

RESOLUTION NO. 2017- 213

**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 COMMERCIAL/INDUSTRIAL SOLID WASTE BETWEEN ST. JOHNS COUNTY, FLORIDA, AND TWELVE NON-EXCLUSIVE FRANCHISE HAULERS, AND AUTHORIZING THE COUNTY ADMINISTRATOR, OR DESIGNEE TO EXECUTE EACH NON-EXCLUSIVE FRANCHISE AGREEMENT FOR COMMERCIAL/INDUSTRIAL SOLID WASTE ON BEHALF OF ST. JOHNS COUNTY**

**WHEREAS**, twelve independent contractors wish to collect and transport Commercial/Industrial Solid Waste within the unincorporated area of St. Johns County, Florida; and

**WHEREAS**, by entering into a Non-Exclusive Franchise Agreement for Commercial/Industrial Solid Waste Collection with each of the independent contractors, the St. Johns County Board of County Commissioners ("Board") seeks to ensure that the collection and transport of Commercial/Industrial Solid Waste 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 Commercial/Industrial Solid Waste Collection (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 Commercial/Industrial Solid Waste between St. Johns County, Florida, and the twelve 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 20 day of June, 2017.

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

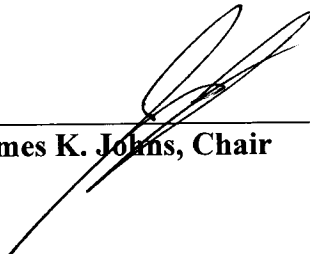
**By:**

**Attest: Hunter S. Conrad, Clerk**

*Pam Helterman*

**Deputy Clerk**

\_\_\_\_\_  
**James K. Johns, Chair**



**RENDITION DATE** 6/22/17



**ST. JOHNS COUNTY  
NON-EXCLUSIVE FRANCHISE AGREEMENT FOR  
COMMERCIAL / INDUSTRIAL SOLID WASTE COLLECTION FRANCHISE**

This Non-Exclusive Franchise Agreement for Commercial / Industrial Solid Waste Collection Franchise ("Agreement") is made between St. Johns County ("County"), a political subdivision of the State of Florida, and Advanced Disposal successors and assigns, hereinafter referred to as the "Contractor."

WHEREAS, Contractor wishes to collect and transport Commercial / Industrial Solid Waste 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 words and terms used in this Agreement shall have the meanings set forth in St. Johns County Ordinance Nos. 99-27 and 06-98, as may be amended, (collectively, "Solid Waste Ordinance") unless otherwise indicated herein.

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

2.0 By executing this Agreement, Contractor acknowledges that it has read the provisions of the Solid Waste Ordinance and this Agreement, and Contractor agrees to comply at all times with the applicable provisions of this Agreement and the Solid Waste 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 transportation of Commercial / Industrial Solid Waste in the unincorporated areas of St. Johns County, subject to the terms and conditions of this Agreement, the Solid Waste Ordinance, and any and all other applicable laws. This Franchise agreement only authorizes the Contractor to collect and transport Commercial /

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Industrial Solid Waste in roll-off containers, front loading vehicles, compactors or other commercial collection equipment standard to the industry for this type of service.

**ARTICLE IV: TERM**

4.0 This Agreement shall be effective when signed by the County's duly authorized representative. This Agreement shall run from the effective date and shall expire at 11:59pm on June 30, 2020.

**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, Ordinances, and any other applicable local, state, or federal laws.

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

5.2 Contractor may collect and transport Commercial / Industrial Solid Waste Collection after 7:00am until 7:00pm on Monday through Saturday and 9:00am until 7:00pm on Sundays and holidays, as stated in St. Johns County Ordinance No. 2015-19, as may be amended. Contractor shall not collect or transport Commercial / Industrial Solid Waste Collection at other times, unless the Contractor has received the prior written approval of the Manager of the St. Johns County Solid Waste Department.

5.3 When collecting or transporting Commercial / Industrial Solid Waste Collection, Contractor's employees shall wear a company shirt or uniform, which shall have the Contractor's name or logo located in a conspicuous place.

5.4 All of the trucks used by the Contractor for the collection of Commercial / Industrial Solid Waste 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 of Commercial / Industrial Solid Waste Collection shall be labeled by the Contractor on each long side (two sides) in the same manner.

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5.5 The Contractor's commercial collections equipment and containers shall be securely covered and/or contained when holding or transporting Commercial / Industrial Solid Waste as authorized under this Agreement.

5.6 All of the rolling stock used by the Contractor for transporting Commercial / Industrial Solid Waste in St. Johns County shall be maintained in a good, clean, and safe operating condition, and shall be properly marked with the Contractor's name, phone number, and vehicle number.

5.7 Contractor shall provide the County with a current list of the vehicles used by the Contractor, including the license plate number and vehicle identification number (VIN) for each vehicle. 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 Contractor shall immediately clean-up and properly dispose of any waste materials or products dropped or spilled by the Contractor. Upon completion of the clean-up, the Contractor shall timely report to the Solid Waste Department in writing the location, type of drop or spill and the corrective procedure conducted.

**ARTICLE VI: DISPOSAL SITES**

6.0 All of the Commercial / Industrial Solid Waste collected by the Contractor shall be processed or disposed of at a landfill or transfer station owned by St. Johns County or other solid waste management facility approved by the County.

**ARTICLE VII: APPLICATION FEES**

7.0 The Contractor is required to complete and submit the standard St. Johns County application form for a Commercial / Industrial Non-Exclusive Franchise. A non-refundable \$500.00 application fee, as well as a \$100.00 maintenance and management fee per vehicle, shall accompany the Contractor's application to the County for the non-exclusive Franchise.

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**ARTICLE VIII: FRANCHISE FEES**

8.0 The Contractor shall pay a Franchise fee to the County for the privilege of using the public rights-of-way, streets, roads, alleys and other thoroughfares of the County for the collection and transportation of Commercial / Industrial Solid Waste that originates in the unincorporated areas of the 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 Commercial / Industrial Solid Waste Collection in the unincorporated areas of St. Johns County.

8.1 The Contractor shall agree in writing, on a form provided by the County at the time of non-exclusive Franchise application or renewal, that the Contractor will fully pay the applicable Franchise fee when the fee becomes due. The Franchise fee for a Non-Exclusive Commercial / Industrial Solid Waste Collection and Transportation Franchise shall be equal to 5% of the Gross Revenues collected by the Contractor for services provided pursuant to this Agreement to include the collection and transportation of Commercial / Industrial Solid Waste originating in the unincorporated areas of St. Johns County provided that the Commercial / Industrial Solid Waste is directly transported to a landfill or transfer station owned by St. Johns County or other solid waste management facility approved by the 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 15 of each year or within 60 days of termination of the Agreement. Each quarterly payment shall be based on the Gross Revenues earned by the Contractor for the services provided pursuant to this Agreement for the preceding calendar quarter.

8.3 The 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 contract period or any partial period. The financial statement shall be prepared and certified 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

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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 and its auditors to inspect and examine the Contractor's financial books and records, as well as its statistical, customer, service, and other records relating to the accumulation, collection, transportation, and disposal of Commercial / Industrial Solid Waste from properties in the unincorporated areas of St. Johns County, to confirm the Contractor's compliance with this Agreement. The inspections shall be allowed by the Contractor at any reasonable time following a reasonable notice, which shall not be construed to exceed seven days. Additionally, the County and its 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 public records.

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 revoke the Franchise and terminate this Agreement, as provided in Article XII below. 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: RENEWAL**

9.0 Between the dates of April 1 through June 1 in the same year as the expiration date of this Agreement, a renewal application may be submitted to the Department of Solid Waste Management. A \$500.00 renewal fee and a vehicle fee of \$100.00 per vehicle shall accompany said renewal application. A surety bond or letter of

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credit in the amount of \$25,000.00 is also required with the application, in order to satisfy the surety requirements specified in the Solid Waste Ordinance. During the review of the renewal application, the Contractor will operate as a non-exclusive Franchise for a period not to exceed 60 days or until the renewal application is accepted or denied within that 60 day period. Applications for renewal not meeting the above criteria shall not be considered bona fide applications.

9.1 The Contractor understands and acknowledges that renewal applications are subject to approval by the Board of County Commissioners, after a public hearing, and that the County Administrator, or his designee, may without prior notice limit the number of non-exclusive Franchises and/or new applicants for non-exclusive Franchises.

**ARTICLE X: INSURANCE**

10.0 The Contractor shall not commence work under this Contract until he/she has obtained all insurance required under this section and such insurance has been approved by the County. All insurance policies shall be issued by companies authorized to do business under the laws of the State of Florida. The Contractor shall furnish proof of Insurance to the County prior to the commencement of operations. The Certificate(s) shall clearly indicate the Contractor has obtained insurance of the type, amount, and classification as required by contract and that no material change or cancellation of the insurance shall be effective without thirty (30) days prior written notice to the County. Certificates shall specifically include the County as Additional Insured for all lines of coverage except Workers' Compensation and Professional Liability. A copy of the endorsement must accompany the certificate. Compliance with the foregoing requirements shall not relieve the Contractor of its liability and obligations under this Contract.

Certificate Holder Address: St. Johns County, a political subdivision of the State of  
Florida  
500 San Sebastian View  
St. Augustine, FL 32084



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10.1 The Contractor shall maintain during the life of this Contract, Comprehensive General Liability Insurance with minimum limits of \$1,000,000 per occurrence, \$2,000,000 aggregate, to protect the Contractor from claims for damages for bodily injury, including wrongful death, as well as from claims of property damages which may arise from any operations under this contract, whether such operations be by the Contractor or by anyone directly employed by or contracting with the Contractor.

10.2 The Contractor shall maintain during the life of the contract, Professional Liability or Errors and Omissions Insurance with minimum limits of \$1,000,000, if applicable.

10.3 The Contractor shall maintain during the life of this Contract, Comprehensive Automobile Liability Insurance with minimum limits of \$300,000 combined single limit for bodily injury and property damage liability to protect the Contractor from claims for damages for bodily injury, including the ownership, use, or maintenance of owned and non-owned automobiles, including rented/hired automobiles whether such operations be by the Contractor or by anyone directly or indirectly employed by a Contractor.

10.4 The Contractor shall maintain during the life of this Contract, adequate Workers' Compensation Insurance in at least such amounts as required by Florida law.

10.5 In the event of unusual circumstances, the County Administrator or his designee may adjust these insurance requirements.

**ARTICLE XI: INDEMNIFICATION**

11.0 The Contractor agrees that it will indemnify, hold harmless and defend 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.

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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.

11.2 This provision relating to Indemnification shall survive the termination of this Agreement.

**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 ten (10) days of receipt of the written notice, the County may terminate the Agreement at any time thereafter at the County's discretion by providing written notice to the Contractor, which shall be effective upon the date specified in the 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 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 the Solid Waste Ordinance, 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

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default. The County shall issue the Contractor a written 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. 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 *Representatives of the Parties*

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 Todd Strong. Either party may change its representative upon five (5) days, prior written notice to the other party.

13.1 *Notices*

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  
7580 Phillips Hwy  
Jacksonville FL 32256

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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 in writing.

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 made expressly and in writing 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*

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 the Agreement. Any action to interpret and/or enforce the 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 Board of County Commissioners approval in writing. As a condition precedent to receiving the County's consent, the Contractor or the potential transferee must demonstrate that the transferee has the ability to comply with all of the applicable requirements set forth in this Agreement and St. Johns County 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

**ST. JOHNS COUNTY  
NON-EXCLUSIVE FRANCHISE AGREEMENT FOR  
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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 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 will not be affected but will 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, which requires performance by a party subsequent to termination of this Agreement, shall remain enforceable against such party subsequent to such 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 St. Johns County.

**13.11**    *Independent Franchisee*

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 the agent, representative, employee, or servant of the County.

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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 shares or owns any percent of the total assets or capital stock of the Contractor, nor will any such person directly or indirectly benefit 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 its common law sovereign immunity under Section 768.28, Florida Statutes.

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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. Unless otherwise specific noted, any reference in this Agreement to federal or state statutes or to any County ordinance shall mean as that statute or ordinance 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.

**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 Contractor's books and records (including without limitation, data, documents, and correspondence) in order to determine whether compliance has been achieved with

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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 otherwise protected by County, State and/or Federal law.

*[Signatures appear on following page.]*



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IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed on April 27<sup>th</sup>, 2017.

Advanced Disposal Services  
Name of Company

Printed Name: R. Todd Strong

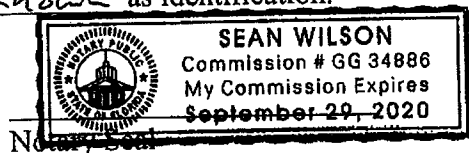
Title: District Manager

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

STATE OF FLORIDA  
COUNTY OF ST. JOHNS

The foregoing instrument was acknowledged before me this 27 day of April, 2017 by R. Todd Strong, as District Manager of Advanced Disposal, who is personally known to me or has produced Personally Known as identification.

[Handwritten Signature]  
Notary



ST. JOHNS COUNTY, a political subdivision of the State of Florida

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

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

(OFFICIAL SEAL)

**ST. JOHNS COUNTY  
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This Non-Exclusive Franchise Agreement for Commercial / Industrial Solid Waste Collection Franchise ("Agreement") is made between St. Johns County ("County"), a political subdivision of the State of Florida, and Amoson's Portable Toilets its successors and assigns, hereinafter referred to as the "Contractor."

WHEREAS, Contractor wishes to collect and transport Commercial / Industrial Solid Waste 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 words and terms used in this Agreement shall have the meanings set forth in St. Johns County Ordinance Nos. 99-27 and 06-98, as may be amended, (collectively, "Solid Waste Ordinance") unless otherwise indicated herein.

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

2.0 By executing this Agreement, Contractor acknowledges that it has read the provisions of the Solid Waste Ordinance and this Agreement, and Contractor agrees to comply at all times with the applicable provisions of this Agreement and the Solid Waste 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 transportation of Commercial / Industrial Solid Waste in the unincorporated areas of St. Johns County, subject to the terms and conditions of this Agreement, the Solid Waste Ordinance, and any and all other applicable laws. This Franchise agreement only authorizes the Contractor to collect and transport Commercial /

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Industrial Solid Waste in roll-off containers, front loading vehicles, compactors or other commercial collection equipment standard to the industry for this type of service.

**ARTICLE IV: TERM**

4.0 This Agreement shall be effective when signed by the County's duly authorized representative. This Agreement shall run from the effective date and shall expire at 11:59pm on June 30, 2020.

**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, Ordinances, and any other applicable local, state, or federal laws.

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

5.2 Contractor may collect and transport Commercial / Industrial Solid Waste Collection after 7:00am until 7:00pm on Monday through Saturday and 9:00am until 7:00pm on Sundays and holidays, as stated in St. Johns County Ordinance No. 2015-19, as may be amended. Contractor shall not collect or transport Commercial / Industrial Solid Waste Collection at other times, unless the Contractor has received the prior written approval of the Manager of the St. Johns County Solid Waste Department.

5.3 When collecting or transporting Commercial / Industrial Solid Waste Collection, Contractor's employees shall wear a company shirt or uniform, which shall have the Contractor's name or logo located in a conspicuous place.

5.4 All of the trucks used by the Contractor for the collection of Commercial / Industrial Solid Waste 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 of Commercial / Industrial Solid Waste Collection shall be labeled by the Contractor on each long side (two sides) in the same manner.

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5.5 The Contractor's commercial collections equipment and containers shall be securely covered and/or contained when holding or transporting Commercial / Industrial Solid Waste as authorized under this Agreement.

5.6 All of the rolling stock used by the Contractor for transporting Commercial / Industrial Solid Waste in St. Johns County shall be maintained in a good, clean, and safe operating condition, and shall be properly marked with the Contractor's name, phone number, and vehicle number.

5.7 Contractor shall provide the County with a current list of the vehicles used by the Contractor, including the license plate number and vehicle identification number (VIN) for each vehicle. 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 Contractor shall immediately clean-up and properly dispose of any waste materials or products dropped or spilled by the Contractor. Upon completion of the clean-up, the Contractor shall timely report to the Solid Waste Department in writing the location, type of drop or spill and the corrective procedure conducted.

**ARTICLE VI: DISPOSAL SITES**

6.0 All of the Commercial / Industrial Solid Waste collected by the Contractor shall be processed or disposed of at a landfill or transfer station owned by St. Johns County or other solid waste management facility approved by the County.

**ARTICLE VII: APPLICATION FEES**

7.0 The Contractor is required to complete and submit the standard St. Johns County application form for a Commercial / Industrial Non-Exclusive Franchise. A non-refundable \$500.00 application fee, as well as a \$100.00 maintenance and management fee per vehicle, shall accompany the Contractor's application to the County for the non-exclusive Franchise.

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**ARTICLE VIII: FRANCHISE FEES**

8.0 The Contractor shall pay a Franchise fee to the County for the privilege of using the public rights-of-way, streets, roads, alleys and other thoroughfares of the County for the collection and transportation of Commercial / Industrial Solid Waste that originates in the unincorporated areas of the 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 Commercial / Industrial Solid Waste Collection in the unincorporated areas of St. Johns County.

8.1 The Contractor shall agree in writing, on a form provided by the County at the time of non-exclusive Franchise application or renewal, that the Contractor will fully pay the applicable Franchise fee when the fee becomes due. The Franchise fee for a Non-Exclusive Commercial / Industrial Solid Waste Collection and Transportation Franchise shall be equal to 5% of the Gross Revenues collected by the Contractor for services provided pursuant to this Agreement to include the collection and transportation of Commercial / Industrial Solid Waste originating in the unincorporated areas of St. Johns County provided that the Commercial / Industrial Solid Waste is directly transported to a landfill or transfer station owned by St. Johns County or other solid waste management facility approved by the 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 15 of each year or within 60 days of termination of the Agreement. Each quarterly payment shall be based on the Gross Revenues earned by the Contractor for the services provided pursuant to this Agreement for the preceding calendar quarter.

8.3 The 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 contract period or any partial period. The financial statement shall be prepared and certified 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

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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 and its auditors to inspect and examine the Contractor's financial books and records, as well as its statistical, customer, service, and other records relating to the accumulation, collection, transportation, and disposal of Commercial / Industrial Solid Waste from properties in the unincorporated areas of St. Johns County, to confirm the Contractor's compliance with this Agreement. The inspections shall be allowed by the Contractor at any reasonable time following a reasonable notice, which shall not be construed to exceed seven days. Additionally, the County and its 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 public records.

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 revoke the Franchise and terminate this Agreement, as provided in Article XII below. 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: RENEWAL**

9.0 Between the dates of April 1 through June 1 in the same year as the expiration date of this Agreement, a renewal application may be submitted to the Department of Solid Waste Management. A \$500.00 renewal fee and a vehicle fee of \$100.00 per vehicle shall accompany said renewal application. A surety bond or letter of

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credit in the amount of \$25,000.00 is also required with the application, in order to satisfy the surety requirements specified in the Solid Waste Ordinance. During the review of the renewal application, the Contractor will operate as a non-exclusive Franchise for a period not to exceed 60 days or until the renewal application is accepted or denied within that 60 day period. Applications for renewal not meeting the above criteria shall not be considered bona fide applications.

9.1 The Contractor understands and acknowledges that renewal applications are subject to approval by the Board of County Commissioners, after a public hearing, and that the County Administrator, or his designee, may without prior notice limit the number of non-exclusive Franchises and/or new applicants for non-exclusive Franchises.

**ARTICLE X: INSURANCE**

10.0 The Contractor shall not commence work under this Contract until he/she has obtained all insurance required under this section and such insurance has been approved by the County. All insurance policies shall be issued by companies authorized to do business under the laws of the State of Florida. The Contractor shall furnish proof of Insurance to the County prior to the commencement of operations. The Certificate(s) shall clearly indicate the Contractor has obtained insurance of the type, amount, and classification as required by contract and that no material change or cancellation of the insurance shall be effective without thirty (30) days prior written notice to the County. Certificates shall specifically include the County as Additional Insured for all lines of coverage except Workers' Compensation and Professional Liability. A copy of the endorsement must accompany the certificate. Compliance with the foregoing requirements shall not relieve the Contractor of its liability and obligations under this Contract.

Certificate Holder Address: St. Johns County, a political subdivision of the State of  
Florida  
500 San Sebastian View  
St. Augustine, FL 32084

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10.1 The Contractor shall maintain during the life of this Contract, Comprehensive General Liability Insurance with minimum limits of \$1,000,000 per occurrence, \$2,000,000 aggregate, to protect the Contractor from claims for damages for bodily injury, including wrongful death, as well as from claims of property damages which may arise from any operations under this contract, whether such operations be by the Contractor or by anyone directly employed by or contracting with the Contractor.

10.2 The Contractor shall maintain during the life of the contract, Professional Liability or Errors and Omissions Insurance with minimum limits of \$1,000,000, if applicable.

10.3 The Contractor shall maintain during the life of this Contract, Comprehensive Automobile Liability Insurance with minimum limits of \$300,000 combined single limit for bodily injury and property damage liability to protect the Contractor from claims for damages for bodily injury, including the ownership, use, or maintenance of owned and non-owned automobiles, including rented/hired automobiles whether such operations be by the Contractor or by anyone directly or indirectly employed by a Contractor.

10.4 The Contractor shall maintain during the life of this Contract, adequate Workers' Compensation Insurance in at least such amounts as required by Florida law.

10.5 In the event of unusual circumstances, the County Administrator or his designee may adjust these insurance requirements.

**ARTICLE XI: INDEMNIFICATION**

11.0 The Contractor agrees that it will indemnify, hold harmless and defend 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.



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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.

11.2 This provision relating to Indemnification shall survive the termination of this Agreement.

**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 ten (10) days of receipt of the written notice, the County may terminate the Agreement at any time thereafter at the County's discretion by providing written notice to the Contractor, which shall be effective upon the date specified in the 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 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 the Solid Waste Ordinance, 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

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default. The County shall issue the Contractor a written 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. 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 *Representatives of the Parties*

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 Krissy Robinson. Either party may change its representative upon five (5) days, prior written notice to the other party.

13.1 *Notices*

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:

Amason's Portable Toilets & Holding Tanks, Inc  
273 Jefferson Avenue  
Orange Park, FL 32065

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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 in writing.

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 made expressly and in writing 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*

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 the Agreement. Any action to interpret and/or enforce the 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 Board of County Commissioners approval in writing. As a condition precedent to receiving the County's consent, the Contractor or the potential transferee must demonstrate that the transferee has the ability to comply with all of the applicable requirements set forth in this Agreement and St. Johns County 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

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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 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 will not be affected but will 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, which requires performance by a party subsequent to termination of this Agreement, shall remain enforceable against such party subsequent to such 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 St. Johns County.

13.11 *Independent Franchisee*

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 the agent, representative, employee, or servant of the County.

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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 shares or owns any percent of the total assets or capital stock of the Contractor, nor will any such person directly or indirectly benefit 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 its common law sovereign immunity under Section 768.28, Florida Statutes.

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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. Unless otherwise specific noted, any reference in this Agreement to federal or state statutes or to any County ordinance shall mean as that statute or ordinance 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.

**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 Contractor's books and records (including without limitation, data, documents, and correspondence) in order to determine whether compliance has been achieved with

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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 otherwise protected by County, State and/or Federal law.

*[Signatures appear on following page.]*

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IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed on May 8, 2017.

Amason's Portable Toilets & Holding Tanks, Inc.  
Name of Company

Printed Name: Kristina Robinson

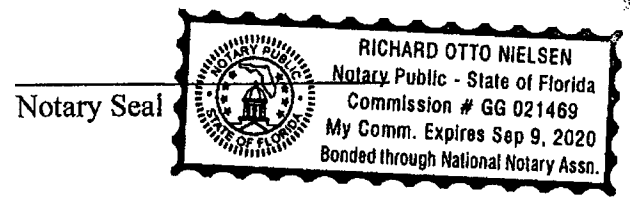
Title: Office Manager

Signature: Kristina Robinson  
Company Representative  
(CORPORATE SEAL)

STATE OF FLORIDA  
COUNTY OF ST. JOHNS

The foregoing instrument was acknowledged before me this 8th day of May, 2017, by Kristina Robinson, as Office Manager of Amason's, who is personally known to me of has produced \_\_\_\_\_ as identification.

[Signature]  
Notary



ST. JOHNS COUNTY, a political subdivision of the State of Florida

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

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

(OFFICIAL SEAL)



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NON-EXCLUSIVE FRANCHISE AGREEMENT FOR  
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This Non-Exclusive Franchise Agreement for Commercial / Industrial Solid Waste Collection Franchise ("Agreement") is made between St. Johns County ("County"), a political subdivision of the State of Florida, and Const. Debris, its successors and assigns, hereinafter referred to as the "Contractor." Removal

WHEREAS, Contractor wishes to collect and transport Commercial / Industrial Solid Waste 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 words and terms used in this Agreement shall have the meanings set forth in St. Johns County Ordinance Nos. 99-27 and 06-98, as may be amended, (collectively, "Solid Waste Ordinance") unless otherwise indicated herein.

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

2.0 By executing this Agreement, Contractor acknowledges that it has read the provisions of the Solid Waste Ordinance and this Agreement, and Contractor agrees to comply at all times with the applicable provisions of this Agreement and the Solid Waste 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 transportation of Commercial / Industrial Solid Waste in the unincorporated areas of St. Johns County, subject to the terms and conditions of this Agreement, the Solid Waste Ordinance, and any and all other applicable laws. This Franchise agreement only authorizes the Contractor to collect and transport Commercial /

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Industrial Solid Waste in roll-off containers, front loading vehicles, compactors or other commercial collection equipment standard to the industry for this type of service.

**ARTICLE IV: TERM**

4.0 This Agreement shall be effective when signed by the County's duly authorized representative. This Agreement shall run from the effective date and shall expire at 11:59pm on June 30, 2020.

**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, Ordinances, and any other applicable local, state, or federal laws.

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

5.2 Contractor may collect and transport Commercial / Industrial Solid Waste Collection after 7:00am until 7:00pm on Monday through Saturday and 9:00am until 7:00pm on Sundays and holidays, as stated in St. Johns County Ordinance No. 2015-19, as may be amended. Contractor shall not collect or transport Commercial / Industrial Solid Waste Collection at other times, unless the Contractor has received the prior written approval of the Manager of the St. Johns County Solid Waste Department.

5.3 When collecting or transporting Commercial / Industrial Solid Waste Collection, Contractor's employees shall wear a company shirt or uniform, which shall have the Contractor's name or logo located in a conspicuous place.

5.4 All of the trucks used by the Contractor for the collection of Commercial / Industrial Solid Waste 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 of Commercial / Industrial Solid Waste Collection shall be labeled by the Contractor on each long side (two sides) in the same manner.

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5.5 The Contractor's commercial collections equipment and containers shall be securely covered and/or contained when holding or transporting Commercial / Industrial Solid Waste as authorized under this Agreement.

5.6 All of the rolling stock used by the Contractor for transporting Commercial / Industrial Solid Waste in St. Johns County shall be maintained in a good, clean, and safe operating condition, and shall be properly marked with the Contractor's name, phone number, and vehicle number.

5.7 Contractor shall provide the County with a current list of the vehicles used by the Contractor, including the license plate number and vehicle identification number (VIN) for each vehicle. 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 Contractor shall immediately clean-up and properly dispose of any waste materials or products dropped or spilled by the Contractor. Upon completion of the clean-up, the Contractor shall timely report to the Solid Waste Department in writing the location, type of drop or spill and the corrective procedure conducted.

**ARTICLE VI: DISPOSAL SITES**

6.0 All of the Commercial / Industrial Solid Waste collected by the Contractor shall be processed or disposed of at a duly licensed and permitted Solid Waste Management Facility accepting Commercial / Industrial Solid Waste.

**ARTICLE VII: APPLICATION FEES**

7.0 The Contractor is required to complete and submit the standard St. Johns County application form for a Commercial / Industrial Non-Exclusive Franchise. A non-refundable \$500.00 application fee, as well as a \$100.00 maintenance and management fee per vehicle, shall accompany the Contractor's application to the County for the non-exclusive Franchise.

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**ARTICLE VIII: FRANCHISE FEES**

8.0 The Contractor shall pay a Franchise fee to the County for the privilege of using the public rights-of-way, streets, roads, alleys and other thoroughfares of the County for the collection and transportation of Commercial / Industrial Solid Waste that originates in the unincorporated areas of the 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 Commercial / Industrial Solid Waste Collection in the unincorporated areas of St. Johns County.

8.1 The Contractor shall agree in writing, on a form provided by the County at the time of non-exclusive Franchise application or renewal, that the Contractor will fully pay the applicable Franchise fee when the fee becomes due. The Franchise fee for a Non-Exclusive Commercial / Industrial Solid Waste Collection and Transportation Franchise shall be equal to 5% of the Gross Revenues collected by the Contractor for services provided pursuant to this Agreement to include the collection and transportation of Commercial / Industrial Solid Waste originating in the unincorporated areas of St. Johns County provided that the Commercial / Industrial Solid Waste is directly transported to a landfill or transfer station owned by St. Johns County or other solid waste management facility approved by the 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 15 of each year or within 60 days of termination of the Agreement. Each quarterly payment shall be based on the Gross Revenues earned by the Contractor for the services provided pursuant to this Agreement for the preceding calendar quarter.

8.3 The 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 contract period or any partial period. The financial statement shall be prepared and certified 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

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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 and its auditors to inspect and examine the Contractor's financial books and records, as well as its statistical, customer, service, and other records relating to the accumulation, collection, transportation, and disposal of Commercial / Industrial Solid Waste from properties in the unincorporated areas of St. Johns County, to confirm the Contractor's compliance with this Agreement. The inspections shall be allowed by the Contractor at any reasonable time following a reasonable notice, which shall not be construed to exceed seven days. Additionally, the County and its 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 public records.

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 revoke the Franchise and terminate this Agreement, as provided in Article XII below. 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: RENEWAL**

9.0 Between the dates of April 1 through June 1 in the same year as the expiration date of this Agreement, a renewal application may be submitted to the Department of Solid Waste Management. A \$500.00 renewal fee and a vehicle fee of \$100.00 per vehicle shall accompany said renewal application. A surety bond or letter of

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credit in the amount of \$25,000.00 is also required with the application, in order to satisfy the surety requirements specified in the Solid Waste Ordinance. During the review of the renewal application, the Contractor will operate as a non-exclusive Franchise for a period not to exceed 60 days or until the renewal application is accepted or denied within that 60 day period. Applications for renewal not meeting the above criteria shall not be considered bona fide applications.

9.1 The Contractor understands and acknowledges that renewal applications are subject to approval by the Board of County Commissioners, after a public hearing, and that the County Administrator, or his designee, may without prior notice limit the number of non-exclusive Franchises and/or new applicants for non-exclusive Franchises.

**ARTICLE X: INSURANCE**

10.0 The Contractor shall not commence work under this Contract until he/she has obtained all insurance required under this section and such insurance has been approved by the County. All insurance policies shall be issued by companies authorized to do business under the laws of the State of Florida. The Contractor shall furnish proof of Insurance to the County prior to the commencement of operations. The Certificate(s) shall clearly indicate the Contractor has obtained insurance of the type, amount, and classification as required by contract and that no material change or cancellation of the insurance shall be effective without thirty (30) days prior written notice to the County. Certificates shall specifically include the County as Additional Insured for all lines of coverage except Workers' Compensation and Professional Liability. A copy of the endorsement must accompany the certificate. Compliance with the foregoing requirements shall not relieve the Contractor of its liability and obligations under this Contract.

Certificate Holder Address: St. Johns County, a political subdivision of the State of  
Florida  
500 San Sebastian View  
St. Augustine, FL 32084

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10.1 The Contractor shall maintain during the life of this Contract, Comprehensive General Liability Insurance with minimum limits of \$1,000,000 per occurrence, \$2,000,000 aggregate, to protect the Contractor from claims for damages for bodily injury, including wrongful death, as well as from claims of property damages which may arise from any operations under this contract, whether such operations be by the Contractor or by anyone directly employed by or contracting with the Contractor.

10.2 The Contractor shall maintain during the life of the contract, Professional Liability or Errors and Omissions Insurance with minimum limits of \$1,000,000, if applicable.

10.3 The Contractor shall maintain during the life of this Contract, Comprehensive Automobile Liability Insurance with minimum limits of \$300,000 combined single limit for bodily injury and property damage liability to protect the Contractor from claims for damages for bodily injury, including the ownership, use, or maintenance of owned and non-owned automobiles, including rented/hired automobiles whether such operations be by the Contractor or by anyone directly or indirectly employed by a Contractor.

10.4 The Contractor shall maintain during the life of this Contract, adequate Workers' Compensation Insurance in at least such amounts as required by Florida law.

10.5 In the event of unusual circumstances, the County Administrator or his designee may adjust these insurance requirements.

**ARTICLE XI: INDEMNIFICATION**

11.0 The Contractor agrees that it will indemnify, hold harmless and defend 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.

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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.

11.2 This provision relating to Indemnification shall survive the termination of this Agreement.

**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 ten (10) days of receipt of the written notice, the County may terminate the Agreement at any time thereafter at the County's discretion by providing written notice to the Contractor, which shall be effective upon the date specified in the 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 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 the Solid Waste Ordinance, 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



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default. The County shall issue the Contractor a written 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. 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 *Representatives of the Parties*

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 D Kett. Either party may change its representative upon five (5) days, prior written notice to the other party.

13.1 *Notices*

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 Inc  
1535 State Road 207  
St Augustine, FL 32086

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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 in writing.

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 made expressly and in writing 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*

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 the Agreement. Any action to interpret and/or enforce the 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 Board of County Commissioners approval in writing. As a condition precedent to receiving the County's consent, the Contractor or the potential transferee must demonstrate that the transferee has the ability to comply with all of the applicable requirements set forth in this Agreement and St. Johns County 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

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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 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 will not be affected but will 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, which requires performance by a party subsequent to termination of this Agreement, shall remain enforceable against such party subsequent to such 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 St. Johns County.

13.11 *Independent Franchisee*

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 the agent, representative, employee, or servant of the County.

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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 shares or owns any percent of the total assets or capital stock of the Contractor, nor will any such person directly or indirectly benefit 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 its common law sovereign immunity under Section 768.28, Florida Statutes.

13.15 *Amendment*

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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. Unless otherwise specific noted, any reference in this Agreement to federal or state statutes or to any County ordinance shall mean as that statute or ordinance may be amended from time to time.

13.16 *Access to Records*

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

13.17 *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.

**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.

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**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 Contractor's 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 otherwise protected by County, State and/or Federal law.

*[Signatures appear on following page.]*

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NON-EXCLUSIVE FRANCHISE AGREEMENT FOR  
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IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed on May 3, 2017

Construction Debris Removal Inc  
Name of Company

Printed Name: Vernon D Keith

Title: Owner

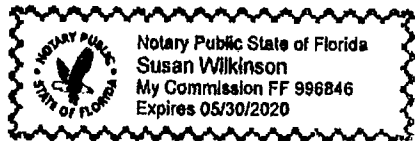
Signature: [Handwritten Signature]  
Company Representative  
(CORPORATE SEAL)

STATE OF FLORIDA  
COUNTY OF ST. JOHNS

The foregoing instrument was acknowledged before me this 3 day of May, 2017 by Vernon D Keith, as Owner of Const Debris Removal, who is personally known to me or has produced \_\_\_\_\_ as identification.

[Handwritten Signature]  
Notary

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



ST. JOHNS COUNTY, a political  
subdivision of the State of Florida

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

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

(OFFICIAL SEAL)

**ST. JOHNS COUNTY  
NON-EXCLUSIVE FRANCHISE AGREEMENT FOR  
COMMERCIAL / INDUSTRIAL SOLID WASTE COLLECTION FRANCHISE**

This Non-Exclusive Franchise Agreement for Commercial / Industrial Solid Waste Collection Franchise ("Agreement") is made between St. Johns County ("County"), a political subdivision of the State of Florida, and Donovan Dumpsters its successors and assigns, hereinafter referred to as the "Contractor."

WHEREAS, Contractor wishes to collect and transport Commercial / Industrial Solid Waste 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 words and terms used in this Agreement shall have the meanings set forth in St. Johns County Ordinance Nos. 99-27 and 06-98, as may be amended, (collectively, "Solid Waste Ordinance") unless otherwise indicated herein.

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

2.0 By executing this Agreement, Contractor acknowledges that it has read the provisions of the Solid Waste Ordinance and this Agreement, and Contractor agrees to comply at all times with the applicable provisions of this Agreement and the Solid Waste 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 transportation of Commercial / Industrial Solid Waste in the unincorporated areas of St. Johns County, subject to the terms and conditions of this Agreement, the Solid Waste Ordinance, and any and all other applicable laws. This Franchise agreement only authorizes the Contractor to collect and transport Commercial /



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Industrial Solid Waste in roll-off containers, front loading vehicles, compactors or other commercial collection equipment standard to the industry for this type of service.

**ARTICLE IV: TERM**

4.0 This Agreement shall be effective when signed by the County's duly authorized representative. This Agreement shall run from the effective date and shall expire at 11:59pm on June 30, 2020.

**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, Ordinances, and any other applicable local, state, or federal laws.

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

5.2 Contractor may collect and transport Commercial / Industrial Solid Waste Collection after 7:00am until 7:00pm on Monday through Saturday and 9:00am until 7:00pm on Sundays and holidays, as stated in St. Johns County Ordinance No. 2015-19, as may be amended. Contractor shall not collect or transport Commercial / Industrial Solid Waste Collection at other times, unless the Contractor has received the prior written approval of the Manager of the St. Johns County Solid Waste Department.

5.3 When collecting or transporting Commercial / Industrial Solid Waste Collection, Contractor's employees shall wear a company shirt or uniform, which shall have the Contractor's name or logo located in a conspicuous place.

5.4 All of the trucks used by the Contractor for the collection of Commercial / Industrial Solid Waste 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 of Commercial / Industrial Solid Waste Collection shall be labeled by the Contractor on each long side (two sides) in the same manner.

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NON-EXCLUSIVE FRANCHISE AGREEMENT FOR  
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5.5 The Contractor's commercial collections equipment and containers shall be securely covered and/or contained when holding or transporting Commercial / Industrial Solid Waste as authorized under this Agreement.

5.6 All of the rolling stock used by the Contractor for transporting Commercial / Industrial Solid Waste in St. Johns County shall be maintained in a good, clean, and safe operating condition, and shall be properly marked with the Contractor's name, phone number, and vehicle number.

5.7 Contractor shall provide the County with a current list of the vehicles used by the Contractor, including the license plate number and vehicle identification number (VIN) for each vehicle. 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 Contractor shall immediately clean-up and properly dispose of any waste materials or products dropped or spilled by the Contractor. Upon completion of the clean-up, the Contractor shall timely report to the Solid Waste Department in writing the location, type of drop or spill and the corrective procedure conducted.

**ARTICLE VI: DISPOSAL SITES**

6.0 All of the Commercial / Industrial Solid Waste collected by the Contractor shall be processed or disposed of at a landfill or transfer station owned by St. Johns County or other solid waste management facility approved by the County.

**ARTICLE VII: APPLICATION FEES**

7.0 The Contractor is required to complete and submit the standard St. Johns County application form for a Commercial / Industrial Non-Exclusive Franchise. A non-refundable \$500.00 application fee, as well as a \$100.00 maintenance and management fee per vehicle, shall accompany the Contractor's application to the County for the non-exclusive Franchise.

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**ARTICLE VIII: FRANCHISE FEES**

8.0 The Contractor shall pay a Franchise fee to the County for the privilege of using the public rights-of-way, streets, roads, alleys and other thoroughfares of the County for the collection and transportation of Commercial / Industrial Solid Waste that originates in the unincorporated areas of the 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 Commercial / Industrial Solid Waste Collection in the unincorporated areas of St. Johns County.

8.1 The Contractor shall agree in writing, on a form provided by the County at the time of non-exclusive Franchise application or renewal, that the Contractor will fully pay the applicable Franchise fee when the fee becomes due. The Franchise fee for a Non-Exclusive Commercial / Industrial Solid Waste Collection and Transportation Franchise shall be equal to 5% of the Gross Revenues collected by the Contractor for services provided pursuant to this Agreement to include the collection and transportation of Commercial / Industrial Solid Waste originating in the unincorporated areas of St. Johns County provided that the Commercial / Industrial Solid Waste is directly transported to a landfill or transfer station owned by St. Johns County or other solid waste management facility approved by the 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 15 of each year or within 60 days of termination of the Agreement. Each quarterly payment shall be based on the Gross Revenues earned by the Contractor for the services provided pursuant to this Agreement for the preceding calendar quarter.

8.3 The 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 contract period or any partial period. The financial statement shall be prepared and certified 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

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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 and its auditors to inspect and examine the Contractor's financial books and records, as well as its statistical, customer, service, and other records relating to the accumulation, collection, transportation, and disposal of Commercial / Industrial Solid Waste from properties in the unincorporated areas of St. Johns County, to confirm the Contractor's compliance with this Agreement. The inspections shall be allowed by the Contractor at any reasonable time following a reasonable notice, which shall not be construed to exceed seven days. Additionally, the County and its 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 public records.

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 revoke the Franchise and terminate this Agreement, as provided in Article XII below. 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: RENEWAL**

9.0 Between the dates of April 1 through June 1 in the same year as the expiration date of this Agreement, a renewal application may be submitted to the Department of Solid Waste Management. A \$500.00 renewal fee and a vehicle fee of \$100.00 per vehicle shall accompany said renewal application. A surety bond or letter of

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credit in the amount of \$25,000.00 is also required with the application, in order to satisfy the surety requirements specified in the Solid Waste Ordinance. During the review of the renewal application, the Contractor will operate as a non-exclusive Franchise for a period not to exceed 60 days or until the renewal application is accepted or denied within that 60 day period. Applications for renewal not meeting the above criteria shall not be considered bona fide applications.

9.1 The Contractor understands and acknowledges that renewal applications are subject to approval by the Board of County Commissioners, after a public hearing, and that the County Administrator, or his designee, may without prior notice limit the number of non-exclusive Franchises and/or new applicants for non-exclusive Franchises.

**ARTICLE X: INSURANCE**

10.0 The Contractor shall not commence work under this Contract until he/she has obtained all insurance required under this section and such insurance has been approved by the County. All insurance policies shall be issued by companies authorized to do business under the laws of the State of Florida. The Contractor shall furnish proof of Insurance to the County prior to the commencement of operations. The Certificate(s) shall clearly indicate the Contractor has obtained insurance of the type, amount, and classification as required by contract and that no material change or cancellation of the insurance shall be effective without thirty (30) days prior written notice to the County. Certificates shall specifically include the County as Additional Insured for all lines of coverage except Workers' Compensation and Professional Liability. A copy of the endorsement must accompany the certificate. Compliance with the foregoing requirements shall not relieve the Contractor of its liability and obligations under this Contract.

Certificate Holder Address: St. Johns County, a political subdivision of the State of  
Florida  
500 San Sebastian View  
St. Augustine, FL 32084

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10.1 The Contractor shall maintain during the life of this Contract, Comprehensive General Liability Insurance with minimum limits of \$1,000,000 per occurrence, \$2,000,000 aggregate, to protect the Contractor from claims for damages for bodily injury, including wrongful death, as well as from claims of property damages which may arise from any operations under this contract, whether such operations be by the Contractor or by anyone directly employed by or contracting with the Contractor.

10.2 The Contractor shall maintain during the life of the contract, Professional Liability or Errors and Omissions Insurance with minimum limits of \$1,000,000, if applicable.

10.3 The Contractor shall maintain during the life of this Contract, Comprehensive Automobile Liability Insurance with minimum limits of \$300,000 combined single limit for bodily injury and property damage liability to protect the Contractor from claims for damages for bodily injury, including the ownership, use, or maintenance of owned and non-owned automobiles, including rented/hired automobiles whether such operations be by the Contractor or by anyone directly or indirectly employed by a Contractor.

10.4 The Contractor shall maintain during the life of this Contract, adequate Workers' Compensation Insurance in at least such amounts as required by Florida law.

10.5 In the event of unusual circumstances, the County Administrator or his designee may adjust these insurance requirements.

**ARTICLE XI: INDEMNIFICATION**

11.0 The Contractor agrees that it will indemnify, hold harmless and defend 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.

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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.

11.2 This provision relating to Indemnification shall survive the termination of this Agreement.

**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 ten (10) days of receipt of the written notice, the County may terminate the Agreement at any time thereafter at the County's discretion by providing written notice to the Contractor, which shall be effective upon the date specified in the 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 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 the Solid Waste Ordinance, 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

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default. The County shall issue the Contractor a written 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. 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 *Representatives of the Parties*

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 Hyle  
Donovan. Either party may change its representative upon five (5) days, prior written notice to the other party.

13.1 *Notices*

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:

Donovan Dumpsters LLC  
315 6<sup>th</sup> Ave S  
Jax Beach, FL 32250



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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 in writing.

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 made expressly and in writing 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*

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 the Agreement. Any action to interpret and/or enforce the 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 Board of County Commissioners approval in writing. As a condition precedent to receiving the County's consent, the Contractor or the potential transferee must demonstrate that the transferee has the ability to comply with all of the applicable requirements set forth in this Agreement and St. Johns County 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

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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 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 will not be affected but will 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, which requires performance by a party subsequent to termination of this Agreement, shall remain enforceable against such party subsequent to such 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 St. Johns County.

**13.11 *Independent Franchisee***

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 the agent, representative, employee, or servant of the County.

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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 shares or owns any percent of the total assets or capital stock of the Contractor, nor will any such person directly or indirectly benefit 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 its common law sovereign immunity under Section 768.28, Florida Statutes.

13.15 *Amendment*

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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. Unless otherwise specific noted, any reference in this Agreement to federal or state statutes or to any County ordinance shall mean as that statute or ordinance may be amended from time to time.

13.16 *Access to Records*

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

13.17 *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.

**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.

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**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 Contractor's 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 otherwise protected by County, State and/or Federal law.

*[Signatures appear on following page.]*

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IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed on April 19<sup>th</sup>, 2017.

Donovan Dumpsters LLC  
Name of Company

Printed Name: Kyle Donovan

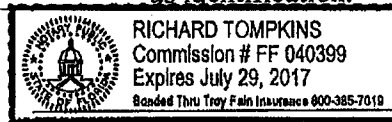
Title: Owner

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

STATE OF FLORIDA  
COUNTY OF ST. JOHNS

The foregoing instrument was acknowledged before me this 19<sup>th</sup> day of April, 2017, by Kyle Donovan, as Donovan Dumpsters of Donovan Dumpsters, who is personally known to me or has produced personal as identification.

[Handwritten Signature]  
Notary



Notary Seal

ST. JOHNS COUNTY, a political  
subdivision of the State of Florida

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

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

(OFFICIAL SEAL)

**ST. JOHNS COUNTY  
NON-EXCLUSIVE FRANCHISE AGREEMENT FOR  
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This Non-Exclusive Franchise Agreement for Commercial / Industrial Solid Waste Collection Franchise ("Agreement") is made between St. Johns County ("County"), a political subdivision of the State of Florida, and Env. Land Sys., its successors and assigns, hereinafter referred to as the "Contractor."

WHEREAS, Contractor wishes to collect and transport Commercial / Industrial Solid Waste 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 words and terms used in this Agreement shall have the meanings set forth in St. Johns County Ordinance Nos. 99-27 and 06-98, as may be amended, (collectively, "Solid Waste Ordinance") unless otherwise indicated herein.

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

2.0 By executing this Agreement, Contractor acknowledges that it has read the provisions of the Solid Waste Ordinance and this Agreement, and Contractor agrees to comply at all times with the applicable provisions of this Agreement and the Solid Waste 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 transportation of Commercial / Industrial Solid Waste in the unincorporated areas of St. Johns County, subject to the terms and conditions of this Agreement, the Solid Waste Ordinance, and any and all other applicable laws. This Franchise agreement only authorizes the Contractor to collect and transport Commercial /

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Industrial Solid Waste in roll-off containers, front loading vehicles, compactors or other commercial collection equipment standard to the industry for this type of service.

**ARTICLE IV: TERM**

4.0 This Agreement shall be effective when signed by the County's duly authorized representative. This Agreement shall run from the effective date and shall expire at 11:59pm on June 30, 2020.

**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, Ordinances, and any other applicable local, state, or federal laws.

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

5.2 Contractor may collect and transport Commercial / Industrial Solid Waste Collection after 7:00am until 7:00pm on Monday through Saturday and 9:00am until 7:00pm on Sundays and holidays, as stated in St. Johns County Ordinance No. 2015-19, as may be amended. Contractor shall not collect or transport Commercial / Industrial Solid Waste Collection at other times, unless the Contractor has received the prior written approval of the Manager of the St. Johns County Solid Waste Department.

5.3 When collecting or transporting Commercial / Industrial Solid Waste Collection, Contractor's employees shall wear a company shirt or uniform, which shall have the Contractor's name or logo located in a conspicuous place.

5.4 All of the trucks used by the Contractor for the collection of Commercial / Industrial Solid Waste 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 of Commercial / Industrial Solid Waste Collection shall be labeled by the Contractor on each long side (two sides) in the same manner.



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5.5 The Contractor's commercial collections equipment and containers shall be securely covered and/or contained when holding or transporting Commercial / Industrial Solid Waste as authorized under this Agreement.

5.6 All of the rolling stock used by the Contractor for transporting Commercial / Industrial Solid Waste in St. Johns County shall be maintained in a good, clean, and safe operating condition, and shall be properly marked with the Contractor's name, phone number, and vehicle number.

5.7 Contractor shall provide the County with a current list of the vehicles used by the Contractor, including the license plate number and vehicle identification number (VIN) for each vehicle. 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 Contractor shall immediately clean-up and properly dispose of any waste materials or products dropped or spilled by the Contractor. Upon completion of the clean-up, the Contractor shall timely report to the Solid Waste Department in writing the location, type of drop or spill and the corrective procedure conducted.

**ARTICLE VI: DISPOSAL SITES**

6.0 All of the Commercial / Industrial Solid Waste collected by the Contractor shall be processed or disposed of at a landfill or transfer station owned by St. Johns County or other solid waste management facility approved by the County.

**ARTICLE VII: APPLICATION FEES**

7.0 The Contractor is required to complete and submit the standard St. Johns County application form for a Commercial / Industrial Non-Exclusive Franchise. A non-refundable \$500.00 application fee, as well as a \$100.00 maintenance and management fee per vehicle, shall accompany the Contractor's application to the County for the non-exclusive Franchise.

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**ARTICLE VIII: FRANCHISE FEES**

8.0 The Contractor shall pay a Franchise fee to the County for the privilege of using the public rights-of-way, streets, roads, alleys and other thoroughfares of the County for the collection and transportation of Commercial / Industrial Solid Waste that originates in the unincorporated areas of the 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 Commercial / Industrial Solid Waste Collection in the unincorporated areas of St. Johns County.

8.1 The Contractor shall agree in writing, on a form provided by the County at the time of non-exclusive Franchise application or renewal, that the Contractor will fully pay the applicable Franchise fee when the fee becomes due. The Franchise fee for a Non-Exclusive Commercial / Industrial Solid Waste Collection and Transportation Franchise shall be equal to 5% of the Gross Revenues collected by the Contractor for services provided pursuant to this Agreement to include the collection and transportation of Commercial / Industrial Solid Waste originating in the unincorporated areas of St. Johns County provided that the Commercial / Industrial Solid Waste is directly transported to a landfill or transfer station owned by St. Johns County or other solid waste management facility approved by the 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 15 of each year or within 60 days of termination of the Agreement. Each quarterly payment shall be based on the Gross Revenues earned by the Contractor for the services provided pursuant to this Agreement for the preceding calendar quarter.

8.3 The 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 contract period or any partial period. The financial statement shall be prepared and certified 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

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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 and its auditors to inspect and examine the Contractor's financial books and records, as well as its statistical, customer, service, and other records relating to the accumulation, collection, transportation, and disposal of Commercial / Industrial Solid Waste from properties in the unincorporated areas of St. Johns County, to confirm the Contractor's compliance with this Agreement. The inspections shall be allowed by the Contractor at any reasonable time following a reasonable notice, which shall not be construed to exceed seven days. Additionally, the County and its 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 public records.

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 revoke the Franchise and terminate this Agreement, as provided in Article XII below. 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: RENEWAL**

9.0 Between the dates of April 1 through June 1 in the same year as the expiration date of this Agreement, a renewal application may be submitted to the Department of Solid Waste Management. A \$500.00 renewal fee and a vehicle fee of \$100.00 per vehicle shall accompany said renewal application. A surety bond or letter of

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credit in the amount of \$25,000.00 is also required with the application, in order to satisfy the surety requirements specified in the Solid Waste Ordinance. During the review of the renewal application, the Contractor will operate as a non-exclusive Franchise for a period not to exceed 60 days or until the renewal application is accepted or denied within that 60 day period. Applications for renewal not meeting the above criteria shall not be considered bona fide applications.

9.1 The Contractor understands and acknowledges that renewal applications are subject to approval by the Board of County Commissioners, after a public hearing, and that the County Administrator, or his designee, may without prior notice limit the number of non-exclusive Franchises and/or new applicants for non-exclusive Franchises.

**ARTICLE X: INSURANCE**

10.0 The Contractor shall not commence work under this Contract until he/she has obtained all insurance required under this section and such insurance has been approved by the County. All insurance policies shall be issued by companies authorized to do business under the laws of the State of Florida. The Contractor shall furnish proof of Insurance to the County prior to the commencement of operations. The Certificate(s) shall clearly indicate the Contractor has obtained insurance of the type, amount, and classification as required by contract and that no material change or cancellation of the insurance shall be effective without thirty (30) days prior written notice to the County. Certificates shall specifically include the County as Additional Insured for all lines of coverage except Workers' Compensation and Professional Liability. A copy of the endorsement must accompany the certificate. Compliance with the foregoing requirements shall not relieve the Contractor of its liability and obligations under this Contract.

Certificate Holder Address: St. Johns County, a political subdivision of the State of  
Florida  
500 San Sebastian View  
St. Augustine, FL 32084

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10.1 The Contractor shall maintain during the life of this Contract, Comprehensive General Liability Insurance with minimum limits of \$1,000,000 per occurrence, \$2,000,000 aggregate, to protect the Contractor from claims for damages for bodily injury, including wrongful death, as well as from claims of property damages which may arise from any operations under this contract, whether such operations be by the Contractor or by anyone directly employed by or contracting with the Contractor.

10.2 The Contractor shall maintain during the life of the contract, Professional Liability or Errors and Omissions Insurance with minimum limits of \$1,000,000, if applicable.

10.3 The Contractor shall maintain during the life of this Contract, Comprehensive Automobile Liability Insurance with minimum limits of \$300,000 combined single limit for bodily injury and property damage liability to protect the Contractor from claims for damages for bodily injury, including the ownership, use, or maintenance of owned and non-owned automobiles, including rented/hired automobiles whether such operations be by the Contractor or by anyone directly or indirectly employed by a Contractor.

10.4 The Contractor shall maintain during the life of this Contract, adequate Workers' Compensation Insurance in at least such amounts as required by Florida law.

10.5 In the event of unusual circumstances, the County Administrator or his designee may adjust these insurance requirements.

**ARTICLE XI: INDEMNIFICATION**

11.0 The Contractor agrees that it will indemnify, hold harmless and defend 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.

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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.

11.2 This provision relating to Indemnification shall survive the termination of this Agreement.

**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 ten (10) days of receipt of the written notice, the County may terminate the Agreement at any time thereafter at the County's discretion by providing written notice to the Contractor, which shall be effective upon the date specified in the 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 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 the Solid Waste Ordinance, 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

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default. The County shall issue the Contractor a written 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. 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 *Representatives of the Parties*

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. Either party may change its representative upon five (5) days, prior written notice to the other party.

13.1 *Notices*

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  
PO Box 1029  
Bunnell, FL 32110

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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 in writing.

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 made expressly and in writing 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*

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 the Agreement. Any action to interpret and/or enforce the 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 Board of County Commissioners approval in writing. As a condition precedent to receiving the County's consent, the Contractor or the potential transferee must demonstrate that the transferee has the ability to comply with all of the applicable requirements set forth in this Agreement and St. Johns County 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



**ST. JOHNS COUNTY  
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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 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 will not be affected but will 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, which requires performance by a party subsequent to termination of this Agreement, shall remain enforceable against such party subsequent to such 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 St. Johns County.

**13.11**    *Independent Franchisee*

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 the agent, representative, employee, or servant of the County.

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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 shares or owns any percent of the total assets or capital stock of the Contractor, nor will any such person directly or indirectly benefit 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 its common law sovereign immunity under Section 768.28, Florida Statutes.

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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. Unless otherwise specific noted, any reference in this Agreement to federal or state statutes or to any County ordinance shall mean as that statute or ordinance 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.

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 Contractor's books and records (including without limitation, data, documents, and correspondence) in order to determine whether compliance has been achieved with

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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 otherwise protected by County, State and/or Federal law.

*[Signatures appear on following page.]*

ST. JOHNS COUNTY  
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IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be  
executed on April, 2017.

Environmental Land Services  
Name of Company

Printed Name: Nancy Morea

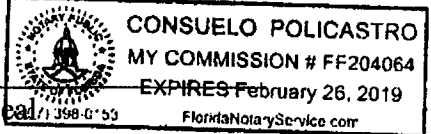
Title: Vice President

Signature: Nancy Morea, VP.  
Company Representative  
(CORPORATE SEAL)

STATE OF FLORIDA  
COUNTY OF ST. JOHNS

The foregoing instrument was acknowledged before me this 25 day of  
April, 2017 by NANCY MOREA, as  
V.PRES of Environmental Land Services who is personally  
known to me or has produced \_\_\_\_\_ as identification.

Consuelo Policastro  
Notary

Notary Seal 

ST. JOHNS COUNTY, a political  
subdivision of the State of Florida

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

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

(OFFICIAL SEAL)

**ST. JOHNS COUNTY  
NON-EXCLUSIVE FRANCHISE AGREEMENT FOR  
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This Non-Exclusive Franchise Agreement for Commercial / Industrial Solid Waste Collection Franchise ("Agreement") is made between St. Johns County ("County"), a political subdivision of the State of Florida, and HICKS LAND CLEARING + INCINERATOR LLC, its successors and assigns, hereinafter referred to as the "Contractor."

WHEREAS, Contractor wishes to collect and transport Commercial / Industrial Solid Waste 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 words and terms used in this Agreement shall have the meanings set forth in St. Johns County Ordinance Nos. 99-27 and 06-98, as may be amended, (collectively, "Solid Waste Ordinance") unless otherwise indicated herein.

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

2.0 By executing this Agreement, Contractor acknowledges that it has read the provisions of the Solid Waste Ordinance and this Agreement, and Contractor agrees to comply at all times with the applicable provisions of this Agreement and the Solid Waste 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 transportation of Commercial / Industrial Solid Waste in the unincorporated areas of St. Johns County, subject to the terms and conditions of this Agreement, the Solid Waste Ordinance, and any and all other applicable laws. This Franchise agreement only authorizes the Contractor to collect and transport Commercial /

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Industrial Solid Waste in roll-off containers, front loading vehicles, compactors or other commercial collection equipment standard to the industry for this type of service.

**ARTICLE IV: TERM**

4.0 This Agreement shall be effective when signed by the County's duly authorized representative. This Agreement shall run from the effective date and shall expire at 11:59pm on June 30, 2020.

**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, Ordinances, and any other applicable local, state, or federal laws.

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

5.2 Contractor may collect and transport Commercial / Industrial Solid Waste Collection after 7:00am until 7:00pm on Monday through Saturday and 9:00am until 7:00pm on Sundays and holidays, as stated in St. Johns County Ordinance No. 2015-19, as may be amended. Contractor shall not collect or transport Commercial / Industrial Solid Waste Collection at other times, unless the Contractor has received the prior written approval of the Manager of the St. Johns County Solid Waste Department.

5.3 When collecting or transporting Commercial / Industrial Solid Waste Collection, Contractor's employees shall wear a company shirt or uniform, which shall have the Contractor's name or logo located in a conspicuous place.

5.4 All of the trucks used by the Contractor for the collection of Commercial / Industrial Solid Waste 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 of Commercial / Industrial Solid Waste Collection shall be labeled by the Contractor on each long side (two sides) in the same manner.

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5.5 The Contractor's commercial collections equipment and containers shall be securely covered and/or contained when holding or transporting Commercial / Industrial Solid Waste as authorized under this Agreement.

5.6 All of the rolling stock used by the Contractor for transporting Commercial / Industrial Solid Waste in St. Johns County shall be maintained in a good, clean, and safe operating condition, and shall be properly marked with the Contractor's name, phone number, and vehicle number.

5.7 Contractor shall provide the County with a current list of the vehicles used by the Contractor, including the license plate number and vehicle identification number (VIN) for each vehicle. 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 Contractor shall immediately clean-up and properly dispose of any waste materials or products dropped or spilled by the Contractor. Upon completion of the clean-up, the Contractor shall timely report to the Solid Waste Department in writing the location, type of drop or spill and the corrective procedure conducted.

**ARTICLE VI: DISPOSAL SITES**

6.0 All of the Commercial / Industrial Solid Waste collected by the Contractor shall be processed or disposed of at a landfill or transfer station owned by St. Johns County or other solid waste management facility approved by the County.

**ARTICLE VII: APPLICATION FEES**

7.0 The Contractor is required to complete and submit the standard St. Johns County application form for a Commercial / Industrial Non-Exclusive Franchise. A non-refundable \$500.00 application fee, as well as a \$100.00 maintenance and management fee per vehicle, shall accompany the Contractor's application to the County for the non-exclusive Franchise.



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**ARTICLE VIII: FRANCHISE FEES**

8.0 The Contractor shall pay a Franchise fee to the County for the privilege of using the public rights-of-way, streets, roads, alleys and other thoroughfares of the County for the collection and transportation of Commercial / Industrial Solid Waste that originates in the unincorporated areas of the 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 Commercial / Industrial Solid Waste Collection in the unincorporated areas of St. Johns County.

8.1 The Contractor shall agree in writing, on a form provided by the County at the time of non-exclusive Franchise application or renewal, that the Contractor will fully pay the applicable Franchise fee when the fee becomes due. The Franchise fee for a Non-Exclusive Commercial / Industrial Solid Waste Collection and Transportation Franchise shall be equal to 5% of the Gross Revenues collected by the Contractor for services provided pursuant to this Agreement to include the collection and transportation of Commercial / Industrial Solid Waste originating in the unincorporated areas of St. Johns County provided that the Commercial / Industrial Solid Waste is directly transported to a landfill or transfer station owned by St. Johns County or other solid waste management facility approved by the 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 15 of each year or within 60 days of termination of the Agreement. Each quarterly payment shall be based on the Gross Revenues earned by the Contractor for the services provided pursuant to this Agreement for the preceding calendar quarter.

8.3 The 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 contract period or any partial period. The financial statement shall be prepared and certified 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

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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 and its auditors to inspect and examine the Contractor's financial books and records, as well as its statistical, customer, service, and other records relating to the accumulation, collection, transportation, and disposal of Commercial / Industrial Solid Waste from properties in the unincorporated areas of St. Johns County, to confirm the Contractor's compliance with this Agreement. The inspections shall be allowed by the Contractor at any reasonable time following a reasonable notice, which shall not be construed to exceed seven days. Additionally, the County and its 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 public records.

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 revoke the Franchise and terminate this Agreement, as provided in Article XII below. 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: RENEWAL**

9.0 Between the dates of April 1 through June 1 in the same year as the expiration date of this Agreement, a renewal application may be submitted to the Department of Solid Waste Management. A \$500.00 renewal fee and a vehicle fee of \$100.00 per vehicle shall accompany said renewal application. A surety bond or letter of

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credit in the amount of \$25,000.00 is also required with the application, in order to satisfy the surety requirements specified in the Solid Waste Ordinance. During the review of the renewal application, the Contractor will operate as a non-exclusive Franchise for a period not to exceed 60 days or until the renewal application is accepted or denied within that 60 day period. Applications for renewal not meeting the above criteria shall not be considered bona fide applications.

9.1 The Contractor understands and acknowledges that renewal applications are subject to approval by the Board of County Commissioners, after a public hearing, and that the County Administrator, or his designee, may without prior notice limit the number of non-exclusive Franchises and/or new applicants for non-exclusive Franchises.

**ARTICLE X: INSURANCE**

10.0 The Contractor shall not commence work under this Contract until he/she has obtained all insurance required under this section and such insurance has been approved by the County. All insurance policies shall be issued by companies authorized to do business under the laws of the State of Florida. The Contractor shall furnish proof of Insurance to the County prior to the commencement of operations. The Certificate(s) shall clearly indicate the Contractor has obtained insurance of the type, amount, and classification as required by contract and that no material change or cancellation of the insurance shall be effective without thirty (30) days prior written notice to the County. Certificates shall specifically include the County as Additional Insured for all lines of coverage except Workers' Compensation and Professional Liability. A copy of the endorsement must accompany the certificate. Compliance with the foregoing requirements shall not relieve the Contractor of its liability and obligations under this Contract.

Certificate Holder Address: St. Johns County, a political subdivision of the State of  
Florida  
500 San Sebastian View  
St. Augustine, FL 32084

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10.1 The Contractor shall maintain during the life of this Contract, Comprehensive General Liability Insurance with minimum limits of \$1,000,000 per occurrence, \$2,000,000 aggregate, to protect the Contractor from claims for damages for bodily injury, including wrongful death, as well as from claims of property damages which may arise from any operations under this contract, whether such operations be by the Contractor or by anyone directly employed by or contracting with the Contractor.

10.2 The Contractor shall maintain during the life of the contract, Professional Liability or Errors and Omissions Insurance with minimum limits of \$1,000,000, if applicable.

10.3 The Contractor shall maintain during the life of this Contract, Comprehensive Automobile Liability Insurance with minimum limits of \$300,000 combined single limit for bodily injury and property damage liability to protect the Contractor from claims for damages for bodily injury, including the ownership, use, or maintenance of owned and non-owned automobiles, including rented/hired automobiles whether such operations be by the Contractor or by anyone directly or indirectly employed by a Contractor.

10.4 The Contractor shall maintain during the life of this Contract, adequate Workers' Compensation Insurance in at least such amounts as required by Florida law.

10.5 In the event of unusual circumstances, the County Administrator or his designee may adjust these insurance requirements.

**ARTICLE XI: INDEMNIFICATION**

11.0 The Contractor agrees that it will indemnify, hold harmless and defend 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.

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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.

11.2 This provision relating to Indemnification shall survive the termination of this Agreement.

**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 ten (10) days of receipt of the written notice, the County may terminate the Agreement at any time thereafter at the County's discretion by providing written notice to the Contractor, which shall be effective upon the date specified in the 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 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 the Solid Waste Ordinance, 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

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default. The County shall issue the Contractor a written 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. 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 *Representatives of the Parties*

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 written notice to the other party.

13.1 *Notices*

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 860358  
ST AUGUSTINE, FL 32086

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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 in writing.

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 made expressly and in writing 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*

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 the Agreement. Any action to interpret and/or enforce the 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 Board of County Commissioners approval in writing. As a condition precedent to receiving the County's consent, the Contractor or the potential transferee must demonstrate that the transferee has the ability to comply with all of the applicable requirements set forth in this Agreement and St. Johns County 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

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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 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 will not be affected but will 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, which requires performance by a party subsequent to termination of this Agreement, shall remain enforceable against such party subsequent to such 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 St. Johns County.

**13.11 *Independent Franchisee***

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 the agent, representative, employee, or servant of the County.



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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 shares or owns any percent of the total assets or capital stock of the Contractor, nor will any such person directly or indirectly benefit 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 its common law sovereign immunity under Section 768.28, Florida Statutes.

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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. Unless otherwise specific noted, any reference in this Agreement to federal or state statutes or to any County ordinance shall mean as that statute or ordinance 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.

**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 Contractor's books and records (including without limitation, data, documents, and correspondence) in order to determine whether compliance has been achieved with

**ST. JOHNS COUNTY  
NON-EXCLUSIVE FRANCHISE AGREEMENT FOR  
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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 otherwise protected by County, State and/or Federal law.

*[Signatures appear on following page.]*

**ST. JOHNS COUNTY  
NON-EXCLUSIVE FRANCHISE AGREEMENT FOR  
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IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed on MAY 5<sup>TH</sup>, 2017.

HICKS LAND CLEARING + INCINERATOR LLC  
Name of Company

Printed Name: JAMES W. HICKS

Title: OWNER

Signature: James Hicks  
Company Representative  
(CORPORATE SEAL)

STATE OF FLORIDA  
COUNTY OF ST. JOHNS

The foregoing instrument was acknowledged before me this \_\_\_\_ day of May 5<sup>th</sup>, 2017, by JAMES HICKS, as owner of HICKS LAND CLEARING + INC., who is personally known to me or has produced \_\_\_\_\_ as identification.

Bonnie L. Smith  
Notary



ST. JOHNS COUNTY, a political subdivision of the State of Florida

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

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

(OFFICIAL SEAL)

**ST. JOHNS COUNTY  
NON-EXCLUSIVE FRANCHISE AGREEMENT FOR  
COMMERCIAL / INDUSTRIAL SOLID WASTE COLLECTION FRANCHISE**

This Non-Exclusive Franchise Agreement for Commercial / Industrial Solid Waste Collection Franchise ("Agreement") is made between St. Johns County ("County"), a political subdivision of the State of Florida, and N.F.L. Waste Mgmt, its successors and assigns, hereinafter referred to as the "Contractor."

WHEREAS, Contractor wishes to collect and transport Commercial / Industrial Solid Waste 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 words and terms used in this Agreement shall have the meanings set forth in St. Johns County Ordinance Nos. 99-27 and 06-98, as may be amended, (collectively, "Solid Waste Ordinance") unless otherwise indicated herein.

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

2.0 By executing this Agreement, Contractor acknowledges that it has read the provisions of the Solid Waste Ordinance and this Agreement, and Contractor agrees to comply at all times with the applicable provisions of this Agreement and the Solid Waste 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 transportation of Commercial / Industrial Solid Waste in the unincorporated areas of St. Johns County, subject to the terms and conditions of this Agreement, the Solid Waste Ordinance, and any and all other applicable laws. This Franchise agreement only authorizes the Contractor to collect and transport Commercial /

**ST. JOHNS COUNTY  
NON-EXCLUSIVE FRANCHISE AGREEMENT FOR  
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Industrial Solid Waste in roll-off containers, front loading vehicles, compactors or other commercial collection equipment standard to the industry for this type of service.

**ARTICLE IV: TERM**

4.0 This Agreement shall be effective when signed by the County's duly authorized representative. This Agreement shall run from the effective date and shall expire at 11:59pm on June 30, 2020.

**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, Ordinances, and any other applicable local, state, or federal laws.

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

5.2 Contractor may collect and transport Commercial / Industrial Solid Waste Collection after 7:00am until 7:00pm on Monday through Saturday and 9:00am until 7:00pm on Sundays and holidays, as stated in St. Johns County Ordinance No. 2015-19, as may be amended. Contractor shall not collect or transport Commercial / Industrial Solid Waste Collection at other times, unless the Contractor has received the prior written approval of the Manager of the St. Johns County Solid Waste Department.

5.3 When collecting or transporting Commercial / Industrial Solid Waste Collection, Contractor's employees shall wear a company shirt or uniform, which shall have the Contractor's name or logo located in a conspicuous place.

5.4 All of the trucks used by the Contractor for the collection of Commercial / Industrial Solid Waste 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 of Commercial / Industrial Solid Waste Collection shall be labeled by the Contractor on each long side (two sides) in the same manner.

**ST. JOHNS COUNTY  
NON-EXCLUSIVE FRANCHISE AGREEMENT FOR  
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5.5 The Contractor's commercial collections equipment and containers shall be securely covered and/or contained when holding or transporting Commercial / Industrial Solid Waste as authorized under this Agreement.

5.6 All of the rolling stock used by the Contractor for transporting Commercial / Industrial Solid Waste in St. Johns County shall be maintained in a good, clean, and safe operating condition, and shall be properly marked with the Contractor's name, phone number, and vehicle number.

5.7 Contractor shall provide the County with a current list of the vehicles used by the Contractor, including the license plate number and vehicle identification number (VIN) for each vehicle. 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 Contractor shall immediately clean-up and properly dispose of any waste materials or products dropped or spilled by the Contractor. Upon completion of the clean-up, the Contractor shall timely report to the Solid Waste Department in writing the location, type of drop or spill and the corrective procedure conducted.

**ARTICLE VI: DISPOSAL SITES**

6.0 All of the Commercial / Industrial Solid Waste collected by the Contractor shall be processed or disposed of at a landfill or transfer station owned by St. Johns County or other solid waste management facility approved by the County.

**ARTICLE VII: APPLICATION FEES**

7.0 The Contractor is required to complete and submit the standard St. Johns County application form for a Commercial / Industrial Non-Exclusive Franchise. A non-refundable \$500.00 application fee, as well as a \$100.00 maintenance and management fee per vehicle, shall accompany the Contractor's application to the County for the non-exclusive Franchise.

**ST. JOHNS COUNTY  
NON-EXCLUSIVE FRANCHISE AGREEMENT FOR  
COMMERCIAL / INDUSTRIAL SOLID WASTE COLLECTION FRANCHISE**

ARTICLE VIII: FRANCHISE FEES

8.0 The Contractor shall pay a Franchise fee to the County for the privilege of using the public rights-of-way, streets, roads, alleys and other thoroughfares of the County for the collection and transportation of Commercial / Industrial Solid Waste that originates in the unincorporated areas of the 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 Commercial / Industrial Solid Waste Collection in the unincorporated areas of St. Johns County.

8.1 The Contractor shall agree in writing, on a form provided by the County at the time of non-exclusive Franchise application or renewal, that the Contractor will fully pay the applicable Franchise fee when the fee becomes due. The Franchise fee for a Non-Exclusive Commercial / Industrial Solid Waste Collection and Transportation Franchise shall be equal to 5% of the Gross Revenues collected by the Contractor for services provided pursuant to this Agreement to include the collection and transportation of Commercial / Industrial Solid Waste originating in the unincorporated areas of St. Johns County provided that the Commercial / Industrial Solid Waste is directly transported to a landfill or transfer station owned by St. Johns County or other solid waste management facility approved by the 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 15 of each year or within 60 days of termination of the Agreement. Each quarterly payment shall be based on the Gross Revenues earned by the Contractor for the services provided pursuant to this Agreement for the preceding calendar quarter.

8.3 The 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 contract period or any partial period. The financial statement shall be prepared and certified 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



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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 otherwise protected by County, State and/or Federal law.

*[Signatures appear on following page.]*

**ST. JOHNS COUNTY  
NON-EXCLUSIVE FRANCHISE AGREEMENT FOR  
COMMERCIAL / INDUSTRIAL SOLID WASTE COLLECTION FRANCHISE**

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed on 5.18.17, 2017.

North Florida Waste Management  
Name of Company

Printed Name: Katerina Zajni

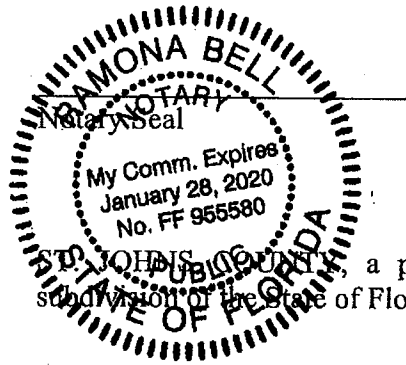
Title: Owner

Signature: Katerina Zajni  
Company Representative  
(CORPORATE SEAL)

STATE OF FLORIDA  
COUNTY OF ST. JOHNS DUVAL (288)

The foregoing instrument was acknowledged before me this 18<sup>th</sup> day of May, 2017, by KATERINA ZAJNI, as OWNER of N FL WASTE MANAGEMENT, who is personally known to me or has produced FL DWOR LICENSE as identification.

Ramon Bell  
Notary



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

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

(OFFICIAL SEAL)

**ST. JOHNS COUNTY  
NON-EXCLUSIVE FRANCHISE AGREEMENT FOR  
COMMERCIAL / INDUSTRIAL SOLID WASTE COLLECTION FRANCHISE**

This Non-Exclusive Franchise Agreement for Commercial / Industrial Solid Waste Collection Franchise ("Agreement") is made between St. Johns County ("County"), a political subdivision of the State of Florida, and Republic Services of Florida, LP, its successors and assigns, hereinafter referred to as the "Contractor."

WHEREAS, Contractor wishes to collect and transport Commercial / Industrial Solid Waste 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 words and terms used in this Agreement shall have the meanings set forth in St. Johns County Ordinance Nos. 99-27 and 06-98, as may be amended, (collectively, "Solid Waste Ordinance") unless otherwise indicated herein.

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

2.0 By executing this Agreement, Contractor acknowledges that it has read the provisions of the Solid Waste Ordinance and this Agreement, and Contractor agrees to comply at all times with the applicable provisions of this Agreement and the Solid Waste 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 transportation of Commercial / Industrial Solid Waste in the unincorporated areas of St. Johns County, subject to the terms and conditions of this Agreement, the Solid Waste Ordinance, and any and all other applicable laws. This Franchise agreement only authorizes the Contractor to collect and transport Commercial /

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Industrial Solid Waste in roll-off containers, front loading vehicles, compactors or other commercial collection equipment standard to the industry for this type of service.

**ARTICLE IV: TERM**

4.0 This Agreement shall be effective when signed by the County's duly authorized representative. This Agreement shall run from the effective date and shall expire at 11:59pm on June 30, 2020.

**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, Ordinances, and any other applicable local, state, or federal laws.

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

5.2 Contractor may collect and transport Commercial / Industrial Solid Waste Collection after 7:00am until 7:00pm on Monday through Saturday and 9:00am until 7:00pm on Sundays and holidays, as stated in St. Johns County Ordinance No. 2015-19, as may be amended. Contractor shall not collect or transport Commercial / Industrial Solid Waste Collection at other times, unless the Contractor has received the prior written approval of the Manager of the St. Johns County Solid Waste Department.

5.3 When collecting or transporting Commercial / Industrial Solid Waste Collection, Contractor's employees shall wear a company shirt or uniform, which shall have the Contractor's name or logo located in a conspicuous place.

5.4 All of the trucks used by the Contractor for the collection of Commercial / Industrial Solid Waste 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 of Commercial / Industrial Solid Waste Collection shall be labeled by the Contractor on each long side (two sides) in the same manner.

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5.5 The Contractor's commercial collections equipment and containers shall be securely covered and/or contained when holding or transporting Commercial / Industrial Solid Waste as authorized under this Agreement.

5.6 All of the rolling stock used by the Contractor for transporting Commercial / Industrial Solid Waste in St. Johns County shall be maintained in a good, clean, and safe operating condition, and shall be properly marked with the Contractor's name, phone number, and vehicle number.

5.7 Contractor shall provide the County with a current list of the vehicles used by the Contractor, including the license plate number and vehicle identification number (VIN) for each vehicle. 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 Contractor shall immediately clean-up and properly dispose of any waste materials or products dropped or spilled by the Contractor. Upon completion of the clean-up, the Contractor shall timely report to the Solid Waste Department in writing the location, type of drop or spill and the corrective procedure conducted.

**ARTICLE VI: DISPOSAL SITES**

6.0 All of the Commercial / Industrial Solid Waste collected by the Contractor shall be processed or disposed of at a landfill or transfer station owned by St. Johns County or other solid waste management facility approved by the County.

**ARTICLE VII: APPLICATION FEES**

7.0 The Contractor is required to complete and submit the standard St. Johns County application form for a Commercial / Industrial Non-Exclusive Franchise. A non-refundable \$500.00 application fee, as well as a \$100.00 maintenance and management fee per vehicle, shall accompany the Contractor's application to the County for the non-exclusive Franchise.

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NON-EXCLUSIVE FRANCHISE AGREEMENT FOR  
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**ARTICLE VIII: FRANCHISE FEES**

8.0 The Contractor shall pay a Franchise fee to the County for the privilege of using the public rights-of-way, streets, roads, alleys and other thoroughfares of the County for the collection and transportation of Commercial / Industrial Solid Waste that originates in the unincorporated areas of the 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 Commercial / Industrial Solid Waste Collection in the unincorporated areas of St. Johns County.

8.1 The Contractor shall agree in writing, on a form provided by the County at the time of non-exclusive Franchise application or renewal, that the Contractor will fully pay the applicable Franchise fee when the fee becomes due. The Franchise fee for a Non-Exclusive Commercial / Industrial Solid Waste Collection and Transportation Franchise shall be equal to 5% of the Gross Revenues collected by the Contractor for services provided pursuant to this Agreement to include the collection and transportation of Commercial / Industrial Solid Waste originating in the unincorporated areas of St. Johns County provided that the Commercial / Industrial Solid Waste is directly transported to a landfill or transfer station owned by St. Johns County or other solid waste management facility approved by the 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 15 of each year or within 60 days of termination of the Agreement. Each quarterly payment shall be based on the Gross Revenues earned by the Contractor for the services provided pursuant to this Agreement for the preceding calendar quarter.

8.3 The 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 contract period or any partial period. The financial statement shall be prepared and certified 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

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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 and its auditors to inspect and examine the Contractor's financial books and records, as well as its statistical, customer, service, and other records relating to the accumulation, collection, transportation, and disposal of Commercial / Industrial Solid Waste from properties in the unincorporated areas of St. Johns County, to confirm the Contractor's compliance with this Agreement. The inspections shall be allowed by the Contractor at any reasonable time following a reasonable notice, which shall not be construed to exceed seven days. Additionally, the County and its 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 public records.

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 revoke the Franchise and terminate this Agreement, as provided in Article XII below. 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: RENEWAL**

9.0 Between the dates of April 1 through June 1 in the same year as the expiration date of this Agreement, a renewal application may be submitted to the Department of Solid Waste Management. A \$500.00 renewal fee and a vehicle fee of \$100.00 per vehicle shall accompany said renewal application. A surety bond or letter of

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credit in the amount of \$25,000.00 is also required with the application, in order to satisfy the surety requirements specified in the Solid Waste Ordinance. During the review of the renewal application, the Contractor will operate as a non-exclusive Franchise for a period not to exceed 60 days or until the renewal application is accepted or denied within that 60 day period. Applications for renewal not meeting the above criteria shall not be considered bona fide applications.

9.1 The Contractor understands and acknowledges that renewal applications are subject to approval by the Board of County Commissioners, after a public hearing, and that the County Administrator, or his designee, may without prior notice limit the number of non-exclusive Franchises and/or new applicants for non-exclusive Franchises.

**ARTICLE X: INSURANCE**

10.0 The Contractor shall not commence work under this Contract until he/she has obtained all insurance required under this section and such insurance has been approved by the County. All insurance policies shall be issued by companies authorized to do business under the laws of the State of Florida. The Contractor shall furnish proof of Insurance to the County prior to the commencement of operations. The Certificate(s) shall clearly indicate the Contractor has obtained insurance of the type, amount, and classification as required by contract and that no material change or cancellation of the insurance shall be effective without thirty (30) days prior written notice to the County. Certificates shall specifically include the County as Additional Insured for all lines of coverage except Workers' Compensation and Professional Liability. A copy of the endorsement must accompany the certificate. Compliance with the foregoing requirements shall not relieve the Contractor of its liability and obligations under this Contract.

Certificate Holder Address: St. Johns County, a political subdivision of the State of  
Florida  
500 San Sebastian View  
St. Augustine, FL 32084



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10.1 The Contractor shall maintain during the life of this Contract, Comprehensive General Liability Insurance with minimum limits of \$1,000,000 per occurrence, \$2,000,000 aggregate, to protect the Contractor from claims for damages for bodily injury, including wrongful death, as well as from claims of property damages which may arise from any operations under this contract, whether such operations be by the Contractor or by anyone directly employed by or contracting with the Contractor.

10.2 The Contractor shall maintain during the life of the contract, Professional Liability or Errors and Omissions Insurance with minimum limits of \$1,000,000, if applicable.

10.3 The Contractor shall maintain during the life of this Contract, Comprehensive Automobile Liability Insurance with minimum limits of \$300,000 combined single limit for bodily injury and property damage liability to protect the Contractor from claims for damages for bodily injury, including the ownership, use, or maintenance of owned and non-owned automobiles, including rented/hired automobiles whether such operations be by the Contractor or by anyone directly or indirectly employed by a Contractor.

10.4 The Contractor shall maintain during the life of this Contract, adequate Workers' Compensation Insurance in at least such amounts as required by Florida law.

10.5 In the event of unusual circumstances, the County Administrator or his designee may adjust these insurance requirements.

**ARTICLE XI: INDEMNIFICATION**

11.0 The Contractor agrees that it will indemnify, hold harmless and defend 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.

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NON-EXCLUSIVE FRANCHISE AGREEMENT FOR  
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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.

11.2 This provision relating to Indemnification shall survive the termination of this Agreement.

**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 ten (10) days of receipt of the written notice, the County may terminate the Agreement at any time thereafter at the County's discretion by providing written notice to the Contractor, which shall be effective upon the date specified in the 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 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 the Solid Waste Ordinance, 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

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NON-EXCLUSIVE FRANCHISE AGREEMENT FOR  
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default. The County shall issue the Contractor a written 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. 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 *Representatives of the Parties*

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 Foley \_\_\_\_\_ . Either party may change its representative upon five (5) days, prior written notice to the other party.

13.1 *Notices*

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:

Republic Services of Florida, LP

8619 Western Way

Jacksonville, FL 32256

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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 in writing.

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 made expressly and in writing 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*

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 the Agreement. Any action to interpret and/or enforce the 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 Board of County Commissioners approval in writing. As a condition precedent to receiving the County's consent, the Contractor or the potential transferee must demonstrate that the transferee has the ability to comply with all of the applicable requirements set forth in this Agreement and St. Johns County 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

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NON-EXCLUSIVE FRANCHISE AGREEMENT FOR  
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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 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 will not be affected but will 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, which requires performance by a party subsequent to termination of this Agreement, shall remain enforceable against such party subsequent to such 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 St. Johns County.

**13.11 *Independent Franchisee***

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 the agent, representative, employee, or servant of the County.

**ST. JOHNS COUNTY  
NON-EXCLUSIVE FRANCHISE AGREEMENT FOR  
COMMERCIAL / INDUSTRIAL SOLID WASTE COLLECTION FRANCHISE**

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 shares or owns any percent of the total assets or capital stock of the Contractor, nor will any such person directly or indirectly benefit 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 its common law sovereign immunity under Section 768.28, Florida Statutes.

**ST. JOHNS COUNTY  
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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. Unless otherwise specific noted, any reference in this Agreement to federal or state statutes or to any County ordinance shall mean as that statute or ordinance 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.

**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 Contractor’s books and records (including without limitation, data, documents, and correspondence) in order to determine whether compliance has been achieved with

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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 otherwise protected by County, State and/or Federal law.

*[Signatures appear on following page.]*




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IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed on May 2, 2017.

Republic Services of Florida, LP  
Name of Company

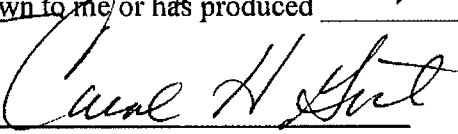
Printed Name: Bill Brinkley

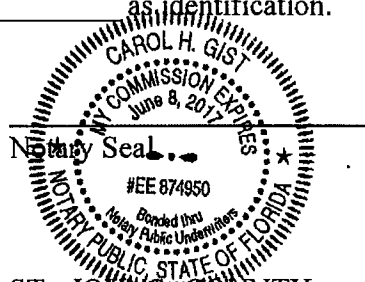
Title: General Manager

Signature:   
Company Representative  
(CORPORATE SEAL)

STATE OF FLORIDA  
COUNTY OF ST. JOHNS

The foregoing instrument was acknowledged before me this 2<sup>nd</sup> day of MAY, 2017, by Bill Brinkley, as General Mgr of Republic Services, who is personally known to me or has produced \_\_\_\_\_ as identification.

  
Notary



ST. JOHNS COUNTY, a political subdivision of the State of Florida

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

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

(OFFICIAL SEAL)

**ST. JOHNS COUNTY  
NON-EXCLUSIVE FRANCHISE AGREEMENT FOR  
COMMERCIAL / INDUSTRIAL SOLID WASTE COLLECTION FRANCHISE**

This Non-Exclusive Franchise Agreement for Commercial / Industrial Solid Waste Collection Franchise ("Agreement") is made between St. Johns County ("County"), a political subdivision of the State of Florida, and Southern Comfort Mowing, Inc., its successors and assigns, hereinafter referred to as the "Contractor."

WHEREAS, Contractor wishes to collect and transport Commercial / Industrial Solid Waste 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 words and terms used in this Agreement shall have the meanings set forth in St. Johns County Ordinance Nos. 99-27 and 06-98, as may be amended, (collectively, "Solid Waste Ordinance") unless otherwise indicated herein.

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

2.0 By executing this Agreement, Contractor acknowledges that it has read the provisions of the Solid Waste Ordinance and this Agreement, and Contractor agrees to comply at all times with the applicable provisions of this Agreement and the Solid Waste 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 transportation of Commercial / Industrial Solid Waste in the unincorporated areas of St. Johns County, subject to the terms and conditions of this Agreement, the Solid Waste Ordinance, and any and all other applicable laws. This Franchise agreement only authorizes the Contractor to collect and transport Commercial /

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Industrial Solid Waste in roll-off containers, front loading vehicles, compactors or other commercial collection equipment standard to the industry for this type of service.

**ARTICLE IV: TERM**

4.0 This Agreement shall be effective when signed by the County's duly authorized representative. This Agreement shall run from the effective date and shall expire at 11:59pm on June 30, 2020.

**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, Ordinances, and any other applicable local, state, or federal laws.

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

5.2 Contractor may collect and transport Commercial / Industrial Solid Waste Collection after 7:00am until 7:00pm on Monday through Saturday and 9:00am until 7:00pm on Sundays and holidays, as stated in St. Johns County Ordinance No. 2015-19, as may be amended. Contractor shall not collect or transport Commercial / Industrial Solid Waste Collection at other times, unless the Contractor has received the prior written approval of the Manager of the St. Johns County Solid Waste Department.

5.3 When collecting or transporting Commercial / Industrial Solid Waste Collection, Contractor's employees shall wear a company shirt or uniform, which shall have the Contractor's name or logo located in a conspicuous place.

5.4 All of the trucks used by the Contractor for the collection of Commercial / Industrial Solid Waste 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 of Commercial / Industrial Solid Waste Collection shall be labeled by the Contractor on each long side (two sides) in the same manner.

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5.5 The Contractor's commercial collections equipment and containers shall be securely covered and/or contained when holding or transporting Commercial / Industrial Solid Waste as authorized under this Agreement.

5.6 All of the rolling stock used by the Contractor for transporting Commercial / Industrial Solid Waste in St. Johns County shall be maintained in a good, clean, and safe operating condition, and shall be properly marked with the Contractor's name, phone number, and vehicle number.

5.7 Contractor shall provide the County with a current list of the vehicles used by the Contractor, including the license plate number and vehicle identification number (VIN) for each vehicle. 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 Contractor shall immediately clean-up and properly dispose of any waste materials or products dropped or spilled by the Contractor. Upon completion of the clean-up, the Contractor shall timely report to the Solid Waste Department in writing the location, type of drop or spill and the corrective procedure conducted.

**ARTICLE VI: DISPOSAL SITES**

6.0 All of the Commercial / Industrial Solid Waste collected by the Contractor shall be processed or disposed of at a landfill or transfer station owned by St. Johns County or other solid waste management facility approved by the County.

**ARTICLE VII: APPLICATION FEES**

7.0 The Contractor is required to complete and submit the standard St. Johns County application form for a Commercial / Industrial Non-Exclusive Franchise. A non-refundable \$500.00 application fee, as well as a \$100.00 maintenance and management fee per vehicle, shall accompany the Contractor's application to the County for the non-exclusive Franchise.

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**ARTICLE VIII: FRANCHISE FEES**

8.0 The Contractor shall pay a Franchise fee to the County for the privilege of using the public rights-of-way, streets, roads, alleys and other thoroughfares of the County for the collection and transportation of Commercial / Industrial Solid Waste that originates in the unincorporated areas of the 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 Commercial / Industrial Solid Waste Collection in the unincorporated areas of St. Johns County.

8.1 The Contractor shall agree in writing, on a form provided by the County at the time of non-exclusive Franchise application or renewal, that the Contractor will fully pay the applicable Franchise fee when the fee becomes due. The Franchise fee for a Non-Exclusive Commercial / Industrial Solid Waste Collection and Transportation Franchise shall be equal to 5% of the Gross Revenues collected by the Contractor for services provided pursuant to this Agreement to include the collection and transportation of Commercial / Industrial Solid Waste originating in the unincorporated areas of St. Johns County provided that the Commercial / Industrial Solid Waste is directly transported to a landfill or transfer station owned by St. Johns County or other solid waste management facility approved by the 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 15 of each year or within 60 days of termination of the Agreement. Each quarterly payment shall be based on the Gross Revenues earned by the Contractor for the services provided pursuant to this Agreement for the preceding calendar quarter.

8.3 The 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 contract period or any partial period. The financial statement shall be prepared and certified 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

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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 and its auditors to inspect and examine the Contractor's financial books and records, as well as its statistical, customer, service, and other records relating to the accumulation, collection, transportation, and disposal of Commercial / Industrial Solid Waste from properties in the unincorporated areas of St. Johns County, to confirm the Contractor's compliance with this Agreement. The inspections shall be allowed by the Contractor at any reasonable time following a reasonable notice, which shall not be construed to exceed seven days. Additionally, the County and its 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 public records.

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 revoke the Franchise and terminate this Agreement, as provided in Article XII below. 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: RENEWAL**

9.0 Between the dates of April 1 through June 1 in the same year as the expiration date of this Agreement, a renewal application may be submitted to the Department of Solid Waste Management. A \$500.00 renewal fee and a vehicle fee of \$100.00 per vehicle shall accompany said renewal application. A surety bond or letter of

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credit in the amount of \$25,000.00 is also required with the application, in order to satisfy the surety requirements specified in the Solid Waste Ordinance. During the review of the renewal application, the Contractor will operate as a non-exclusive Franchise for a period not to exceed 60 days or until the renewal application is accepted or denied within that 60 day period. Applications for renewal not meeting the above criteria shall not be considered bona fide applications.

9.1 The Contractor understands and acknowledges that renewal applications are subject to approval by the Board of County Commissioners, after a public hearing, and that the County Administrator, or his designee, may without prior notice limit the number of non-exclusive Franchises and/or new applicants for non-exclusive Franchises.

**ARTICLE X: INSURANCE**

10.0 The Contractor shall not commence work under this Contract until he/she has obtained all insurance required under this section and such insurance has been approved by the County. All insurance policies shall be issued by companies authorized to do business under the laws of the State of Florida. The Contractor shall furnish proof of Insurance to the County prior to the commencement of operations. The Certificate(s) shall clearly indicate the Contractor has obtained insurance of the type, amount, and classification as required by contract and that no material change or cancellation of the insurance shall be effective without thirty (30) days prior written notice to the County. Certificates shall specifically include the County as Additional Insured for all lines of coverage except Workers' Compensation and Professional Liability. A copy of the endorsement must accompany the certificate. Compliance with the foregoing requirements shall not relieve the Contractor of its liability and obligations under this Contract.

Certificate Holder Address: St. Johns County, a political subdivision of the State of  
Florida  
500 San Sebastian View  
St. Augustine, FL 32084

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10.1 The Contractor shall maintain during the life of this Contract, Comprehensive General Liability Insurance with minimum limits of \$1,000,000 per occurrence, \$2,000,000 aggregate, to protect the Contractor from claims for damages for bodily injury, including wrongful death, as well as from claims of property damages which may arise from any operations under this contract, whether such operations be by the Contractor or by anyone directly employed by or contracting with the Contractor.

10.2 The Contractor shall maintain during the life of the contract, Professional Liability or Errors and Omissions Insurance with minimum limits of \$1,000,000, if applicable.

10.3 The Contractor shall maintain during the life of this Contract, Comprehensive Automobile Liability Insurance with minimum limits of \$300,000 combined single limit for bodily injury and property damage liability to protect the Contractor from claims for damages for bodily injury, including the ownership, use, or maintenance of owned and non-owned automobiles, including rented/hired automobiles whether such operations be by the Contractor or by anyone directly or indirectly employed by a Contractor.

10.4 The Contractor shall maintain during the life of this Contract, adequate Workers' Compensation Insurance in at least such amounts as required by Florida law.

10.5 In the event of unusual circumstances, the County Administrator or his designee may adjust these insurance requirements.

**ARTICLE XI: INDEMNIFICATION**

11.0 The Contractor agrees that it will indemnify, hold harmless and defend 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.



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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.

11.2 This provision relating to Indemnification shall survive the termination of this Agreement.

**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 ten (10) days of receipt of the written notice, the County may terminate the Agreement at any time thereafter at the County's discretion by providing written notice to the Contractor, which shall be effective upon the date specified in the 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 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 the Solid Waste Ordinance, 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

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default. The County shall issue the Contractor a written 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. 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 *Representatives of the Parties***

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 Samuel James  
Southern Comfort Mowing, Inc. Either party may change its representative upon five (5) days, prior written notice to the other party.

**13.1 *Notices***

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:

Samuel James - President

Southern Comfort Mowing, Inc.

3175 US 1 South, Suite 9 St. Augustine, FL 32086

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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 in writing.

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 made expressly and in writing 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*

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 the Agreement. Any action to interpret and/or enforce the 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 Board of County Commissioners approval in writing. As a condition precedent to receiving the County's consent, the Contractor or the potential transferee must demonstrate that the transferee has the ability to comply with all of the applicable requirements set forth in this Agreement and St. Johns County 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

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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 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 will not be affected but will 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, which requires performance by a party subsequent to termination of this Agreement, shall remain enforceable against such party subsequent to such 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 St. Johns County.

13.11 *Independent Franchisee*

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 the agent, representative, employee, or servant of the County.

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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 shares or owns any percent of the total assets or capital stock of the Contractor, nor will any such person directly or indirectly benefit 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 its common law sovereign immunity under Section 768.28, Florida Statutes.

13.15 *Amendment*

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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. Unless otherwise specific noted, any reference in this Agreement to federal or state statutes or to any County ordinance shall mean as that statute or ordinance may be amended from time to time.

13.16 *Access to Records*

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

13.17 *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.

**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.

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**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 Contractor's 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 otherwise protected by County, State and/or Federal law.

*[Signatures appear on following page.]*

**ST. JOHNS COUNTY  
NON-EXCLUSIVE FRANCHISE AGREEMENT FOR  
COMMERCIAL / INDUSTRIAL SOLID WASTE COLLECTION FRANCHISE**

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed on May 01<sup>st</sup>, 2017.

Southern Comfort Mowing, Inc.  
Name of Company

Printed Name: Samuel James

Title: President

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

STATE OF FLORIDA  
COUNTY OF ST. JOHNS

The foregoing instrument was acknowledged before me this 1 day of May, 2017, by Samuel James, as President of Southern Comfort Mowing Inc., who is personally known to me or has produced FL DL as identification.

[Handwritten Signature]  
Notary



ST. JOHNS COUNTY, a political subdivision of the State of Florida

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

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

(OFFICIAL SEAL)



**ST. JOHNS COUNTY  
NON-EXCLUSIVE FRANCHISE AGREEMENT FOR  
COMMERCIAL / INDUSTRIAL SOLID WASTE COLLECTION FRANCHISE**

This Non-Exclusive Franchise Agreement for Commercial / Industrial Solid Waste Collection Franchise ("Agreement") is made between St. Johns County ("County"), a political subdivision of the State of Florida, and Sunshine Recycling successors and assigns, hereinafter referred to as the "Contractor."

WHEREAS, Contractor wishes to collect and transport Commercial / Industrial Solid Waste 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 words and terms used in this Agreement shall have the meanings set forth in St. Johns County Ordinance Nos. 99-27 and 06-98, as may be amended, (collectively, "Solid Waste Ordinance") unless otherwise indicated herein.

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

2.0 By executing this Agreement, Contractor acknowledges that it has read the provisions of the Solid Waste Ordinance and this Agreement, and Contractor agrees to comply at all times with the applicable provisions of this Agreement and the Solid Waste 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 transportation of Commercial / Industrial Solid Waste in the unincorporated areas of St. Johns County, subject to the terms and conditions of this Agreement, the Solid Waste Ordinance, and any and all other applicable laws. This Franchise agreement only authorizes the Contractor to collect and transport Commercial /

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NON-EXCLUSIVE FRANCHISE AGREEMENT FOR  
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Industrial Solid Waste in roll-off containers, front loading vehicles, compactors or other commercial collection equipment standard to the industry for this type of service.

**ARTICLE IV: TERM**

4.0 This Agreement shall be effective when signed by the County's duly authorized representative. This Agreement shall run from the effective date and shall expire at 11:59pm on June 30, 2020.

**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, Ordinances, and any other applicable local, state, or federal laws.

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

5.2 Contractor may collect and transport Commercial / Industrial Solid Waste Collection after 7:00am until 7:00pm on Monday through Saturday and 9:00am until 7:00pm on Sundays and holidays, as stated in St. Johns County Ordinance No. 2015-19, as may be amended. Contractor shall not collect or transport Commercial / Industrial Solid Waste Collection at other times, unless the Contractor has received the prior written approval of the Manager of the St. Johns County Solid Waste Department.

5.3 When collecting or transporting Commercial / Industrial Solid Waste Collection, Contractor's employees shall wear a company shirt or uniform, which shall have the Contractor's name or logo located in a conspicuous place.

5.4 All of the trucks used by the Contractor for the collection of Commercial / Industrial Solid Waste 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 of Commercial / Industrial Solid Waste Collection shall be labeled by the Contractor on each long side (two sides) in the same manner.

**ST. JOHNS COUNTY  
NON-EXCLUSIVE FRANCHISE AGREEMENT FOR  
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5.5 The Contractor's commercial collections equipment and containers shall be securely covered and/or contained when holding or transporting Commercial / Industrial Solid Waste as authorized under this Agreement.

5.6 All of the rolling stock used by the Contractor for transporting Commercial / Industrial Solid Waste in St. Johns County shall be maintained in a good, clean, and safe operating condition, and shall be properly marked with the Contractor's name, phone number, and vehicle number.

5.7 Contractor shall provide the County with a current list of the vehicles used by the Contractor, including the license plate number and vehicle identification number (VIN) for each vehicle. 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 Contractor shall immediately clean-up and properly dispose of any waste materials or products dropped or spilled by the Contractor. Upon completion of the clean-up, the Contractor shall timely report to the Solid Waste Department in writing the location, type of drop or spill and the corrective procedure conducted.

**ARTICLE VI: DISPOSAL SITES**

6.0 All of the Commercial / Industrial Solid Waste collected by the Contractor shall be processed or disposed of at a landfill or transfer station owned by St. Johns County or other solid waste management facility approved by the County.

**ARTICLE VII: APPLICATION FEES**

7.0 The Contractor is required to complete and submit the standard St. Johns County application form for a Commercial / Industrial Non-Exclusive Franchise. A non-refundable \$500.00 application fee, as well as a \$100.00 maintenance and management fee per vehicle, shall accompany the Contractor's application to the County for the non-exclusive Franchise.

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NON-EXCLUSIVE FRANCHISE AGREEMENT FOR  
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**ARTICLE VIII: FRANCHISE FEES**

8.0 The Contractor shall pay a Franchise fee to the County for the privilege of using the public rights-of-way, streets, roads, alleys and other thoroughfares of the County for the collection and transportation of Commercial / Industrial Solid Waste that originates in the unincorporated areas of the 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 Commercial / Industrial Solid Waste Collection in the unincorporated areas of St. Johns County.

8.1 The Contractor shall agree in writing, on a form provided by the County at the time of non-exclusive Franchise application or renewal, that the Contractor will fully pay the applicable Franchise fee when the fee becomes due. The Franchise fee for a Non-Exclusive Commercial / Industrial Solid Waste Collection and Transportation Franchise shall be equal to 5% of the Gross Revenues collected by the Contractor for services provided pursuant to this Agreement to include the collection and transportation of Commercial / Industrial Solid Waste originating in the unincorporated areas of St. Johns County provided that the Commercial / Industrial Solid Waste is directly transported to a landfill or transfer station owned by St. Johns County or other solid waste management facility approved by the 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 15 of each year or within 60 days of termination of the Agreement. Each quarterly payment shall be based on the Gross Revenues earned by the Contractor for the services provided pursuant to this Agreement for the preceding calendar quarter.

8.3 The 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 contract period or any partial period. The financial statement shall be prepared and certified 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

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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 and its auditors to inspect and examine the Contractor's financial books and records, as well as its statistical, customer, service, and other records relating to the accumulation, collection, transportation, and disposal of Commercial / Industrial Solid Waste from properties in the unincorporated areas of St. Johns County, to confirm the Contractor's compliance with this Agreement. The inspections shall be allowed by the Contractor at any reasonable time following a reasonable notice, which shall not be construed to exceed seven days. Additionally, the County and its 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 public records.

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 revoke the Franchise and terminate this Agreement, as provided in Article XII below. 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: RENEWAL**

9.0 Between the dates of April 1 through June 1 in the same year as the expiration date of this Agreement, a renewal application may be submitted to the Department of Solid Waste Management. A \$500.00 renewal fee and a vehicle fee of \$100.00 per vehicle shall accompany said renewal application. A surety bond or letter of

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credit in the amount of \$25,000.00 is also required with the application, in order to satisfy the surety requirements specified in the Solid Waste Ordinance. During the review of the renewal application, the Contractor will operate as a non-exclusive Franchise for a period not to exceed 60 days or until the renewal application is accepted or denied within that 60 day period. Applications for renewal not meeting the above criteria shall not be considered bona fide applications.

9.1 The Contractor understands and acknowledges that renewal applications are subject to approval by the Board of County Commissioners, after a public hearing, and that the County Administrator, or his designee, may without prior notice limit the number of non-exclusive Franchises and/or new applicants for non-exclusive Franchises.

**ARTICLE X: INSURANCE**

10.0 The Contractor shall not commence work under this Contract until he/she has obtained all insurance required under this section and such insurance has been approved by the County. All insurance policies shall be issued by companies authorized to do business under the laws of the State of Florida. The Contractor shall furnish proof of Insurance to the County prior to the commencement of operations. The Certificate(s) shall clearly indicate the Contractor has obtained insurance of the type, amount, and classification as required by contract and that no material change or cancellation of the insurance shall be effective without thirty (30) days prior written notice to the County. Certificates shall specifically include the County as Additional Insured for all lines of coverage except Workers' Compensation and Professional Liability. A copy of the endorsement must accompany the certificate. Compliance with the foregoing requirements shall not relieve the Contractor of its liability and obligations under this Contract.

Certificate Holder Address: St. Johns County, a political subdivision of the State of  
Florida  
500 San Sebastian View  
St. Augustine, FL 32084

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10.1 The Contractor shall maintain during the life of this Contract, Comprehensive General Liability Insurance with minimum limits of \$1,000,000 per occurrence, \$2,000,000 aggregate, to protect the Contractor from claims for damages for bodily injury, including wrongful death, as well as from claims of property damages which may arise from any operations under this contract, whether such operations be by the Contractor or by anyone directly employed by or contracting with the Contractor.

10.2 The Contractor shall maintain during the life of the contract, Professional Liability or Errors and Omissions Insurance with minimum limits of \$1,000,000, if applicable.

10.3 The Contractor shall maintain during the life of this Contract, Comprehensive Automobile Liability Insurance with minimum limits of \$300,000 combined single limit for bodily injury and property damage liability to protect the Contractor from claims for damages for bodily injury, including the ownership, use, or maintenance of owned and non-owned automobiles, including rented/hired automobiles whether such operations be by the Contractor or by anyone directly or indirectly employed by a Contractor.

10.4 The Contractor shall maintain during the life of this Contract, adequate Workers' Compensation Insurance in at least such amounts as required by Florida law.

10.5 In the event of unusual circumstances, the County Administrator or his designee may adjust these insurance requirements.

**ARTICLE XI: INDEMNIFICATION**

11.0 The Contractor agrees that it will indemnify, hold harmless and defend 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.

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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.

11.2 This provision relating to Indemnification shall survive the termination of this Agreement.

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 ten (10) days of receipt of the written notice, the County may terminate the Agreement at any time thereafter at the County's discretion by providing written notice to the Contractor, which shall be effective upon the date specified in the 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 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 the Solid Waste Ordinance, 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



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default. The County shall issue the Contractor a written 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. 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 *Representatives of the Parties*

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 Chuck Herb. Either party may change its representative upon five (5) days, prior written notice to the other party.

13.1 *Notices*

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  
1263 W Landstreet Rd  
Orlando FL 32824

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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 in writing.

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 made expressly and in writing 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*

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 the Agreement. Any action to interpret and/or enforce the 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 Board of County Commissioners approval in writing. As a condition precedent to receiving the County's consent, the Contractor or the potential transferee must demonstrate that the transferee has the ability to comply with all of the applicable requirements set forth in this Agreement and St. Johns County 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

**ST. JOHNS COUNTY  
NON-EXCLUSIVE FRANCHISE AGREEMENT FOR  
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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 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 will not be affected but will 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, which requires performance by a party subsequent to termination of this Agreement, shall remain enforceable against such party subsequent to such 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 St. Johns County.

13.11 *Independent Franchisee*

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 the agent, representative, employee, or servant of the County.

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NON-EXCLUSIVE FRANCHISE AGREEMENT FOR  
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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 shares or owns any percent of the total assets or capital stock of the Contractor, nor will any such person directly or indirectly benefit 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 its common law sovereign immunity under Section 768.28, Florida Statutes.

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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. Unless otherwise specific noted, any reference in this Agreement to federal or state statutes or to any County ordinance shall mean as that statute or ordinance 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.

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 Contractor's books and records (including without limitation, data, documents, and correspondence) in order to determine whether compliance has been achieved with

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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 otherwise protected by County, State and/or Federal law.

*[Signatures appear on following page.]*

**ST. JOHNS COUNTY  
NON-EXCLUSIVE FRANCHISE AGREEMENT FOR  
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IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed on May 11 2017, 2017.

Sunshine Recycling  
Name of Company

Printed Name: Chuck Herb

Title: President

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

STATE OF FLORIDA  
COUNTY OF ST. JOHNS

The foregoing instrument was acknowledged before me this 11 day of May, 2017, by Chuck Herb, as President of Sunshine Recycling, who is personally known to me or has produced ED as identification.

[Handwritten Signature]  
Notary

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

RECEIVED MAY 10 2017



ST. JOHNS COUNTY, a political subdivision of the State of Florida

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

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

(OFFICIAL SEAL)

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NON-EXCLUSIVE FRANCHISE AGREEMENT FOR  
COMMERCIAL / INDUSTRIAL SOLID WASTE COLLECTION FRANCHISE**

This Non-Exclusive Franchise Agreement for Commercial / Industrial Solid Waste Collection Franchise ("Agreement") is made between St. Johns County ("County"), a political subdivision of the State of Florida, and Waste Management Inc. of FL, its successors and assigns, hereinafter referred to as the "Contractor."

WHEREAS, Contractor wishes to collect and transport Commercial / Industrial Solid Waste 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 words and terms used in this Agreement shall have the meanings set forth in St. Johns County Ordinance Nos. 99-27 and 06-98, as may be amended, (collectively, "Solid Waste Ordinance") unless otherwise indicated herein.

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

2.0 By executing this Agreement, Contractor acknowledges that it has read the provisions of the Solid Waste Ordinance and this Agreement, and Contractor agrees to comply at all times with the applicable provisions of this Agreement and the Solid Waste 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 transportation of Commercial / Industrial Solid Waste in the unincorporated areas of St. Johns County, subject to the terms and conditions of this Agreement, the Solid Waste Ordinance, and any and all other applicable laws. This Franchise agreement only authorizes the Contractor to collect and transport Commercial /



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Industrial Solid Waste in roll-off containers, front loading vehicles, compactors or other commercial collection equipment standard to the industry for this type of service.

**ARTICLE IV: TERM**

4.0 This Agreement shall be effective when signed by the County's duly authorized representative. This Agreement shall run from the effective date and shall expire at 11:59pm on June 30, 2020.

**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, Ordinances, and any other applicable local, state, or federal laws.

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

5.2 Contractor may collect and transport Commercial / Industrial Solid Waste Collection after 7:00am until 7:00pm on Monday through Saturday and 9:00am until 7:00pm on Sundays and holidays, as stated in St. Johns County Ordinance No. 2015-19, as may be amended. Contractor shall not collect or transport Commercial / Industrial Solid Waste Collection at other times, unless the Contractor has received the prior written approval of the Manager of the St. Johns County Solid Waste Department.

5.3 When collecting or transporting Commercial / Industrial Solid Waste Collection, Contractor's employees shall wear a company shirt or uniform, which shall have the Contractor's name or logo located in a conspicuous place.

5.4 All of the trucks used by the Contractor for the collection of Commercial / Industrial Solid Waste 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 of Commercial / Industrial Solid Waste Collection shall be labeled by the Contractor on each long side (two sides) in the same manner.

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5.5 The Contractor's commercial collections equipment and containers shall be securely covered and/or contained when holding or transporting Commercial / Industrial Solid Waste as authorized under this Agreement.

5.6 All of the rolling stock used by the Contractor for transporting Commercial / Industrial Solid Waste in St. Johns County shall be maintained in a good, clean, and safe operating condition, and shall be properly marked with the Contractor's name, phone number, and vehicle number.

5.7 Contractor shall provide the County with a current list of the vehicles used by the Contractor, including the license plate number and vehicle identification number (VIN) for each vehicle. 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 Contractor shall immediately clean-up and properly dispose of any waste materials or products dropped or spilled by the Contractor. Upon completion of the clean-up, the Contractor shall timely report to the Solid Waste Department in writing the location, type of drop or spill and the corrective procedure conducted.

**ARTICLE VI: DISPOSAL SITES**

6.0 All of the Commercial / Industrial Solid Waste collected by the Contractor shall be processed or disposed of at a landfill or transfer station owned by St. Johns County or other solid waste management facility approved by the County.

**ARTICLE VII: APPLICATION FEES**

7.0 The Contractor is required to complete and submit the standard St. Johns County application form for a Commercial / Industrial Non-Exclusive Franchise. A non-refundable \$500.00 application fee, as well as a \$100.00 maintenance and management fee per vehicle, shall accompany the Contractor's application to the County for the non-exclusive Franchise.

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**ARTICLE VIII: FRANCHISE FEES**

8.0 The Contractor shall pay a Franchise fee to the County for the privilege of using the public rights-of-way, streets, roads, alleys and other thoroughfares of the County for the collection and transportation of Commercial / Industrial Solid Waste that originates in the unincorporated areas of the 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 Commercial / Industrial Solid Waste Collection in the unincorporated areas of St. Johns County.

8.1 The Contractor shall agree in writing, on a form provided by the County at the time of non-exclusive Franchise application or renewal, that the Contractor will fully pay the applicable Franchise fee when the fee becomes due. The Franchise fee for a Non-Exclusive Commercial / Industrial Solid Waste Collection and Transportation Franchise shall be equal to 5% of the Gross Revenues collected by the Contractor for services provided pursuant to this Agreement to include the collection and transportation of Commercial / Industrial Solid Waste originating in the unincorporated areas of St. Johns County provided that the Commercial / Industrial Solid Waste is directly transported to a landfill or transfer station owned by St. Johns County or other solid waste management facility approved by the 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 15 of each year or within 60 days of termination of the Agreement. Each quarterly payment shall be based on the Gross Revenues earned by the Contractor for the services provided pursuant to this Agreement for the preceding calendar quarter.

8.3 The 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 contract period or any partial period. The financial statement shall be prepared and certified 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

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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 and its auditors to inspect and examine the Contractor's financial books and records, as well as its statistical, customer, service, and other records relating to the accumulation, collection, transportation, and disposal of Commercial / Industrial Solid Waste from properties in the unincorporated areas of St. Johns County, to confirm the Contractor's compliance with this Agreement. The inspections shall be allowed by the Contractor at any reasonable time following a reasonable notice, which shall not be construed to exceed seven days. Additionally, the County and its 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 public records.

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 revoke the Franchise and terminate this Agreement, as provided in Article XII below. 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: RENEWAL**

9.0 Between the dates of April 1 through June 1 in the same year as the expiration date of this Agreement, a renewal application may be submitted to the Department of Solid Waste Management. A \$500.00 renewal fee and a vehicle fee of \$100.00 per vehicle shall accompany said renewal application. A surety bond or letter of

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credit in the amount of \$25,000.00 is also required with the application, in order to satisfy the surety requirements specified in the Solid Waste Ordinance. During the review of the renewal application, the Contractor will operate as a non-exclusive Franchise for a period not to exceed 60 days or until the renewal application is accepted or denied within that 60 day period. Applications for renewal not meeting the above criteria shall not be considered bona fide applications.

9.1 The Contractor understands and acknowledges that renewal applications are subject to approval by the Board of County Commissioners, after a public hearing, and that the County Administrator, or his designee, may without prior notice limit the number of non-exclusive Franchises and/or new applicants for non-exclusive Franchises.

**ARTICLE X: INSURANCE**

10.0 The Contractor shall not commence work under this Contract until he/she has obtained all insurance required under this section and such insurance has been approved by the County. All insurance policies shall be issued by companies authorized to do business under the laws of the State of Florida. The Contractor shall furnish proof of Insurance to the County prior to the commencement of operations. The Certificate(s) shall clearly indicate the Contractor has obtained insurance of the type, amount, and classification as required by contract and that no material change or cancellation of the insurance shall be effective without thirty (30) days prior written notice to the County. Certificates shall specifically include the County as Additional Insured for all lines of coverage except Workers' Compensation and Professional Liability. A copy of the endorsement must accompany the certificate. Compliance with the foregoing requirements shall not relieve the Contractor of its liability and obligations under this Contract.

Certificate Holder Address: St. Johns County, a political subdivision of the State of  
Florida  
500 San Sebastian View  
St. Augustine, FL 32084

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10.1 The Contractor shall maintain during the life of this Contract, Comprehensive General Liability Insurance with minimum limits of \$1,000,000 per occurrence, \$2,000,000 aggregate, to protect the Contractor from claims for damages for bodily injury, including wrongful death, as well as from claims of property damages which may arise from any operations under this contract, whether such operations be by the Contractor or by anyone directly employed by or contracting with the Contractor.

10.2 The Contractor shall maintain during the life of the contract, Professional Liability or Errors and Omissions Insurance with minimum limits of \$1,000,000, if applicable.

10.3 The Contractor shall maintain during the life of this Contract, Comprehensive Automobile Liability Insurance with minimum limits of \$300,000 combined single limit for bodily injury and property damage liability to protect the Contractor from claims for damages for bodily injury, including the ownership, use, or maintenance of owned and non-owned automobiles, including rented/hired automobiles whether such operations be by the Contractor or by anyone directly or indirectly employed by a Contractor.

10.4 The Contractor shall maintain during the life of this Contract, adequate Workers' Compensation Insurance in at least such amounts as required by Florida law.

10.5 In the event of unusual circumstances, the County Administrator or his designee may adjust these insurance requirements.

**ARTICLE XI: INDEMNIFICATION**

11.0 The Contractor agrees that it will indemnify, hold harmless and defend 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.

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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.

11.2 This provision relating to Indemnification shall survive the termination of this Agreement.

**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 ten (10) days of receipt of the written notice, the County may terminate the Agreement at any time thereafter at the County's discretion by providing written notice to the Contractor, which shall be effective upon the date specified in the 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 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 the Solid Waste Ordinance, 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

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default. The County shall issue the Contractor a written 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. 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     *Representatives of the Parties*

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 Meyer,  
Senior District Manager Either party may change its representative upon five (5) days, prior written notice to the other party.

13.1     *Notices*

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 Management Inc of Florida  
Tammy Meyer, Senior District Manager  
6501 Greenland Rd, Jacksonville, FL 32258



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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 in writing.

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 made expressly and in writing 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*

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 the Agreement. Any action to interpret and/or enforce the 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 Board of County Commissioners approval in writing. As a condition precedent to receiving the County's consent, the Contractor or the potential transferee must demonstrate that the transferee has the ability to comply with all of the applicable requirements set forth in this Agreement and St. Johns County 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

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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 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 will not be affected but will 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, which requires performance by a party subsequent to termination of this Agreement, shall remain enforceable against such party subsequent to such 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 St. Johns County.

**13.11** *Independent Franchisee*

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 the agent, representative, employee, or servant of the County.

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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 shares or owns any percent of the total assets or capital stock of the Contractor, nor will any such person directly or indirectly benefit 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 its common law sovereign immunity under Section 768.28, Florida Statutes.

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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. Unless otherwise specific noted, any reference in this Agreement to federal or state statutes or to any County ordinance shall mean as that statute or ordinance 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.

**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 Contractor's books and records (including without limitation, data, documents, and correspondence) in order to determine whether compliance has been achieved with

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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 otherwise protected by County, State and/or Federal law.

*[Signatures appear on following page.]*

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IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed on May 3, 2017.

Waste Management Inc of FL  
Name of Company

Printed Name: Tammy Meyer

Title: Senior District Manager

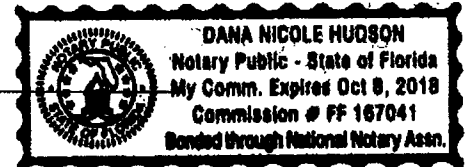
Signature: Tammy Meyer  
Company Representative  
(CORPORATE SEAL)

STATE OF FLORIDA  
COUNTY OF ST. JOHNS

The foregoing instrument was acknowledged before me this 3 day of May, 2017, by Tammy Meyer, as \_\_\_\_\_ of \_\_\_\_\_, who is personally known to me or has produced \_\_\_\_\_ as identification.

Dana Nicole Hudson  
Notary

Notary Seal



ST. JOHNS COUNTY, a political  
subdivision of the State of Florida

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

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

(OFFICIAL SEAL)

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NON-EXCLUSIVE FRANCHISE AGREEMENT FOR  
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This Non-Exclusive Franchise Agreement for Commercial / Industrial Solid Waste Collection Franchise ("Agreement") is made between St. Johns County ("County"), a political subdivision of the State of Florida, and Waste Pro of Florida Inc., its successors and assigns, hereinafter referred to as the "Contractor."

WHEREAS, Contractor wishes to collect and transport Commercial / Industrial Solid Waste 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 words and terms used in this Agreement shall have the meanings set forth in St. Johns County Ordinance Nos. 99-27 and 06-98, as may be amended, (collectively, "Solid Waste Ordinance") unless otherwise indicated herein.

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

2.0 By executing this Agreement, Contractor acknowledges that it has read the provisions of the Solid Waste Ordinance and this Agreement, and Contractor agrees to comply at all times with the applicable provisions of this Agreement and the Solid Waste 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 transportation of Commercial / Industrial Solid Waste in the unincorporated areas of St. Johns County, subject to the terms and conditions of this Agreement, the Solid Waste Ordinance, and any and all other applicable laws. This Franchise agreement only authorizes the Contractor to collect and transport Commercial /

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Industrial Solid Waste in roll-off containers, front loading vehicles, compactors or other commercial collection equipment standard to the industry for this type of service.

**ARTICLE IV: TERM**

4.0 This Agreement shall be effective when signed by the County's duly authorized representative. This Agreement shall run from the effective date and shall expire at 11:59pm on June 30, 2020.

**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, Ordinances, and any other applicable local, state, or federal laws.

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

5.2 Contractor may collect and transport Commercial / Industrial Solid Waste Collection after 7:00am until 7:00pm on Monday through Saturday and 9:00am until 7:00pm on Sundays and holidays, as stated in St. Johns County Ordinance No. 2015-19, as may be amended. Contractor shall not collect or transport Commercial / Industrial Solid Waste Collection at other times, unless the Contractor has received the prior written approval of the Manager of the St. Johns County Solid Waste Department.

5.3 When collecting or transporting Commercial / Industrial Solid Waste Collection, Contractor's employees shall wear a company shirt or uniform, which shall have the Contractor's name or logo located in a conspicuous place.

5.4 All of the trucks used by the Contractor for the collection of Commercial / Industrial Solid Waste 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 of Commercial / Industrial Solid Waste Collection shall be labeled by the Contractor on each long side (two sides) in the same manner.



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5.5 The Contractor's commercial collections equipment and containers shall be securely covered and/or contained when holding or transporting Commercial / Industrial Solid Waste as authorized under this Agreement.

5.6 All of the rolling stock used by the Contractor for transporting Commercial / Industrial Solid Waste in St. Johns County shall be maintained in a good, clean, and safe operating condition, and shall be properly marked with the Contractor's name, phone number, and vehicle number.

5.7 Contractor shall provide the County with a current list of the vehicles used by the Contractor, including the license plate number and vehicle identification number (VIN) for each vehicle. 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 Contractor shall immediately clean-up and properly dispose of any waste materials or products dropped or spilled by the Contractor. Upon completion of the clean-up, the Contractor shall timely report to the Solid Waste Department in writing the location, type of drop or spill and the corrective procedure conducted.

**ARTICLE VI: DISPOSAL SITES**

6.0 All of the Commercial / Industrial Solid Waste collected by the Contractor shall be processed or disposed of at a landfill or transfer station owned by St. Johns County or other solid waste management facility approved by the County.

**ARTICLE VII: APPLICATION FEES**

7.0 The Contractor is required to complete and submit the standard St. Johns County application form for a Commercial / Industrial Non-Exclusive Franchise. A non-refundable \$500.00 application fee, as well as a \$100.00 maintenance and management fee per vehicle, shall accompany the Contractor's application to the County for the non-exclusive Franchise.

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ARTICLE VIII: FRANCHISE FEES

8.0 The Contractor shall pay a Franchise fee to the County for the privilege of using the public rights-of-way, streets, roads, alleys and other thoroughfares of the County for the collection and transportation of Commercial / Industrial Solid Waste that originates in the unincorporated areas of the 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 Commercial / Industrial Solid Waste Collection in the unincorporated areas of St. Johns County.

8.1 The Contractor shall agree in writing, on a form provided by the County at the time of non-exclusive Franchise application or renewal, that the Contractor will fully pay the applicable Franchise fee when the fee becomes due. The Franchise fee for a Non-Exclusive Commercial / Industrial Solid Waste Collection and Transportation Franchise shall be equal to 5% of the Gross Revenues collected by the Contractor for services provided pursuant to this Agreement to include the collection and transportation of Commercial / Industrial Solid Waste originating in the unincorporated areas of St. Johns County provided that the Commercial / Industrial Solid Waste is directly transported to a landfill or transfer station owned by St. Johns County or other solid waste management facility approved by the 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 15 of each year or within 60 days of termination of the Agreement. Each quarterly payment shall be based on the Gross Revenues earned by the Contractor for the services provided pursuant to this Agreement for the preceding calendar quarter.

8.3 The 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 contract period or any partial period. The financial statement shall be prepared and certified 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

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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 and its auditors to inspect and examine the Contractor's financial books and records, as well as its statistical, customer, service, and other records relating to the accumulation, collection, transportation, and disposal of Commercial / Industrial Solid Waste from properties in the unincorporated areas of St. Johns County, to confirm the Contractor's compliance with this Agreement. The inspections shall be allowed by the Contractor at any reasonable time following a reasonable notice, which shall not be construed to exceed seven days. Additionally, the County and its 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 public records.

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 revoke the Franchise and terminate this Agreement, as provided in Article XII below. 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: RENEWAL**

9.0 Between the dates of April 1 through June 1 in the same year as the expiration date of this Agreement, a renewal application may be submitted to the Department of Solid Waste Management. A \$500.00 renewal fee and a vehicle fee of \$100.00 per vehicle shall accompany said renewal application. A surety bond or letter of

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credit in the amount of \$25,000.00 is also required with the application, in order to satisfy the surety requirements specified in the Solid Waste Ordinance. During the review of the renewal application, the Contractor will operate as a non-exclusive Franchise for a period not to exceed 60 days or until the renewal application is accepted or denied within that 60 day period. Applications for renewal not meeting the above criteria shall not be considered bona fide applications.

9.1 The Contractor understands and acknowledges that renewal applications are subject to approval by the Board of County Commissioners, after a public hearing, and that the County Administrator, or his designee, may without prior notice limit the number of non-exclusive Franchises and/or new applicants for non-exclusive Franchises.

**ARTICLE X: INSURANCE**

10.0 The Contractor shall not commence work under this Contract until he/she has obtained all insurance required under this section and such insurance has been approved by the County. All insurance policies shall be issued by companies authorized to do business under the laws of the State of Florida. The Contractor shall furnish proof of Insurance to the County prior to the commencement of operations. The Certificate(s) shall clearly indicate the Contractor has obtained insurance of the type, amount, and classification as required by contract and that no material change or cancellation of the insurance shall be effective without thirty (30) days prior written notice to the County. Certificates shall specifically include the County as Additional Insured for all lines of coverage except Workers' Compensation and Professional Liability. A copy of the endorsement must accompany the certificate. Compliance with the foregoing requirements shall not relieve the Contractor of its liability and obligations under this Contract.

Certificate Holder Address: St. Johns County, a political subdivision of the State of  
Florida  
500 San Sebastian View  
St. Augustine, FL 32084

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10.1 The Contractor shall maintain during the life of this Contract, Comprehensive General Liability Insurance with minimum limits of \$1,000,000 per occurrence, \$2,000,000 aggregate, to protect the Contractor from claims for damages for bodily injury, including wrongful death, as well as from claims of property damages which may arise from any operations under this contract, whether such operations be by the Contractor or by anyone directly employed by or contracting with the Contractor.

10.2 The Contractor shall maintain during the life of the contract, Professional Liability or Errors and Omissions Insurance with minimum limits of \$1,000,000, if applicable.

10.3 The Contractor shall maintain during the life of this Contract, Comprehensive Automobile Liability Insurance with minimum limits of \$300,000 combined single limit for bodily injury and property damage liability to protect the Contractor from claims for damages for bodily injury, including the ownership, use, or maintenance of owned and non-owned automobiles, including rented/hired automobiles whether such operations be by the Contractor or by anyone directly or indirectly employed by a Contractor.

10.4 The Contractor shall maintain during the life of this Contract, adequate Workers' Compensation Insurance in at least such amounts as required by Florida law.

10.5 In the event of unusual circumstances, the County Administrator or his designee may adjust these insurance requirements.

**ARTICLE XI: INDEMNIFICATION**

11.0 The Contractor agrees that it will indemnify, hold harmless and defend 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.

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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.

11.2 This provision relating to Indemnification shall survive the termination of this Agreement.

**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 ten (10) days of receipt of the written notice, the County may terminate the Agreement at any time thereafter at the County's discretion by providing written notice to the Contractor, which shall be effective upon the date specified in the 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 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 the Solid Waste Ordinance, 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

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default. The County shall issue the Contractor a written 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. 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 *Representatives of the Parties*

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 Cinelli. Either party may change its representative upon five (5) days, prior written notice to the other party.

13.1 *Notices*

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.  
PO Box 4530  
St. Augustine, FL. 32085

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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 in writing.

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 made expressly and in writing 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*

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 the Agreement. Any action to interpret and/or enforce the 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 Board of County Commissioners approval in writing. As a condition precedent to receiving the County's consent, the Contractor or the potential transferee must demonstrate that the transferee has the ability to comply with all of the applicable requirements set forth in this Agreement and St. Johns County 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



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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 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 will not be affected but will 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, which requires performance by a party subsequent to termination of this Agreement, shall remain enforceable against such party subsequent to such 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 St. Johns County.

13.11 *Independent Franchisee*

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 the agent, representative, employee, or servant of the County.

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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 shares or owns any percent of the total assets or capital stock of the Contractor, nor will any such person directly or indirectly benefit 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 its common law sovereign immunity under Section 768.28, Florida Statutes.

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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. Unless otherwise specific noted, any reference in this Agreement to federal or state statutes or to any County ordinance shall mean as that statute or ordinance 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.

**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 Contractor's books and records (including without limitation, data, documents, and correspondence) in order to determine whether compliance has been achieved with

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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 otherwise protected by County, State and/or Federal law.

*[Signatures appear on following page.]*

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IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed on MAY 8, 2017.

Waste Pro of Florida  
Name of Company

Printed Name: John Cinelli

Title: Division Manager

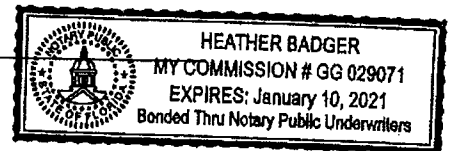
Signature: John Cinelli  
Company Representative  
(CORPORATE SEAL)

STATE OF FLORIDA  
COUNTY OF ST. JOHNS

The foregoing instrument was acknowledged before me this 8 day of May, 2017, by John Cinelli, as Division Manager of Waste Pro, who is personally known to me or has produced \_\_\_\_\_ as identification.

Heather Badger  
Notary

Notary Seal



ST. JOHNS COUNTY, a political  
subdivision of the State of Florida

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

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

(OFFICIAL SEAL)