior to the Expiration Date of this Agreement, the Contractor may submit a renewal application to the Department of Solid Waste Management. A five hundred dollar (\$500) renewal fee and a vehicle fee of one hundred dollars (\$100) per vehicle shall accompany said renewal application. A surety bond or letter of credit in the amount of five thousand dollars (\$5,000) shall also be required with the application, in order to satisfy the surety requirements specified in the St. Johns County Solid Waste Ordinance. During review of the renewal application the Contractor shall operate as a non-exclusive Franchise for a period not to exceed 60 days or until the renewal application is approved or denied within that 60 day period. Applications for renewal not meeting all applicable criteria may be denied.

ARTICLE X: INSURANCE

10.0 The Contractor shall not begin collecting or transporting Construction and Demolition Debris under this Agreement until appropriate certificates of insurance are provided to the County that demonstrates compliance with the requirements of this Agreement. The Contractor must maintain the insurance in full force and effect at all times throughout the Term of this Agreement. The County shall be named as an additional insured on all of the insurance policies, except for workers compensation. Certificates should be issued to St. Johns County Board of County Commissioners, 500 San Sebastian View, St. Augustine, Florida, 32084.

10.1 The Contractor shall provide workers' compensation and employer's liability insurance of not less than \$100,000 for each person/accident and each person/disease or the minimum amount required under Florida Law, whichever is greater.

10.2 The Contractor shall provide commercial general liability insurance in the amount of \$1,000,000 per occurrence, and shall include coverage for bodily injury, death, property damage and other liabilities arising from or related to Contractor's premises,

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operations, independent contractors, and contracts. The coverage must specify that it included the indemnification and hold harmless provisions of this Agreement.

10.3 The Contractor shall provide vehicle liability insurance with minimum combined single limits of \$1,000,000 for all owned, hired, and non-owned vehicles.

10.4 All of the companies providing insurance must be authorized to do business in the State of Florida. All of the insurance companies providing coverage must be rated A-IX or higher in the most recent edition of Best's Key Rating Guide.

10.5 No change or cancellation of any insurance required under this Agreement may be made unless thirty (30) days prior written notice is provided to the County. Each insurance certificate must name the County as an additional insured and contain a clause stating substantially as follows: "If any of the above-described policies are to be cancelled or undergo material change before the expiration date, the issuing insurance company will mail written notice to: St. Johns County Board of County Commissioners, 500 San Sebastian View, St. Augustine, Florida, 32084 at least 30 days before the effective date of the cancellation or change."

ARTICLE XI: INDEMNIFICATION

11.0 The Contractor agrees that it shall indemnify, defend and hold harmless the County, its officials, officers, employees and agents, against, and assume all liability for, any and all claims, suits, causes of action, damages, liabilities, expenditures, or proceedings of any kind (collectively "claims") arising from or related to any of the Contractor's activities or operations pursuant to this Agreement, including but not limited to claims based on bodily injury, loss of life or limb, damage to property, pollution or other environmental damages.

11.1 This provision relating to Indemnification, is separate and apart from, and is in no way limited by, any insurance provided by the Contractor, pursuant to this Agreement, or otherwise.

ARTICLE XII: TERMINATION BY COUNTY

12.0 If there is a material breach of any term of this Agreement by the Contractor, the County shall notify the Contractor in writing of the breach and provide the Contractor

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with an opportunity to correct the breach. If the breach is not corrected within one (1) day of receipt of the written notice, the County may terminate the Agreement at any time at the County's discretion by providing written notice to the Contractor, which shall be effective upon the date specified in the notice. Upon such notice, the Contractor shall immediately cease all activities under this Agreement. Among other things, a material breach of this Agreement shall be deemed to have occurred if: (a) the Contractor fails to pay Franchise fees at the times and in the amounts required by this Agreement; (b) the Contractor fails to file complete, accurate, and timely reports, as required by this Agreement; (c) the Contractor disposes of Solid Waste at a site other than a properly permitted and authorized Solid Waste Management Facility; (d) the Contractor collects or transports Solid Waste in a manner that is not authorized under this Agreement; (e) the Contractor fails to continuously maintain the types and amounts of insurance required under this Agreement; (f) the Contractor declares bankruptcy; or (g) the Contractor fails to comply with the applicable provisions of the St. Johns County Solid Waste Ordinance or this Agreement.

12.1 If the Contractor has frequently, regularly or repetitively defaulted in the performance of any of the requirements in this Agreement or any applicable local, state or federal regulation, the County may in its sole discretion deem the Contractor to be a "habitual violator," regardless of whether the Contractor has corrected each individual condition of default. Under such circumstances, the Contractor shall forfeit its right to any further grace period to correct or cure future defaults. All of the Contractor's prior defaults shall be considered cumulative and collectively shall constitute a condition of irredeemable default. The County shall issue the Contractor a notice that the Contractor has been deemed a "habitual violator." Thereafter, any single default by the Contractor of whatever nature shall be grounds for immediate termination of this Agreement. In the event of any such default, the County may terminate this Agreement by giving a written notice to the Contractor, which shall be effective upon the date specified in the notice. Upon such notice, the Contractor shall immediately cease all activities under this Agreement. This section creates a supplemental and additional means of terminating this Agreement and it shall not be deemed to be in lieu of any other remedy available at law or equity.

ARTICLE XIII: MISCELLANEOUS PROVISIONS

13.0 *Party Representatives.* For the purposes of this Agreement, the Authorized representative of the County (as designated by the County Administrator) shall be the Solid Waste Manager of the St. Johns County Solid Waste Department or the Manager's designee. The authorized representative of the Contractor for purposes of this Agreement shall be Ryan Mellichamp\_\_\_\_\_. Either party may change its representative upon five (5) days, prior notice to the other party.

13.1 *Notice.* All notices and consents required or permitted by this Agreement shall be in writing and transmitted in person or by registered or certified mail, return receipt requested, with notice deemed to be given upon receipt, as follows:

If to the County:

Solid Waste Manager  
St. Johns County Solid Waste Department  
3005 Allen Nease Road  
Elkton, FL 32033

If to the Contractor:

\_\_\_\_\_ Waste Watchers of Jacksonville LLC \_\_\_\_\_

\_\_\_\_\_ 5074 Shawland Rd \_\_\_\_\_

\_\_\_\_\_ Jax FL 32254 \_\_\_\_\_

Changes in the respective addresses to which such notices may be directed may be made from time to time by either party by notice to the other party.

13.2 *Waiver.* No delay or failure to exercise a right under this Agreement shall impair such right or shall be construed to be a waiver thereof, but such right may be exercised from time to time and as often as deemed expedient. The failure of the County or Contractor at any time to require performance by the other party of any term in this Agreement shall in no way affect the right of the County or Contractor thereafter to enforce same; nor shall waiver by the County or Contractor of any breach of any term of this Agreement be taken or held to be a waiver of any succeeding breach of such term or as a waiver of any term itself. To be effective, any waiver shall be in writing and signed

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by the party granting such waiver. Any such waiver shall be limited to the particular right so waived and shall not be deemed to waive any other right under this Agreement.

13.3 *Agreement Governed by Florida Law and Venue.* This Agreement shall be governed by and construed in accordance with the laws of the State of Florida, and it shall be binding upon, and inure to the benefit of, the parties, their successors, and assigns. The Contractor shall submit to service of process and the jurisdiction of the State of Florida for any controversy or claim arising out of or relating to this Agreement. Any action to interpret and/or enforce this Agreement shall be brought and maintained in the State of Florida. Venue shall be in St. Johns County, Florida.

13.4 *Assignment.* This Agreement may not be sold, assigned or transferred by the Contractor without prior approval by the County. As a condition precedent to receiving the County's approval, the Contractor or the potential assignee must demonstrate to the County's satisfaction that the assignee has the ability and resources to comply with all of the applicable requirements set forth in this Agreement and all applicable local, state and federal regulations.

13.5 *Representations of the Contractor.* The Contractor represents that: (a) it is a corporation duly organized under the laws of the State of Florida or a person or an entity qualified to do business in the State of Florida; (b) this Agreement has been duly authorized, executed, and delivered in the State of Florida; and (c) it has the required power and authority to perform this Agreement.

13.6 *Headings.* Captions and headings contained in this Agreement are for ease of Reference only and do not constitute a part of this Agreement.

13.7 *Severability.* If any term, condition, covenant or obligation of this Agreement is declared illegal, void or unenforceable, the remaining terms shall not be affected but shall remain in full force and effect, and this Agreement shall be construed as if such illegal, void or unenforceable provision had never been contained herein.

13.8 *Survivability.* Any term, condition, covenant, or obligation that requires performance by a party subsequent to expiration or termination of this Agreement shall remain enforceable against such party subsequent to such expiration or termination.

13.9 *Third Party Beneficiaries.* It is agreed between the parties hereto that no provision of this Agreement is intended to create any third-party beneficiaries hereunder,



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or to authorize anyone not a party to this Agreement to maintain an action pursuant to the terms or provisions of this Agreement.

13.10 *Personal Liability.* Nothing in this Agreement shall be construed as creating any personal liability on the part of any official, officer, employee, agent or representative of the County.

13.11 *Independent Contractor.* When performing the activities required by this Agreement the Contractor will be acting in the capacity of an independent contractor and not as an agent, employee, partner, joint venture or associate of the County. The Contractor shall be solely responsible for the means, methods and procedures used by the Contractor to perform under this Agreement. Neither the Contractor nor any of its employees, officers, agents or subcontractors shall represent, act, purport to act, or be deemed to be an agent, representative, employee, or servant of the County. The Contractor shall have no authority to bind the County to any agreement or contract. No person performing any work or services for the Contractor under this Agreement shall be entitled to any benefits available or granted to employees of the County.

13.12 *Merger Clause.* This Agreement constitutes the entire agreement and understanding of the parties as to all matters addressed or referred to herein. This Agreement supersedes all prior and contemporaneous agreements and understandings, representations and warranties, whether oral or written, relating to such matters.

13.13 *Fair Dealing.* The Contractor declares and warrants that the Contractor enters into the Agreement without reliance on or engaging in any collusion, bribery or fraud, that all of the Contractor's representations in this Agreement are made fairly and in good faith, and that no County Commissioner, County officer, or County employee, directly or indirectly owns more than 5% of the total assets or capital stock of the Contractor, nor will any such person directly or indirectly benefit by more than 5%, from the profits or emoluments of this Agreement. The Contractor warrants that it has not employed or retained any company or person, other than a bona fide employee working solely for the Contractor, to solicit or secure this Agreement and the Contractor has not paid or agreed to pay any person, company, corporation, individual or firm, other than a bona fide employee working solely for the Contractor, any fee, commission, percentage gift or any

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other compensation contingent upon or resulting from the award or making of this Agreement. Further, the contractor declares and warrants that the Contractor is not subject to the restrictions in Section 287.133, Florida Statutes, for a public entity crime.

13.14 *Sovereign Immunity.* Nothing in this Agreement shall be interpreted or construed to mean that the County waives sovereign immunity as provided under Section 768.28, Florida Statutes.

13.15 *Amendment.* Except as otherwise specifically provided herein, this Agreement may be amended only by written instrument specifically referring to this Agreement and executed by both parties with the same formalities as this Agreement. The term Ordinance 06-98 as used in this document, shall mean said Ordinance as may be amended from time to time.

13.16 *Terms Generally.* Whenever the context may require, any pronoun which is used in this Agreement shall include the corresponding masculine, feminine and neuter forms and the singular shall include the plural and vice versa. Unless otherwise specifically noted, the words "include," and "including" as used herein shall be deemed to be followed by the following phrase "without limitation". The words "agree," "agreement," "consent," "establish," "impose" as used herein shall be deemed to be followed by the phrase "which shall not be unreasonably withheld or delayed" except as specifically noted. Words or phrases which are defined herein by reference to a statute, rule or regulation shall have the meaning ascribed to such word or phrases as of the Effective Date, without regard to subsequent changes in such statutes, rules or regulations, unless otherwise provided.

ARTICLE XIV: ACCESS TO RECORDS

14.0 The access to, disclosure, non-disclosure, or exemption of records, data, documents, and/or materials associated with this Agreement shall be subject to applicable provisions of the Florida Public Records Law (Chapter 119, Florida Statutes), and any other applicable State or Federal law. Access to such public records may not be blocked, thwarted, or hindered by placing the public records in the possession of a third party, or an unaffiliated party.

**ARTICLE XV: REVIEW OF RECORDS**

15.0 As a condition of entering into this Agreement, and in order to ensure compliance, especially as it relates to any applicable law, rule, or regulation, the Contractor authorized the County to examine, review, inspect, and/or audit the books, and records (including without limitation, data, documents, and correspondence), in order to determine whether compliance has been achieved with respect to the terms, conditions, provisions, rights, and responsibilities noted in this Agreement. It is specifically noted that the Contractor is under no duty to provide access to documentation not related this Agreement, and/or is otherwise protected by County, State, and/or Federal law.

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IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed  
on 5/18, 2012.

**CONTRACTOR**

Waste Watchers of Jacksonville LLC  
Name of Company

Printed Name: Ryan McWhirter

Title: President

Signature:   
Company Officer  
(CORPORATE SEAL)

Date 5/22/12

  
Notary

\_\_\_\_\_  
Notary Seal

**ST. JOHNS COUNTY, acting by and through  
its COUNTY ADMINISTRATOR**

ATTEST: \_\_\_\_\_  
Deputy Clerk

By: \_\_\_\_\_  
County Administrator

Legal Review:

\_\_\_\_\_  
Assistant County Attorney