

RESOLUTION NO. 2023-211

A RESOLUTION BY THE BOARD OF COUNTY COMMISSIONERS OF ST. JOHNS COUNTY, FLORIDA, RENEWING THE NON-EXCLUSIVE COMMERCIAL AND INDUSTRIAL SOLID WASTE COLLECTION FRANCHISE FOR FOURTEEN EXISTING FRANCHISE HOLDERS; APPROVING THE ASSOCIATED NON-EXCLUSIVE FRANCHISE AGREEMENTS; AUTHORIZING THE COUNTY ADMINISTRATOR, OR DESIGNEE, TO EXECUTE THE AGREEMENTS.

RECITALS

WHEREAS, pursuant to St. Johns County Ordinance Code 17-39 (“Solid Waste Ordinance”), unless otherwise exempt, any entity engaging in the business of collecting or transporting solid waste in unincorporated St. Johns County, Florida must receive a Franchise from the County and enter into a Franchise Agreement; and

WHEREAS, the term of a non-exclusive Franchise shall not exceed three (3) years, subject to renewal or extension by resolution of the Board of County Commissioners (“Board”); and

WHEREAS, all existing non-exclusive Franchises will expire on June 30, 2023, unless the Franchise holder submits a timely renewal application verifying and demonstrating it is in compliance with the requirements of the Solid Waste Ordinance and its existing Franchise Agreement; and

WHEREAS, fourteen existing Franchise holders, each holding a non-exclusive commercial and industrial solid waste collection Franchise have submitted timely and complete renewal applications to the County; and

WHEREAS, based upon the Board’s consideration of the renewal applications and applicable criteria in the Solid Waste Ordinance, the Board desires to renew the non-exclusive Franchise for each of the fourteen existing Franchise holders who submitted timely and complete renewal applications, and approve the associated Franchise Agreements; and

WHEREAS, the Board has determined that renewing the non-exclusive Franchises and associated Franchise Agreements 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 adopted as findings of fact and incorporated herein.

Section 2. In accordance with St. Johns County Ordinance Code 17-39, the Board of County Commissioners hereby renews the non-exclusive commercial and industrial solid waste collection Franchise and approves the associated Franchise Agreement for each of the fourteen existing Franchise holders who submitted timely and complete renewal applications and are identified in the attached Franchise Agreements.

Section 3. The Board authorizes the County Administrator, or designee, to execute the Agreements, in substantially the same form as attached hereto, on behalf of the County.

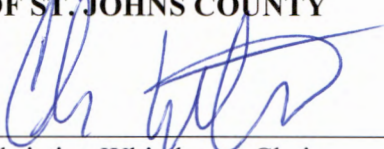
Section 4. To the extent that there are typographical, administrative and/or scrivener's errors or omissions that do not change the tone, tenor, or concept of this Resolution, then this Resolution may be revised without subsequent approval of the Board.

PASSED AND ADOPTED by the Board of County Commissioners of St. Johns County, Florida this 20th day of June 2023.

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

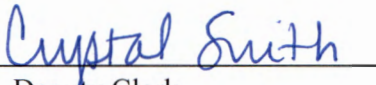
Rendition Date JUN 20 2023

By: _____


Christian Whitehurst, Chair

ATTEST: Brandon J. Patty,
Clerk of the Circuit Court and Comptroller

By: _____


Deputy Clerk



**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 entered into by and between St. Johns County, Florida, a political subdivision of the State of Florida, ("County") and Atlantic Disposal, a Florida (limited liability corporation, corporation, limited liability partnership) ("Contractor") (alternatively Contractor and County referred to herein as "Party" or collectively referred to herein as "Parties").

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 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 No. 2017-39 ("Solid Waste Ordinance"), as amended, 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 this Agreement and the Solid Waste Ordinance, 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

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

authorizes the Contractor to collect and transport Commercial / 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. No other collection or transportation of Solid Waste or Commercial / Industrial Solid Waste is authorized under this Agreement.

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, 2026.

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 Solid Waste Ordinance, the St. Johns County Code 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 Pursuant to St. Johns County Ordinance No. 2015-19 ("Noise Ordinance"), Contractor is permitted to collect and transport Commercial / Industrial Solid Waste Collection after 7:00am until 7:00pm Monday through Saturday and between the hours of 9:00am and 7:00pm on Sundays and holidays. The 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 County's Solid Waste Division.

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

5.4 All vehicles, Mechanical Containers and other containers used by the Contractor for the collection or transportation of Commercial / Industrial Solid Waste shall be marked on each side with the name and phone number of the Contractor and the markings shall be a minimum of three (3) inches in height.

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

5.5 All vehicles, Mechanical Containers and other containers used by the Contractor for collecting or transporting Commercial / Industrial Solid Waste shall be totally enclosed or securely covered in a manner that prevents the escape of any materials when transporting Commercial / Industrial Solid Waste within the County.

5.6 Each vehicle used by the Contractor for collecting or transporting Commercial / Industrial Solid Waste in the County shall be maintained in a good, clean, and safe operating condition.

5.7 On or before July 1 of each year, Contractor shall provide the County with a current list of all vehicles used to collect or transport Commercial / Industrial Solid Waste in the County. The list shall identify the year of manufacture, the manufacturer's name, the model, the vehicle configuration (e.g., rear loader) and the current license plate number for each vehicle. The list shall include the Contractor's certification that each vehicle has been inspected by a licensed professional mechanic within the preceding twelve (12) months and found to be in safe and operable condition. The list shall be updated and re-submitted to the County within fifteen (15) days after a vehicle is added to or removed from the fleet of vehicles used by the Contractor in the County.

5.8 Contractor shall immediately clean-up and properly dispose of any Solid Waste, waste materials, liquids, or products dropped or spilled by the Contractor. Upon completion of the clean-up, the Contractor shall prepare a written report that identifies the location and type of drop or spill, and the corrective action taken. The report shall be submitted to the County's Solid Waste Division within two business days after the drop or spill.

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 Solid Waste Management Facility that is properly licensed to receive Commercial / Industrial Solid Waste.

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

ARTICLE VII: APPLICATION FEES

7.0 The Contractor is required to complete and submit the standard St. Johns County application form for renewal or transfer of this Franchise Agreement and shall pay all applicable fees associated with the application.

ARTICLE VIII: FRANCHISE FEES

8.0 The Contractor shall pay a Franchise fee to the County for the privilege of collecting Commercial / Industrial Solid waste in the County as a business, for using the public right-of-way 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, and for the other rights and benefits conferred on the Contractor under this Agreement. The Franchise fee also may be used to pay the cost of implementing, administering and enforcing the County's Franchises and other regulations for the safe and proper 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 any and all applicable Franchise fees when they become due. The Franchise fee for a Non-Exclusive Commercial / Industrial Solid Waste Collection and Transportation Franchise shall be equal to five percent (5%) of the Gross Revenues collected by the Contractor for services provided pursuant to this Agreement, including the collection, transportation, processing and disposing of Commercial / Industrial Solid Waste originating in the unincorporated areas of St. Johns County, provided that such 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. Each quarterly payment of

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

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

8.3 Within one hundred twenty (120) days following (a) the expiration of the initial term of this Agreement, (b) the expiration of any renewal term of this Agreement, and (c) the termination of this Agreement, the Contractor shall file with the County a certified audit concerning the Gross Revenue collected by the Contractor as a result of the Contractor's operations under this Agreement. The audit shall be prepared by an independent accounting firm in accordance with generally accepted accounting principles or, at the County's option, prepared on such forms and in such detail as prescribed by the Clerk. The County may, upon application and a showing of good cause, extend the time for performance under this Section 8.3.

8.4 The County shall be given access at all reasonable hours to the Contractor's places of business and its records relating to the accumulation, collection, transportation, and disposal of Construction and Demolition Debris from properties within the County. The County may inspect, copy, and audit such records, at the County's expense, to verify the amount of any Franchise fee or other charge payable to the County pursuant to the Solid Waste Ordinance or this Agreement or to verify any information provided by the Contractor pursuant to the Solid Waste Ordinance or this Agreement. The Contractor shall keep and maintain all such records for the term of this Agreement, and any renewal term, and for at least three (3) years after the expiration or termination of this Agreement. To the extent authorized by Chapter 119, Florida Statutes, or other applicable laws, the information obtained by the County under this Section 8.4 shall remain confidential. Contractor shall comply with Chapter 119, Florida Statutes as related to public records.

8.5 Each report, audit and payment required under this Article VIII shall be timely submitted by the Contractor. Any failure to submit a report, audit or payment in a timely manner shall be a breach and default of this Agreement.

8.6 If the Contractor fails to pay the full amount of the Franchise fee within thirty (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

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

the collection of the Franchise fee, including but not limited to court costs and reasonable attorneys' fees. Any late payment of Franchise fees due under this Agreement or the Solid Waste Ordinance shall bear interest at the maximum legal rate in effect at the time of the default, as established by Section 55.03, Florida Statutes.

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 County's Solid Waste Division. A \$500.00 renewal fee and a vehicle fee of \$100.00 per vehicle shall accompany said renewal application. The submittal of a timely and complete renewal application shall extend this Agreement until the Board of County Commissioners approves or denies the renewal application. If the Contractor fails to submit a timely and complete renewal application, the Contractor shall forfeit its ability to renew this Agreement and must submit an application for a new Franchise.

9.1 The Contractor understands and acknowledges that renewal applications are subject to approval by the Board, after a public hearing, and that the Board may, without prior notice, limit the number of non-exclusive Franchises it awards whenever the Board deems it in the public interest to do so.

ARTICLE X: INSURANCE

10.0 The Contractor shall not commence work under this Agreement until it 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

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

endorsement must accompany the certificate. Compliance with the foregoing requirements shall not relieve the Contractor of its liability and obligations under this Agreement.

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

10.1 The Contractor shall maintain during the life of this Agreement, 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 this Agreement, 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 Agreement, 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 Agreement, 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

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

for, any and all claims, suits, causes of action, damages, liabilities, expenditures, or proceedings of any kind (collectively, "claims") arising from or related to any of the Contractor's activities or operations pursuant to this Agreement, including but not limited to claims based on bodily injury, loss of life or limb, damage to property, pollution or other environmental damages.

11.1 The provisions of Article XI relating to indemnification are 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 The provisions of Article XI relating to Indemnification shall survive the expiration or termination of this Agreement.

ARTICLE XII: TERMINATION BY COUNTY

12.0 If the County concludes that the Contractor is in violation of any of the terms of this Agreement or the Solid Waste Ordinance, or any resolution, rule or regulation promulgated thereunder, the County shall notify the Contractor by certified mail of the reasons why the Contractor is considered to be in violation and shall provide at least seven (7) days thereafter for the Contractor to comply with pertinent requirements. If the Contractor fails to comply within the specified time, the Board shall conduct a hearing concerning the Contractor's failure to comply. The Contractor shall be given notice at least seven (7) days prior to the hearing. The Contractor shall be given an opportunity at the hearing to testify, present evidence and otherwise demonstrate why this Agreement shall not be terminated and the Franchise granted herein revoked. At or subsequent to the hearing, the Board may, at its option, adopt a resolution (a) terminating this Agreement and revoking the Franchise granted herein; (b) requiring the Contractor, within a time certain, to perform the tasks necessary to comply with the terms of this Agreement; or (c) imposing such other requirements as the Board deems appropriate under the circumstances. In the event the Board adopts a resolution terminating this Agreement and revoking the Franchise granted herein, the Contractor shall immediately cease all activities under this Agreement.

12.1 Among other things, a material breach of this Agreement shall be deemed to have occurred if the Contractor (a) fails or refuses to comply with any lawful order of the

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

Board entered after public hearing; (b) violates or fails to comply with any provision of the Solid Waste Ordinance or any other county ordinances, or rule promulgated thereunder, relating to the collection, transportation, or disposal of Solid Waste, or violates or fails to comply with the provisions of this Agreement, or any state or federal law relating to the collection and disposal of Solid Waste; (c) fails to pay Franchise fees at the times and in the amounts required by this Agreement; (d) fails to timely submit any report, information, or audit required by the Solid Waste Ordinance or this Agreement; (e) disposes of Solid Waste at a site other than a properly permitted and authorized Solid Waste Management Facility; (f) collects or transports Solid Waste in a manner that is not authorized under this Agreement; (g) fails to continuously maintain the types and amounts of insurance required under this Agreement; or (h) declares bankruptcy.

12.2 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 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*

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

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 County's Solid Waste Division. The authorized representative of the Contractor for purposes of this Agreement shall be Ryan McElhaney. 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 Division
2750 Industry Center Road
St. Augustine, FL 32084

If to the Contractor:

Atlantic Disposal
2109 Dobbis Road
Saint Augustine FL, 32086

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

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

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, without respect to Florida conflict of law principles, and any and all controversies and claims relating to or arising out of this Agreement, or the breach or enforcement thereof, whether sounding in contract, tort, or otherwise, shall likewise be governed by the laws of the State of Florida, without respect to Florida conflict of law principles. 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 or proceeding to interpret and/or enforce the Agreement shall be brought and maintained in the State of Florida and venue shall be in St. Johns County, Florida.

13.4 Assignment

This Agreement shall be binding upon, and inure to the benefit of, the Parties. This Agreement may not be sold, assigned or transferred by the Contractor, without written approval of the Board in accordance with Section 7.D of the Solid Waste Ordinance. As a condition precedent to receiving Board approval, the Contractor or the proposed transferee must demonstrate that the proposed transferee has the ability to comply with all of the applicable requirements set forth in this Agreement and the Solid Waste Ordinance. An application for approval of a transfer shall be submitted to the Board by the proposed transferee. The application shall contain the same information that is required for a new Franchise and shall include the Contractor's written consent to the transfer and the proposed transferee's written stipulation that the proposed transferee will comply with all of the terms and conditions applicable to the Contractor.

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

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

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 expiration or 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 Contractor*

When performing the activities required by this Agreement, the Contractor will be acting in the capacity of an independent contractor and not as an agent, employee, partner, joint venture or associate of the County. The Contractor shall be solely responsible for the means, methods and procedures used by the Contractor to perform under this Agreement. Neither the Contractor nor any of its employees, officers, agents or subcontractors shall represent, act, purport to act, or be deemed to be the agent, representative, employee, or servant of the County.

The Contractor shall have no authority to bind the County to any agreement or contract. No person performing any work or services for the Contractor under this

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

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 more than five percent (5%) of the total assets or capital stock of the Contractor, nor will any such person directly or indirectly benefit by more than five percent (5%) from the profits or emoluments of this Agreement. The Contractor warrants that it has not employed or retained any company or person, other than a bona fide employee working solely for the Contractor, to solicit or secure this Agreement and the Contractor has not paid or agreed to pay any person, company, corporation, individual or firm, other than a bona fide employee working solely for the Contractor, any fee, commission, percentage gift or any other compensation contingent upon or resulting from the award or making of this Agreement. Further, the Contractor declares and warrants that it 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 is intended to nor shall be interpreted or construed to operate as a waiver on the part of the County of the limitations of liability set forth in Section 768.28, Florida Statutes, or of the County's sovereign immunity.

13.15 *Amendment*

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

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.

13.16 *Terms Generally*

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

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.

Pursuant to Section 119.0701, Florida Statutes, the Contractor shall:

- (a) Keep and maintain public records required by the County to perform the services provided hereunder.
- (b) Upon request from the County's custodian of public records, provide the County with a copy of the requested records or allow the records to be

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

inspected or copied within a reasonable time at a cost that does not exceed the cost provided in Chapter 119, Florida Statutes, or as otherwise provided by law.

(c) Ensure that public records that are exempt or confidential and exempt from public records disclosure requirements are not disclosed, except as authorized by law for the duration of the term of this Agreement and following completion of this Agreement if the Contractor does not transfer the records to the County.

(d) Upon completion of the Agreement, transfer, at no cost, to the County all public records in the possession of the Contractor or keep and maintain public records required by the County to perform the service. If the Contractor transfers all public records to the County upon completion of the Agreement, the Contractor shall destroy any duplicate public records that are exempt or confidential and exempt from public records disclosure requirements. If the Contractor keeps and maintains public records upon completion of the Agreement, the Contractor shall meet all applicable requirements for retaining public records. All records stored electronically must be provided to the County, upon request from the County's custodian of public records, in a format that is compatible with the information technology systems of the County.

If the Contractor fails to comply with the requirements in this Section 13.6, the County may enforce these provisions in accordance with the terms of this Agreement. If the Contractor fails to provide the public records to the County within a reasonable time, it may be subject to penalties under Section 119.10, Florida Statutes.

IF THE CONTRACTOR HAS QUESTIONS REGARDING THE APPLICATION OF CHAPTER 119, FLORIDA STATUTES, TO THE CONTRACTOR'S DUTY TO PROVIDE PUBLIC RECORDS RELATING TO THIS AGREEMENT, THE CONTRACTOR SHOULD CONTACT THE COUNTY'S CUSTODIAN OF PUBLIC RECORDS BY TELEPHONE AT (904) 209-0805, OR E-MAIL AT

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

**PUBLICRECORDS@SJCFL.US, OR MAIL AT ST. JOHNS COUNTY
ATTORNEY, ATTN: PUBLIC RECORDS CUSTODIAN, 500 SAN
SEBASTIAN VIEW, ST. AUGUSTINE, FL 32084.**

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 12, 2023.

CONTRACTOR

Atlantic Disposal
Name of Company
Signature: _____
Printed Name: Ryan McElhoney
Title: Owner

STATE OF FLORIDA
COUNTY OF ST. JOHNS

The foregoing instrument was acknowledged before me by means of physical presence or online notarization, this 12 day of May, 2023, by Ryan McElhoney, as owner of _____, who is personally known to me or has produced drivers license as identification.



ELLA DENMON
Notary Public
State of Florida
Comm# HH379940
Expires 3/28/2027

NOTARY PUBLIC, State of Florida
Name: Ella Denmon
My Commission Expires: 3/28/2027
My Commission Number is: HH379940

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 entered into by and between St. Johns County, Florida, a political subdivision of the State of Florida, ("County") and Construction Debris Removal Inc a Florida (limited liability corporation, corporation, limited liability partnership) ("Contractor") (alternatively Contractor and County referred to herein as "Party" or collectively referred to herein as "Parties").

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 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 No. 2017-39 ("Solid Waste Ordinance"), as amended, 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 this Agreement and the Solid Waste Ordinance, 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

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

authorizes the Contractor to collect and transport Commercial / 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. No other collection or transportation of Solid Waste or Commercial / Industrial Solid Waste is authorized under this Agreement.

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, 2026.

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 Solid Waste Ordinance, the St. Johns County Code 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 Pursuant to St. Johns County Ordinance No. 2015-19 ("Noise Ordinance"), Contractor is permitted to collect and transport Commercial / Industrial Solid Waste Collection after 7:00am until 7:00pm Monday through Saturday and between the hours of 9:00am and 7:00pm on Sundays and holidays. The 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 County's Solid Waste Division.

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

5.4 All vehicles, Mechanical Containers and other containers used by the Contractor for the collection or transportation of Commercial / Industrial Solid Waste shall be marked on each side with the name and phone number of the Contractor and the markings shall be a minimum of three (3) inches in height.

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

5.5 All vehicles, Mechanical Containers and other containers used by the Contractor for collecting or transporting Commercial / Industrial Solid Waste shall be totally enclosed or securely covered in a manner that prevents the escape of any materials when transporting Commercial / Industrial Solid Waste within the County.

5.6 Each vehicle used by the Contractor for collecting or transporting Commercial / Industrial Solid Waste in the County shall be maintained in a good, clean, and safe operating condition.

5.7 On or before July 1 of each year, Contractor shall provide the County with a current list of all vehicles used to collect or transport Commercial / Industrial Solid Waste in the County. The list shall identify the year of manufacture, the manufacturer's name, the model, the vehicle configuration (e.g., rear loader) and the current license plate number for each vehicle. The list shall include the Contractor's certification that each vehicle has been inspected by a licensed professional mechanic within the preceding twelve (12) months and found to be in safe and operable condition. The list shall be updated and re-submitted to the County within fifteen (15) days after a vehicle is added to or removed from the fleet of vehicles used by the Contractor in the County.

5.8 Contractor shall immediately clean-up and properly dispose of any Solid Waste, waste materials, liquids, or products dropped or spilled by the Contractor. Upon completion of the clean-up, the Contractor shall prepare a written report that identifies the location and type of drop or spill, and the corrective action taken. The report shall be submitted to the County's Solid Waste Division within two business days after the drop or spill.

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 Solid Waste Management Facility that is properly licensed to receive Commercial / Industrial Solid Waste.

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

ARTICLE VII: APPLICATION FEES

7.0 The Contractor is required to complete and submit the standard St. Johns County application form for renewal or transfer of this Franchise Agreement and shall pay all applicable fees associated with the application.

ARTICLE VIII: FRANCHISE FEES

8.0 The Contractor shall pay a Franchise fee to the County for the privilege of collecting Commercial / Industrial Solid waste in the County as a business, for using the public right-of-way 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, and for the other rights and benefits conferred on the Contractor under this Agreement. The Franchise fee also may be used to pay the cost of implementing, administering and enforcing the County's Franchises and other regulations for the safe and proper 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 any and all applicable Franchise fees when they become due. The Franchise fee for a Non-Exclusive Commercial / Industrial Solid Waste Collection and Transportation Franchise shall be equal to five percent (5%) of the Gross Revenues collected by the Contractor for services provided pursuant to this Agreement, including the collection, transportation, processing and disposing of Commercial / Industrial Solid Waste originating in the unincorporated areas of St. Johns County, provided that such 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. Each quarterly payment of

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

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

8.3 Within one hundred twenty (120) days following (a) the expiration of the initial term of this Agreement, (b) the expiration of any renewal term of this Agreement, and (c) the termination of this Agreement, the Contractor shall file with the County a certified audit concerning the Gross Revenue collected by the Contractor as a result of the Contractor's operations under this Agreement. The audit shall be prepared by an independent accounting firm in accordance with generally accepted accounting principles or, at the County's option, prepared on such forms and in such detail as prescribed by the Clerk. The County may, upon application and a showing of good cause, extend the time for performance under this Section 8.3.

8.4 The County shall be given access at all reasonable hours to the Contractor's places of business and its records relating to the accumulation, collection, transportation, and disposal of Construction and Demolition Debris from properties within the County. The County may inspect, copy, and audit such records, at the County's expense, to verify the amount of any Franchise fee or other charge payable to the County pursuant to the Solid Waste Ordinance or this Agreement or to verify any information provided by the Contractor pursuant to the Solid Waste Ordinance or this Agreement. The Contractor shall keep and maintain all such records for the term of this Agreement, and any renewal term, and for at least three (3) years after the expiration or termination of this Agreement. To the extent authorized by Chapter 119, Florida Statutes, or other applicable laws, the information obtained by the County under this Section 8.4 shall remain confidential. Contractor shall comply with Chapter 119, Florida Statutes as related to public records.

8.5 Each report, audit and payment required under this Article VIII shall be timely submitted by the Contractor. Any failure to submit a report, audit or payment in a timely manner shall be a breach and default of this Agreement.

8.6 If the Contractor fails to pay the full amount of the Franchise fee within thirty (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

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

the collection of the Franchise fee, including but not limited to court costs and reasonable attorneys' fees. Any late payment of Franchise fees due under this Agreement or the Solid Waste Ordinance shall bear interest at the maximum legal rate in effect at the time of the default, as established by Section 55.03, Florida Statutes.

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 County's Solid Waste Division. A \$500.00 renewal fee and a vehicle fee of \$100.00 per vehicle shall accompany said renewal application. The submittal of a timely and complete renewal application shall extend this Agreement until the Board of County Commissioners approves or denies the renewal application. If the Contractor fails to submit a timely and complete renewal application, the Contractor shall forfeit its ability to renew this Agreement and must submit an application for a new Franchise.

9.1 The Contractor understands and acknowledges that renewal applications are subject to approval by the Board, after a public hearing, and that the Board may, without prior notice, limit the number of non-exclusive Franchises it awards whenever the Board deems it in the public interest to do so.

ARTICLE X: INSURANCE

10.0 The Contractor shall not commence work under this Agreement until it 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

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

endorsement must accompany the certificate. Compliance with the foregoing requirements shall not relieve the Contractor of its liability and obligations under this Agreement.

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

10.1 The Contractor shall maintain during the life of this Agreement, 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 this Agreement, 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 Agreement, 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 Agreement, 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

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

for, any and all claims, suits, causes of action, damages, liabilities, expenditures, or proceedings of any kind (collectively, "claims") arising from or related to any of the Contractor's activities or operations pursuant to this Agreement, including but not limited to claims based on bodily injury, loss of life or limb, damage to property, pollution or other environmental damages.

11.1 The provisions of Article XI relating to indemnification are 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 The provisions of Article XI relating to Indemnification shall survive the expiration or termination of this Agreement.

ARTICLE XII: TERMINATION BY COUNTY

12.0 If the County concludes that the Contractor is in violation of any of the terms of this Agreement or the Solid Waste Ordinance, or any resolution, rule or regulation promulgated thereunder, the County shall notify the Contractor by certified mail of the reasons why the Contractor is considered to be in violation and shall provide at least seven (7) days thereafter for the Contractor to comply with pertinent requirements. If the Contractor fails to comply within the specified time, the Board shall conduct a hearing concerning the Contractor's failure to comply. The Contractor shall be given notice at least seven (7) days prior to the hearing. The Contractor shall be given an opportunity at the hearing to testify, present evidence and otherwise demonstrate why this Agreement shall not be terminated and the Franchise granted herein revoked. At or subsequent to the hearing, the Board may, at its option, adopt a resolution (a) terminating this Agreement and revoking the Franchise granted herein; (b) requiring the Contractor, within a time certain, to perform the tasks necessary to comply with the terms of this Agreement; or (c) imposing such other requirements as the Board deems appropriate under the circumstances. In the event the Board adopts a resolution terminating this Agreement and revoking the Franchise granted herein, the Contractor shall immediately cease all activities under this Agreement.

12.1 Among other things, a material breach of this Agreement shall be deemed to have occurred if the Contractor (a) fails or refuses to comply with any lawful order of the

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

Board entered after public hearing; (b) violates or fails to comply with any provision of the Solid Waste Ordinance or any other county ordinances, or rule promulgated thereunder, relating to the collection, transportation, or disposal of Solid Waste, or violates or fails to comply with the provisions of this Agreement, or any state or federal law relating to the collection and disposal of Solid Waste; (c) fails to pay Franchise fees at the times and in the amounts required by this Agreement; (d) fails to timely submit any report, information, or audit required by the Solid Waste Ordinance or this Agreement; (e) disposes of Solid Waste at a site other than a properly permitted and authorized Solid Waste Management Facility; (f) collects or transports Solid Waste in a manner that is not authorized under this Agreement; (g) fails to continuously maintain the types and amounts of insurance required under this Agreement; or (h) declares bankruptcy.

12.2 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 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*

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

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 County's Solid Waste Division. The authorized representative of the Contractor for purposes of this Agreement shall be Vernon D Keith. 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 Division
2750 Industry Center Road
St. Augustine, FL 32084

If to the Contractor:

Construction Debris Removal Inc
1535 State Road 207
St Augustine, FL 32086

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

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

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, without respect to Florida conflict of law principles, and any and all controversies and claims relating to or arising out of this Agreement, or the breach or enforcement thereof, whether sounding in contract, tort, or otherwise, shall likewise be governed by the laws of the State of Florida, without respect to Florida conflict of law principles. 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 or proceeding to interpret and/or enforce the Agreement shall be brought and maintained in the State of Florida and venue shall be in St. Johns County, Florida.

13.4 *Assignment*

This Agreement shall be binding upon, and inure to the benefit of, the Parties. This Agreement may not be sold, assigned or transferred by the Contractor, without written approval of the Board in accordance with Section 7.D of the Solid Waste Ordinance. As a condition precedent to receiving Board approval, the Contractor or the proposed transferee must demonstrate that the proposed transferee has the ability to comply with all of the applicable requirements set forth in this Agreement and the Solid Waste Ordinance. An application for approval of a transfer shall be submitted to the Board by the proposed transferee. The application shall contain the same information that is required for a new Franchise and shall include the Contractor's written consent to the transfer and the proposed transferee's written stipulation that the proposed transferee will comply with all of the terms and conditions applicable to the Contractor.

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

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

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 expiration or 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 Contractor*

When performing the activities required by this Agreement, the Contractor will be acting in the capacity of an independent contractor and not as an agent, employee, partner, joint venture or associate of the County. The Contractor shall be solely responsible for the means, methods and procedures used by the Contractor to perform under this Agreement. Neither the Contractor nor any of its employees, officers, agents or subcontractors shall represent, act, purport to act, or be deemed to be the agent, representative, employee, or servant of the County.

The Contractor shall have no authority to bind the County to any agreement or contract. No person performing any work or services for the Contractor under this

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

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 more than five percent (5%) of the total assets or capital stock of the Contractor, nor will any such person directly or indirectly benefit by more than five percent (5%) from the profits or emoluments of this Agreement. The Contractor warrants that it has not employed or retained any company or person, other than a bona fide employee working solely for the Contractor, to solicit or secure this Agreement and the Contractor has not paid or agreed to pay any person, company, corporation, individual or firm, other than a bona fide employee working solely for the Contractor, any fee, commission, percentage gift or any other compensation contingent upon or resulting from the award or making of this Agreement. Further, the Contractor declares and warrants that it 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 is intended to nor shall be interpreted or construed to operate as a waiver on the part of the County of the limitations of liability set forth in Section 768.28, Florida Statutes, or of the County's sovereign immunity.

13.15 *Amendment*

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

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.

13.16 *Terms Generally*

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

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.

Pursuant to Section 119.0701, Florida Statutes, the Contractor shall:

- (a) Keep and maintain public records required by the County to perform the services provided hereunder.
- (b) Upon request from the County’s custodian of public records, provide the County with a copy of the requested records or allow the records to be

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

inspected or copied within a reasonable time at a cost that does not exceed the cost provided in Chapter 119, Florida Statutes, or as otherwise provided by law.

(c) Ensure that public records that are exempt or confidential and exempt from public records disclosure requirements are not disclosed, except as authorized by law for the duration of the term of this Agreement and following completion of this Agreement if the Contractor does not transfer the records to the County.

(d) Upon completion of the Agreement, transfer, at no cost, to the County all public records in the possession of the Contractor or keep and maintain public records required by the County to perform the service. If the Contractor transfers all public records to the County upon completion of the Agreement, the Contractor shall destroy any duplicate public records that are exempt or confidential and exempt from public records disclosure requirements. If the Contractor keeps and maintains public records upon completion of the Agreement, the Contractor shall meet all applicable requirements for retaining public records. All records stored electronically must be provided to the County, upon request from the County's custodian of public records, in a format that is compatible with the information technology systems of the County.

If the Contractor fails to comply with the requirements in this Section 13.6, the County may enforce these provisions in accordance with the terms of this Agreement. If the Contractor fails to provide the public records to the County within a reasonable time, it may be subject to penalties under Section 119.10, Florida Statutes.

IF THE CONTRACTOR HAS QUESTIONS REGARDING THE APPLICATION OF CHAPTER 119, FLORIDA STATUTES, TO THE CONTRACTOR'S DUTY TO PROVIDE PUBLIC RECORDS RELATING TO THIS AGREEMENT, THE CONTRACTOR SHOULD CONTACT THE COUNTY'S CUSTODIAN OF PUBLIC RECORDS BY TELEPHONE AT (904) 209-0805, OR E-MAIL AT

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

**PUBLICRECORDS@SJCFL.US, OR MAIL AT ST. JOHNS COUNTY
ATTORNEY, ATTN: PUBLIC RECORDS CUSTODIAN, 500 SAN
SEBASTIAN VIEW, ST. AUGUSTINE, FL 32084.**

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 10th, 2023.

CONTRACTOR

Construction Debris Removal Inc.
Name of Company
Signature: [Signature]
Printed Name: Vernon B Keith
Title: President

**STATE OF FLORIDA
COUNTY OF ST. JOHNS**

The foregoing instrument was acknowledged before me by means of physical presence or online notarization, this 10 day of May, 2023, by Vernon Keith, as owner of _____, who is personally known to me or has produced Drivers License as identification.



ELLA DENMON
Notary Public
State of Florida
Comm# HH379940
Expires 3/28/2027

NOTARY PUBLIC, State of Florida
Name: [Signature]
My Commission Expires: 3/28/2027
My Commission Number is: HH379940

**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 entered into by and between St. Johns County, Florida, a political subdivision of the State of Florida, ("County") and Environmental Land Services Florida (limited liability corporation, corporation, limited liability partnership) ("Contractor") (alternatively Contractor and County referred to herein as "Party" or collectively referred to herein as "Parties").

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 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 No. 2017-39 ("Solid Waste Ordinance"), as amended, 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 this Agreement and the Solid Waste Ordinance, 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

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

authorizes the Contractor to collect and transport Commercial / 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. No other collection or transportation of Solid Waste or Commercial / Industrial Solid Waste is authorized under this Agreement.

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, 2026.

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 Solid Waste Ordinance, the St. Johns County Code 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 Pursuant to St. Johns County Ordinance No. 2015-19 ("Noise Ordinance"), Contractor is permitted to collect and transport Commercial / Industrial Solid Waste Collection after 7:00am until 7:00pm Monday through Saturday and between the hours of 9:00am and 7:00pm on Sundays and holidays. The 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 County's Solid Waste Division.

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

5.4 All vehicles, Mechanical Containers and other containers used by the Contractor for the collection or transportation of Commercial / Industrial Solid Waste shall be marked on each side with the name and phone number of the Contractor and the markings shall be a minimum of three (3) inches in height.

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

5.5 All vehicles, Mechanical Containers and other containers used by the Contractor for collecting or transporting Commercial / Industrial Solid Waste shall be totally enclosed or securely covered in a manner that prevents the escape of any materials when transporting Commercial / Industrial Solid Waste within the County.

5.6 Each vehicle used by the Contractor for collecting or transporting Commercial / Industrial Solid Waste in the County shall be maintained in a good, clean, and safe operating condition.

5.7 On or before July 1 of each year, Contractor shall provide the County with a current list of all vehicles used to collect or transport Commercial / Industrial Solid Waste in the County. The list shall identify the year of manufacture, the manufacturer's name, the model, the vehicle configuration (e.g., rear loader) and the current license plate number for each vehicle. The list shall include the Contractor's certification that each vehicle has been inspected by a licensed professional mechanic within the preceding twelve (12) months and found to be in safe and operable condition. The list shall be updated and re-submitted to the County within fifteen (15) days after a vehicle is added to or removed from the fleet of vehicles used by the Contractor in the County.

5.8 Contractor shall immediately clean-up and properly dispose of any Solid Waste, waste materials, liquids, or products dropped or spilled by the Contractor. Upon completion of the clean-up, the Contractor shall prepare a written report that identifies the location and type of drop or spill, and the corrective action taken. The report shall be submitted to the County's Solid Waste Division within two business days after the drop or spill.

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 Solid Waste Management Facility that is properly licensed to receive Commercial / Industrial Solid Waste.

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

ARTICLE VII: APPLICATION FEES

7.0 The Contractor is required to complete and submit the standard St. Johns County application form for renewal or transfer of this Franchise Agreement and shall pay all applicable fees associated with the application.

ARTICLE VIII: FRANCHISE FEES

8.0 The Contractor shall pay a Franchise fee to the County for the privilege of collecting Commercial / Industrial Solid waste in the County as a business, for using the public right-of-way 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, and for the other rights and benefits conferred on the Contractor under this Agreement. The Franchise fee also may be used to pay the cost of implementing, administering and enforcing the County's Franchises and other regulations for the safe and proper 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 any and all applicable Franchise fees when they become due. The Franchise fee for a Non-Exclusive Commercial / Industrial Solid Waste Collection and Transportation Franchise shall be equal to five percent (5%) of the Gross Revenues collected by the Contractor for services provided pursuant to this Agreement, including the collection, transportation, processing and disposing of Commercial / Industrial Solid Waste originating in the unincorporated areas of St. Johns County, provided that such 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. Each quarterly payment of

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

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

8.3 Within one hundred twenty (120) days following (a) the expiration of the initial term of this Agreement, (b) the expiration of any renewal term of this Agreement, and (c) the termination of this Agreement, the Contractor shall file with the County a certified audit concerning the Gross Revenue collected by the Contractor as a result of the Contractor's operations under this Agreement. The audit shall be prepared by an independent accounting firm in accordance with generally accepted accounting principles or, at the County's option, prepared on such forms and in such detail as prescribed by the Clerk. The County may, upon application and a showing of good cause, extend the time for performance under this Section 8.3.

8.4 The County shall be given access at all reasonable hours to the Contractor's places of business and its records relating to the accumulation, collection, transportation, and disposal of Construction and Demolition Debris from properties within the County. The County may inspect, copy, and audit such records, at the County's expense, to verify the amount of any Franchise fee or other charge payable to the County pursuant to the Solid Waste Ordinance or this Agreement or to verify any information provided by the Contractor pursuant to the Solid Waste Ordinance or this Agreement. The Contractor shall keep and maintain all such records for the term of this Agreement, and any renewal term, and for at least three (3) years after the expiration or termination of this Agreement. To the extent authorized by Chapter 119, Florida Statutes, or other applicable laws, the information obtained by the County under this Section 8.4 shall remain confidential. Contractor shall comply with Chapter 119, Florida Statutes as related to public records.

8.5 Each report, audit and payment required under this Article VIII shall be timely submitted by the Contractor. Any failure to submit a report, audit or payment in a timely manner shall be a breach and default of this Agreement.

8.6 If the Contractor fails to pay the full amount of the Franchise fee within thirty (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

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

the collection of the Franchise fee, including but not limited to court costs and reasonable attorneys' fees. Any late payment of Franchise fees due under this Agreement or the Solid Waste Ordinance shall bear interest at the maximum legal rate in effect at the time of the default, as established by Section 55.03, Florida Statutes.

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 County's Solid Waste Division. A \$500.00 renewal fee and a vehicle fee of \$100.00 per vehicle shall accompany said renewal application. The submittal of a timely and complete renewal application shall extend this Agreement until the Board of County Commissioners approves or denies the renewal application. If the Contractor fails to submit a timely and complete renewal application, the Contractor shall forfeit its ability to renew this Agreement and must submit an application for a new Franchise.

9.1 The Contractor understands and acknowledges that renewal applications are subject to approval by the Board, after a public hearing, and that the Board may, without prior notice, limit the number of non-exclusive Franchises it awards whenever the Board deems it in the public interest to do so.

ARTICLE X: INSURANCE

10.0 The Contractor shall not commence work under this Agreement until it 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

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

endorsement must accompany the certificate. Compliance with the foregoing requirements shall not relieve the Contractor of its liability and obligations under this Agreement.

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

10.1 The Contractor shall maintain during the life of this Agreement, 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 this Agreement, 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 Agreement, 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 Agreement, 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

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

for, any and all claims, suits, causes of action, damages, liabilities, expenditures, or proceedings of any kind (collectively, "claims") arising from or related to any of the Contractor's activities or operations pursuant to this Agreement, including but not limited to claims based on bodily injury, loss of life or limb, damage to property, pollution or other environmental damages.

11.1 The provisions of Article XI relating to indemnification are 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 The provisions of Article XI relating to Indemnification shall survive the expiration or termination of this Agreement.

ARTICLE XII: TERMINATION BY COUNTY

12.0 If the County concludes that the Contractor is in violation of any of the terms of this Agreement or the Solid Waste Ordinance, or any resolution, rule or regulation promulgated thereunder, the County shall notify the Contractor by certified mail of the reasons why the Contractor is considered to be in violation and shall provide at least seven (7) days thereafter for the Contractor to comply with pertinent requirements. If the Contractor fails to comply within the specified time, the Board shall conduct a hearing concerning the Contractor's failure to comply. The Contractor shall be given notice at least seven (7) days prior to the hearing. The Contractor shall be given an opportunity at the hearing to testify, present evidence and otherwise demonstrate why this Agreement shall not be terminated and the Franchise granted herein revoked. At or subsequent to the hearing, the Board may, at its option, adopt a resolution (a) terminating this Agreement and revoking the Franchise granted herein; (b) requiring the Contractor, within a time certain, to perform the tasks necessary to comply with the terms of this Agreement; or (c) imposing such other requirements as the Board deems appropriate under the circumstances. In the event the Board adopts a resolution terminating this Agreement and revoking the Franchise granted herein, the Contractor shall immediately cease all activities under this Agreement.

12.1 Among other things, a material breach of this Agreement shall be deemed to have occurred if the Contractor (a) fails or refuses to comply with any lawful order of the

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

Board entered after public hearing; (b) violates or fails to comply with any provision of the Solid Waste Ordinance or any other county ordinances, or rule promulgated thereunder, relating to the collection, transportation, or disposal of Solid Waste, or violates or fails to comply with the provisions of this Agreement, or any state or federal law relating to the collection and disposal of Solid Waste; (c) fails to pay Franchise fees at the times and in the amounts required by this Agreement; (d) fails to timely submit any report, information, or audit required by the Solid Waste Ordinance or this Agreement; (e) disposes of Solid Waste at a site other than a properly permitted and authorized Solid Waste Management Facility; (f) collects or transports Solid Waste in a manner that is not authorized under this Agreement; (g) fails to continuously maintain the types and amounts of insurance required under this Agreement; or (h) declares bankruptcy.

12.2 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 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*

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

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 County's Solid Waste Division. The authorized representative of the Contractor for purposes of this Agreement shall be Nancy Morea, VP. 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 Division
2750 Industry Center Road
St. Augustine, FL 32084

If to the Contractor:

Environmental Land Services
P.O. Box 1029
Bunnell, FL 32110

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

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

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, without respect to Florida conflict of law principles, and any and all controversies and claims relating to or arising out of this Agreement, or the breach or enforcement thereof, whether sounding in contract, tort, or otherwise, shall likewise be governed by the laws of the State of Florida, without respect to Florida conflict of law principles. 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 or proceeding to interpret and/or enforce the Agreement shall be brought and maintained in the State of Florida and venue shall be in St. Johns County, Florida.

13.4 *Assignment*

This Agreement shall be binding upon, and inure to the benefit of, the Parties. This Agreement may not be sold, assigned or transferred by the Contractor, without written approval of the Board in accordance with Section 7.D of the Solid Waste Ordinance. As a condition precedent to receiving Board approval, the Contractor or the proposed transferee must demonstrate that the proposed transferee has the ability to comply with all of the applicable requirements set forth in this Agreement and the Solid Waste Ordinance. An application for approval of a transfer shall be submitted to the Board by the proposed transferee. The application shall contain the same information that is required for a new Franchise and shall include the Contractor's written consent to the transfer and the proposed transferee's written stipulation that the proposed transferee will comply with all of the terms and conditions applicable to the Contractor.

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

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

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 expiration or 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 Contractor*

When performing the activities required by this Agreement, the Contractor will be acting in the capacity of an independent contractor and not as an agent, employee, partner, joint venture or associate of the County. The Contractor shall be solely responsible for the means, methods and procedures used by the Contractor to perform under this Agreement. Neither the Contractor nor any of its employees, officers, agents or subcontractors shall represent, act, purport to act, or be deemed to be the agent, representative, employee, or servant of the County.

The Contractor shall have no authority to bind the County to any agreement or contract. No person performing any work or services for the Contractor under this

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

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 more than five percent (5%) of the total assets or capital stock of the Contractor, nor will any such person directly or indirectly benefit by more than five percent (5%) from the profits or emoluments of this Agreement. The Contractor warrants that it has not employed or retained any company or person, other than a bona fide employee working solely for the Contractor, to solicit or secure this Agreement and the Contractor has not paid or agreed to pay any person, company, corporation, individual or firm, other than a bona fide employee working solely for the Contractor, any fee, commission, percentage gift or any other compensation contingent upon or resulting from the award or making of this Agreement. Further, the Contractor declares and warrants that it 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 is intended to nor shall be interpreted or construed to operate as a waiver on the part of the County of the limitations of liability set forth in Section 768.28, Florida Statutes, or of the County's sovereign immunity.

13.15 *Amendment*

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

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.

13.16 *Terms Generally*

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

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.

Pursuant to Section 119.0701, Florida Statutes, the Contractor shall:

- (a) Keep and maintain public records required by the County to perform the services provided hereunder.
- (b) Upon request from the County's custodian of public records, provide the County with a copy of the requested records or allow the records to be

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

inspected or copied within a reasonable time at a cost that does not exceed the cost provided in Chapter 119, Florida Statutes, or as otherwise provided by law.

(c) Ensure that public records that are exempt or confidential and exempt from public records disclosure requirements are not disclosed, except as authorized by law for the duration of the term of this Agreement and following completion of this Agreement if the Contractor does not transfer the records to the County.

(d) Upon completion of the Agreement, transfer, at no cost, to the County all public records in the possession of the Contractor or keep and maintain public records required by the County to perform the service. If the Contractor transfers all public records to the County upon completion of the Agreement, the Contractor shall destroy any duplicate public records that are exempt or confidential and exempt from public records disclosure requirements. If the Contractor keeps and maintains public records upon completion of the Agreement, the Contractor shall meet all applicable requirements for retaining public records. All records stored electronically must be provided to the County, upon request from the County's custodian of public records, in a format that is compatible with the information technology systems of the County.

If the Contractor fails to comply with the requirements in this Section 13.6, the County may enforce these provisions in accordance with the terms of this Agreement. If the Contractor fails to provide the public records to the County within a reasonable time, it may be subject to penalties under Section 119.10, Florida Statutes.

IF THE CONTRACTOR HAS QUESTIONS REGARDING THE APPLICATION OF CHAPTER 119, FLORIDA STATUTES, TO THE CONTRACTOR'S DUTY TO PROVIDE PUBLIC RECORDS RELATING TO THIS AGREEMENT, THE CONTRACTOR SHOULD CONTACT THE COUNTY'S CUSTODIAN OF PUBLIC RECORDS BY TELEPHONE AT (904) 209-0805, OR E-MAIL AT

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

**PUBLICRECORDS@SJCFL.US, OR MAIL AT ST. JOHNS COUNTY
ATTORNEY, ATTN: PUBLIC RECORDS CUSTODIAN, 500 SAN
SEBASTIAN VIEW, ST. AUGUSTINE, FL 32084.**

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
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COMMERCIAL / INDUSTRIAL SOLID WASTE COLLECTION FRANCHISE**

IN WITNESS WHEREOF, the Parties hereto have caused this Agreement to be executed on 12 day of May, 2023.

CONTRACTOR

Environmental Land Services

Name of Company _____

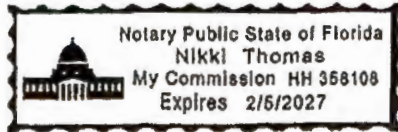
Signature: _____

Printed Name: Nancy Morea VP

Title: Vice Pres. _____

STATE OF FLORIDA
COUNTY OF ST. JOHNS

The foregoing instrument was acknowledged before me by means of physical presence or online notarization, this 12 day of May, 2023, by Nancy Morea _____, as Vice Pres _____ of Environmental Land Services _____, who is personally known to me or has produced _____ as identification.



NOTARY PUBLIC, State of Florida
Name: Nikki Thomas *Nikki Thomas*
My Commission Expires: 2/5/2027
My Commission Number is: 358108

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 entered into by and between St. Johns County, Florida, a political subdivision of the State of Florida, ("County") and Freedom Waste Mgt., a Florida (limited liability corporation, corporation, limited liability partnership) ("Contractor") (alternatively Contractor and County referred to herein as "Party" or collectively referred to herein as "Parties").

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 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 No. 2017-39 ("Solid Waste Ordinance"), as amended, 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 this Agreement and the Solid Waste Ordinance, 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

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

authorizes the Contractor to collect and transport Commercial / 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. No other collection or transportation of Solid Waste or Commercial / Industrial Solid Waste is authorized under this Agreement.

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, 2026.

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 Solid Waste Ordinance, the St. Johns County Code 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 Pursuant to St. Johns County Ordinance No. 2015-19 ("Noise Ordinance"), Contractor is permitted to collect and transport Commercial / Industrial Solid Waste Collection after 7:00am until 7:00pm Monday through Saturday and between the hours of 9:00am and 7:00pm on Sundays and holidays. The 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 County's Solid Waste Division.

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

5.4 All vehicles, Mechanical Containers and other containers used by the Contractor for the collection or transportation of Commercial / Industrial Solid Waste shall be marked on each side with the name and phone number of the Contractor and the markings shall be a minimum of three (3) inches in height.

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

5.5 All vehicles, Mechanical Containers and other containers used by the Contractor for collecting or transporting Commercial / Industrial Solid Waste shall be totally enclosed or securely covered in a manner that prevents the escape of any materials when transporting Commercial / Industrial Solid Waste within the County.

5.6 Each vehicle used by the Contractor for collecting or transporting Commercial / Industrial Solid Waste in the County shall be maintained in a good, clean, and safe operating condition.

5.7 On or before July 1 of each year, Contractor shall provide the County with a current list of all vehicles used to collect or transport Commercial / Industrial Solid Waste in the County. The list shall identify the year of manufacture, the manufacturer's name, the model, the vehicle configuration (e.g., rear loader) and the current license plate number for each vehicle. The list shall include the Contractor's certification that each vehicle has been inspected by a licensed professional mechanic within the preceding twelve (12) months and found to be in safe and operable condition. The list shall be updated and re-submitted to the County within fifteen (15) days after a vehicle is added to or removed from the fleet of vehicles used by the Contractor in the County.

5.8 Contractor shall immediately clean-up and properly dispose of any Solid Waste, waste materials, liquids, or products dropped or spilled by the Contractor. Upon completion of the clean-up, the Contractor shall prepare a written report that identifies the location and type of drop or spill, and the corrective action taken. The report shall be submitted to the County's Solid Waste Division within two business days after the drop or spill.

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 Solid Waste Management Facility that is properly licensed to receive Commercial / Industrial Solid Waste.

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

ARTICLE VII: APPLICATION FEES

7.0 The Contractor is required to complete and submit the standard St. Johns County application form for renewal or transfer of this Franchise Agreement and shall pay all applicable fees associated with the application.

ARTICLE VIII: FRANCHISE FEES

8.0 The Contractor shall pay a Franchise fee to the County for the privilege of collecting Commercial / Industrial Solid waste in the County as a business, for using the public right-of-way 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, and for the other rights and benefits conferred on the Contractor under this Agreement. The Franchise fee also may be used to pay the cost of implementing, administering and enforcing the County's Franchises and other regulations for the safe and proper 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 any and all applicable Franchise fees when they become due. The Franchise fee for a Non-Exclusive Commercial / Industrial Solid Waste Collection and Transportation Franchise shall be equal to five percent (5%) of the Gross Revenues collected by the Contractor for services provided pursuant to this Agreement, including the collection, transportation, processing and disposing of Commercial / Industrial Solid Waste originating in the unincorporated areas of St. Johns County, provided that such 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. Each quarterly payment of

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

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

8.3 Within one hundred twenty (120) days following (a) the expiration of the initial term of this Agreement, (b) the expiration of any renewal term of this Agreement, and (c) the termination of this Agreement, the Contractor shall file with the County a certified audit concerning the Gross Revenue collected by the Contractor as a result of the Contractor's operations under this Agreement. The audit shall be prepared by an independent accounting firm in accordance with generally accepted accounting principles or, at the County's option, prepared on such forms and in such detail as prescribed by the Clerk. The County may, upon application and a showing of good cause, extend the time for performance under this Section 8.3.

8.4 The County shall be given access at all reasonable hours to the Contractor's places of business and its records relating to the accumulation, collection, transportation, and disposal of Construction and Demolition Debris from properties within the County. The County may inspect, copy, and audit such records, at the County's expense, to verify the amount of any Franchise fee or other charge payable to the County pursuant to the Solid Waste Ordinance or this Agreement or to verify any information provided by the Contractor pursuant to the Solid Waste Ordinance or this Agreement. The Contractor shall keep and maintain all such records for the term of this Agreement, and any renewal term, and for at least three (3) years after the expiration or termination of this Agreement. To the extent authorized by Chapter 119, Florida Statutes, or other applicable laws, the information obtained by the County under this Section 8.4 shall remain confidential. Contractor shall comply with Chapter 119, Florida Statutes as related to public records.

8.5 Each report, audit and payment required under this Article VIII shall be timely submitted by the Contractor. Any failure to submit a report, audit or payment in a timely manner shall be a breach and default of this Agreement.

8.6 If the Contractor fails to pay the full amount of the Franchise fee within thirty (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

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

the collection of the Franchise fee, including but not limited to court costs and reasonable attorneys' fees. Any late payment of Franchise fees due under this Agreement or the Solid Waste Ordinance shall bear interest at the maximum legal rate in effect at the time of the default, as established by Section 55.03, Florida Statutes.

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 County's Solid Waste Division. A \$500.00 renewal fee and a vehicle fee of \$100.00 per vehicle shall accompany said renewal application. The submittal of a timely and complete renewal application shall extend this Agreement until the Board of County Commissioners approves or denies the renewal application. If the Contractor fails to submit a timely and complete renewal application, the Contractor shall forfeit its ability to renew this Agreement and must submit an application for a new Franchise.

9.1 The Contractor understands and acknowledges that renewal applications are subject to approval by the Board, after a public hearing, and that the Board may, without prior notice, limit the number of non-exclusive Franchises it awards whenever the Board deems it in the public interest to do so.

ARTICLE X: INSURANCE

10.0 The Contractor shall not commence work under this Agreement until it 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

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

endorsement must accompany the certificate. Compliance with the foregoing requirements shall not relieve the Contractor of its liability and obligations under this Agreement.

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

10.1 The Contractor shall maintain during the life of this Agreement, 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 this Agreement, 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 Agreement, 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 Agreement, 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

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

for, any and all claims, suits, causes of action, damages, liabilities, expenditures, or proceedings of any kind (collectively, "claims") arising from or related to any of the Contractor's activities or operations pursuant to this Agreement, including but not limited to claims based on bodily injury, loss of life or limb, damage to property, pollution or other environmental damages.

11.1 The provisions of Article XI relating to indemnification are 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 The provisions of Article XI relating to Indemnification shall survive the expiration or termination of this Agreement.

ARTICLE XII: TERMINATION BY COUNTY

12.0 If the County concludes that the Contractor is in violation of any of the terms of this Agreement or the Solid Waste Ordinance, or any resolution, rule or regulation promulgated thereunder, the County shall notify the Contractor by certified mail of the reasons why the Contractor is considered to be in violation and shall provide at least seven (7) days thereafter for the Contractor to comply with pertinent requirements. If the Contractor fails to comply within the specified time, the Board shall conduct a hearing concerning the Contractor's failure to comply. The Contractor shall be given notice at least seven (7) days prior to the hearing. The Contractor shall be given an opportunity at the hearing to testify, present evidence and otherwise demonstrate why this Agreement shall not be terminated and the Franchise granted herein revoked. At or subsequent to the hearing, the Board may, at its option, adopt a resolution (a) terminating this Agreement and revoking the Franchise granted herein; (b) requiring the Contractor, within a time certain, to perform the tasks necessary to comply with the terms of this Agreement; or (c) imposing such other requirements as the Board deems appropriate under the circumstances. In the event the Board adopts a resolution terminating this Agreement and revoking the Franchise granted herein, the Contractor shall immediately cease all activities under this Agreement.

12.1 Among other things, a material breach of this Agreement shall be deemed to have occurred if the Contractor (a) fails or refuses to comply with any lawful order of the

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

Board entered after public hearing; (b) violates or fails to comply with any provision of the Solid Waste Ordinance or any other county ordinances, or rule promulgated thereunder, relating to the collection, transportation, or disposal of Solid Waste, or violates or fails to comply with the provisions of this Agreement, or any state or federal law relating to the collection and disposal of Solid Waste; (c) fails to pay Franchise fees at the times and in the amounts required by this Agreement; (d) fails to timely submit any report, information, or audit required by the Solid Waste Ordinance or this Agreement; (e) disposes of Solid Waste at a site other than a properly permitted and authorized Solid Waste Management Facility; (f) collects or transports Solid Waste in a manner that is not authorized under this Agreement; (g) fails to continuously maintain the types and amounts of insurance required under this Agreement; or (h) declares bankruptcy.

12.2 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 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*

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

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 County's Solid Waste Division. The authorized representative of the Contractor for purposes of this Agreement shall be Lee Boyer. 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 Division
2750 Industry Center Road
St. Augustine, FL 32084

If to the Contractor:

Lee Boyer
2220 CR 210 Suite #108 PMB #354
Jacksonville FL, 32259

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

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

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, without respect to Florida conflict of law principles, and any and all controversies and claims relating to or arising out of this Agreement, or the breach or enforcement thereof, whether sounding in contract, tort, or otherwise, shall likewise be governed by the laws of the State of Florida, without respect to Florida conflict of law principles. 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 or proceeding to interpret and/or enforce the Agreement shall be brought and maintained in the State of Florida and venue shall be in St. Johns County, Florida.

13.4 *Assignment*

This Agreement shall be binding upon, and inure to the benefit of, the Parties. This Agreement may not be sold, assigned or transferred by the Contractor, without written approval of the Board in accordance with Section 7.D of the Solid Waste Ordinance. As a condition precedent to receiving Board approval, the Contractor or the proposed transferee must demonstrate that the proposed transferee has the ability to comply with all of the applicable requirements set forth in this Agreement and the Solid Waste Ordinance. An application for approval of a transfer shall be submitted to the Board by the proposed transferee. The application shall contain the same information that is required for a new Franchise and shall include the Contractor's written consent to the transfer and the proposed transferee's written stipulation that the proposed transferee will comply with all of the terms and conditions applicable to the Contractor.

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

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

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 expiration or 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 Contractor*

When performing the activities required by this Agreement, the Contractor will be acting in the capacity of an independent contractor and not as an agent, employee, partner, joint venture or associate of the County. The Contractor shall be solely responsible for the means, methods and procedures used by the Contractor to perform under this Agreement. Neither the Contractor nor any of its employees, officers, agents or subcontractors shall represent, act, purport to act, or be deemed to be the agent, representative, employee, or servant of the County.

The Contractor shall have no authority to bind the County to any agreement or contract. No person performing any work or services for the Contractor under this

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

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 more than five percent (5%) of the total assets or capital stock of the Contractor, nor will any such person directly or indirectly benefit by more than five percent (5%) from the profits or emoluments of this Agreement. The Contractor warrants that it has not employed or retained any company or person, other than a bona fide employee working solely for the Contractor, to solicit or secure this Agreement and the Contractor has not paid or agreed to pay any person, company, corporation, individual or firm, other than a bona fide employee working solely for the Contractor, any fee, commission, percentage gift or any other compensation contingent upon or resulting from the award or making of this Agreement. Further, the Contractor declares and warrants that it 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 is intended to nor shall be interpreted or construed to operate as a waiver on the part of the County of the limitations of liability set forth in Section 768.28, Florida Statutes, or of the County's sovereign immunity.

13.15 *Amendment*

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

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.

13.16 *Terms Generally*

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

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.

Pursuant to Section 119.0701, Florida Statutes, the Contractor shall:

- (a) Keep and maintain public records required by the County to perform the services provided hereunder.
- (b) Upon request from the County's custodian of public records, provide the County with a copy of the requested records or allow the records to be

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

inspected or copied within a reasonable time at a cost that does not exceed the cost provided in Chapter 119, Florida Statutes, or as otherwise provided by law.

(c) Ensure that public records that are exempt or confidential and exempt from public records disclosure requirements are not disclosed, except as authorized by law for the duration of the term of this Agreement and following completion of this Agreement if the Contractor does not transfer the records to the County.

(d) Upon completion of the Agreement, transfer, at no cost, to the County all public records in the possession of the Contractor or keep and maintain public records required by the County to perform the service. If the Contractor transfers all public records to the County upon completion of the Agreement, the Contractor shall destroy any duplicate public records that are exempt or confidential and exempt from public records disclosure requirements. If the Contractor keeps and maintains public records upon completion of the Agreement, the Contractor shall meet all applicable requirements for retaining public records. All records stored electronically must be provided to the County, upon request from the County's custodian of public records, in a format that is compatible with the information technology systems of the County.

If the Contractor fails to comply with the requirements in this Section 13.6, the County may enforce these provisions in accordance with the terms of this Agreement. If the Contractor fails to provide the public records to the County within a reasonable time, it may be subject to penalties under Section 119.10, Florida Statutes.

IF THE CONTRACTOR HAS QUESTIONS REGARDING THE APPLICATION OF CHAPTER 119, FLORIDA STATUTES, TO THE CONTRACTOR'S DUTY TO PROVIDE PUBLIC RECORDS RELATING TO THIS AGREEMENT, THE CONTRACTOR SHOULD CONTACT THE COUNTY'S CUSTODIAN OF PUBLIC RECORDS BY TELEPHONE AT (904) 209-0805, OR E-MAIL AT

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

**PUBLICRECORDS@SJCFL.US, OR MAIL AT ST. JOHNS COUNTY
ATTORNEY, ATTN: PUBLIC RECORDS CUSTODIAN, 500 SAN
SEBASTIAN VIEW, ST. AUGUSTINE, FL 32084.**

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 8th, 2023.

CONTRACTOR

Freedom Waste Mgt, LLC
Name of Company
Signature: [Signature]
Printed Name: Lee Boyer
Title: Owner

STATE OF FLORIDA
COUNTY OF ST. JOHNS

The foregoing instrument was acknowledged before me by means of physical presence or online notarization, this 8th day of May, 2023, by Lee Boyer, as Owner of Freedom Waste Mgt, who is personally known to me or has produced _____ as identification.



NOTARY PUBLIC, State of Florida

Name: Kristi Zajni
My Commission Expires: 7/22/24
My Commission Number is: HH022451

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 entered into by and between St. Johns County, Florida, a political subdivision of the State of Florida, ("County") and GFL Environmental, a Florida (limited liability corporation, corporation, limited liability partnership) ("Contractor") (alternatively Contractor and County referred to herein as "Party" or collectively referred to herein as "Parties").

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 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 No. 2017-39 ("Solid Waste Ordinance"), as amended, 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 this Agreement and the Solid Waste Ordinance, 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

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

authorizes the Contractor to collect and transport Commercial / 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. No other collection or transportation of Solid Waste or Commercial / Industrial Solid Waste is authorized under this Agreement.

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, 2026.

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 Solid Waste Ordinance, the St. Johns County Code 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 Pursuant to St. Johns County Ordinance No. 2015-19 ("Noise Ordinance"), Contractor is permitted to collect and transport Commercial / Industrial Solid Waste Collection after 7:00am until 7:00pm Monday through Saturday and between the hours of 9:00am and 7:00pm on Sundays and holidays. The 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 County's Solid Waste Division.

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

5.4 All vehicles, Mechanical Containers and other containers used by the Contractor for the collection or transportation of Commercial / Industrial Solid Waste shall be marked on each side with the name and phone number of the Contractor and the markings shall be a minimum of three (3) inches in height.

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

5.5 All vehicles, Mechanical Containers and other containers used by the Contractor for collecting or transporting Commercial / Industrial Solid Waste shall be totally enclosed or securely covered in a manner that prevents the escape of any materials when transporting Commercial / Industrial Solid Waste within the County.

5.6 Each vehicle used by the Contractor for collecting or transporting Commercial / Industrial Solid Waste in the County shall be maintained in a good, clean, and safe operating condition.

5.7 On or before July 1 of each year, Contractor shall provide the County with a current list of all vehicles used to collect or transport Commercial / Industrial Solid Waste in the County. The list shall identify the year of manufacture, the manufacturer's name, the model, the vehicle configuration (e.g., rear loader) and the current license plate number for each vehicle. The list shall include the Contractor's certification that each vehicle has been inspected by a licensed professional mechanic within the preceding twelve (12) months and found to be in safe and operable condition. The list shall be updated and re-submitted to the County within fifteen (15) days after a vehicle is added to or removed from the fleet of vehicles used by the Contractor in the County.

5.8 Contractor shall immediately clean-up and properly dispose of any Solid Waste, waste materials, liquids, or products dropped or spilled by the Contractor. Upon completion of the clean-up, the Contractor shall prepare a written report that identifies the location and type of drop or spill, and the corrective action taken. The report shall be submitted to the County's Solid Waste Division within two business days after the drop or spill.

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 Solid Waste Management Facility that is properly licensed to receive Commercial / Industrial Solid Waste.

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

ARTICLE VII: APPLICATION FEES

7.0 The Contractor is required to complete and submit the standard St. Johns County application form for renewal or transfer of this Franchise Agreement and shall pay all applicable fees associated with the application.

ARTICLE VIII: FRANCHISE FEES

8.0 The Contractor shall pay a Franchise fee to the County for the privilege of collecting Commercial / Industrial Solid waste in the County as a business, for using the public right-of-way 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, and for the other rights and benefits conferred on the Contractor under this Agreement. The Franchise fee also may be used to pay the cost of implementing, administering and enforcing the County's Franchises and other regulations for the safe and proper 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 any and all applicable Franchise fees when they become due. The Franchise fee for a Non-Exclusive Commercial / Industrial Solid Waste Collection and Transportation Franchise shall be equal to five percent (5%) of the Gross Revenues collected by the Contractor for services provided pursuant to this Agreement, including the collection, transportation, processing and disposing of Commercial / Industrial Solid Waste originating in the unincorporated areas of St. Johns County, provided that such 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. Each quarterly payment of

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

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

8.3 Within one hundred twenty (120) days following (a) the expiration of the initial term of this Agreement, (b) the expiration of any renewal term of this Agreement, and (c) the termination of this Agreement, the Contractor shall file with the County a certified audit concerning the Gross Revenue collected by the Contractor as a result of the Contractor's operations under this Agreement. The audit shall be prepared by an independent accounting firm in accordance with generally accepted accounting principles or, at the County's option, prepared on such forms and in such detail as prescribed by the Clerk. The County may, upon application and a showing of good cause, extend the time for performance under this Section 8.3.

8.4 The County shall be given access at all reasonable hours to the Contractor's places of business and its records relating to the accumulation, collection, transportation, and disposal of Construction and Demolition Debris from properties within the County. The County may inspect, copy, and audit such records, at the County's expense, to verify the amount of any Franchise fee or other charge payable to the County pursuant to the Solid Waste Ordinance or this Agreement or to verify any information provided by the Contractor pursuant to the Solid Waste Ordinance or this Agreement. The Contractor shall keep and maintain all such records for the term of this Agreement, and any renewal term, and for at least three (3) years after the expiration or termination of this Agreement. To the extent authorized by Chapter 119, Florida Statutes, or other applicable laws, the information obtained by the County under this Section 8.4 shall remain confidential. Contractor shall comply with Chapter 119, Florida Statutes as related to public records.

8.5 Each report, audit and payment required under this Article VIII shall be timely submitted by the Contractor. Any failure to submit a report, audit or payment in a timely manner shall be a breach and default of this Agreement.

8.6 If the Contractor fails to pay the full amount of the Franchise fee within thirty (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

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

the collection of the Franchise fee, including but not limited to court costs and reasonable attorneys' fees. Any late payment of Franchise fees due under this Agreement or the Solid Waste Ordinance shall bear interest at the maximum legal rate in effect at the time of the default, as established by Section 55.03, Florida Statutes.

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 County's Solid Waste Division. A \$500.00 renewal fee and a vehicle fee of \$100.00 per vehicle shall accompany said renewal application. The submittal of a timely and complete renewal application shall extend this Agreement until the Board of County Commissioners approves or denies the renewal application. If the Contractor fails to submit a timely and complete renewal application, the Contractor shall forfeit its ability to renew this Agreement and must submit an application for a new Franchise.

9.1 The Contractor understands and acknowledges that renewal applications are subject to approval by the Board, after a public hearing, and that the Board may, without prior notice, limit the number of non-exclusive Franchises it awards whenever the Board deems it in the public interest to do so.

ARTICLE X: INSURANCE

10.0 The Contractor shall not commence work under this Agreement until it 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

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

endorsement must accompany the certificate. Compliance with the foregoing requirements shall not relieve the Contractor of its liability and obligations under this Agreement.

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

10.1 The Contractor shall maintain during the life of this Agreement, 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 this Agreement, 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 Agreement, 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 Agreement, 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

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

for, any and all claims, suits, causes of action, damages, liabilities, expenditures, or proceedings of any kind (collectively, "claims") arising from or related to any of the Contractor's activities or operations pursuant to this Agreement, including but not limited to claims based on bodily injury, loss of life or limb, damage to property, pollution or other environmental damages.

11.1 The provisions of Article XI relating to indemnification are 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 The provisions of Article XI relating to Indemnification shall survive the expiration or termination of this Agreement.

ARTICLE XII: TERMINATION BY COUNTY

12.0 If the County concludes that the Contractor is in violation of any of the terms of this Agreement or the Solid Waste Ordinance, or any resolution, rule or regulation promulgated thereunder, the County shall notify the Contractor by certified mail of the reasons why the Contractor is considered to be in violation and shall provide at least seven (7) days thereafter for the Contractor to comply with pertinent requirements. If the Contractor fails to comply within the specified time, the Board shall conduct a hearing concerning the Contractor's failure to comply. The Contractor shall be given notice at least seven (7) days prior to the hearing. The Contractor shall be given an opportunity at the hearing to testify, present evidence and otherwise demonstrate why this Agreement shall not be terminated and the Franchise granted herein revoked. At or subsequent to the hearing, the Board may, at its option, adopt a resolution (a) terminating this Agreement and revoking the Franchise granted herein; (b) requiring the Contractor, within a time certain, to perform the tasks necessary to comply with the terms of this Agreement; or (c) imposing such other requirements as the Board deems appropriate under the circumstances. In the event the Board adopts a resolution terminating this Agreement and revoking the Franchise granted herein, the Contractor shall immediately cease all activities under this Agreement.

12.1 Among other things, a material breach of this Agreement shall be deemed to have occurred if the Contractor (a) fails or refuses to comply with any lawful order of the

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

Board entered after public hearing; (b) violates or fails to comply with any provision of the Solid Waste Ordinance or any other county ordinances, or rule promulgated thereunder, relating to the collection, transportation, or disposal of Solid Waste, or violates or fails to comply with the provisions of this Agreement, or any state or federal law relating to the collection and disposal of Solid Waste; (c) fails to pay Franchise fees at the times and in the amounts required by this Agreement; (d) fails to timely submit any report, information, or audit required by the Solid Waste Ordinance or this Agreement; (e) disposes of Solid Waste at a site other than a properly permitted and authorized Solid Waste Management Facility; (f) collects or transports Solid Waste in a manner that is not authorized under this Agreement; (g) fails to continuously maintain the types and amounts of insurance required under this Agreement; or (h) declares bankruptcy.

12.2 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 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*

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

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 County's Solid Waste Division. The authorized representative of the Contractor for purposes of this Agreement shall be Todd Strong, Regional Vice President. 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 Division
2750 Industry Center Road
St. Augustine, FL 32084

If to the Contractor:

GFL Environmental

7580 Phillips Hwy, Jacksonville, Fl

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

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

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, without respect to Florida conflict of law principles, and any and all controversies and claims relating to or arising out of this Agreement, or the breach or enforcement thereof, whether sounding in contract, tort, or otherwise, shall likewise be governed by the laws of the State of Florida, without respect to Florida conflict of law principles. 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 or proceeding to interpret and/or enforce the Agreement shall be brought and maintained in the State of Florida and venue shall be in St. Johns County, Florida.

13.4 Assignment

This Agreement shall be binding upon, and inure to the benefit of, the Parties. This Agreement may not be sold, assigned or transferred by the Contractor, without written approval of the Board in accordance with Section 7.D of the Solid Waste Ordinance. As a condition precedent to receiving Board approval, the Contractor or the proposed transferee must demonstrate that the proposed transferee has the ability to comply with all of the applicable requirements set forth in this Agreement and the Solid Waste Ordinance. An application for approval of a transfer shall be submitted to the Board by the proposed transferee. The application shall contain the same information that is required for a new Franchise and shall include the Contractor's written consent to the transfer and the proposed transferee's written stipulation that the proposed transferee will comply with all of the terms and conditions applicable to the Contractor.

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

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

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 expiration or 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 Contractor*

When performing the activities required by this Agreement, the Contractor will be acting in the capacity of an independent contractor and not as an agent, employee, partner, joint venture or associate of the County. The Contractor shall be solely responsible for the means, methods and procedures used by the Contractor to perform under this Agreement. Neither the Contractor nor any of its employees, officers, agents or subcontractors shall represent, act, purport to act, or be deemed to be the agent, representative, employee, or servant of the County.

The Contractor shall have no authority to bind the County to any agreement or contract. No person performing any work or services for the Contractor under this

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

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 more than five percent (5%) of the total assets or capital stock of the Contractor, nor will any such person directly or indirectly benefit by more than five percent (5%) from the profits or emoluments of this Agreement. The Contractor warrants that it has not employed or retained any company or person, other than a bona fide employee working solely for the Contractor, to solicit or secure this Agreement and the Contractor has not paid or agreed to pay any person, company, corporation, individual or firm, other than a bona fide employee working solely for the Contractor, any fee, commission, percentage gift or any other compensation contingent upon or resulting from the award or making of this Agreement. Further, the Contractor declares and warrants that it 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 is intended to nor shall be interpreted or construed to operate as a waiver on the part of the County of the limitations of liability set forth in Section 768.28, Florida Statutes, or of the County's sovereign immunity.

13.15 *Amendment*

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

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.

13.16 *Terms Generally*

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

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.

Pursuant to Section 119.0701, Florida Statutes, the Contractor shall:

- (a) Keep and maintain public records required by the County to perform the services provided hereunder.
- (b) Upon request from the County's custodian of public records, provide the County with a copy of the requested records or allow the records to be

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

inspected or copied within a reasonable time at a cost that does not exceed the cost provided in Chapter 119, Florida Statutes, or as otherwise provided by law.

(c) Ensure that public records that are exempt or confidential and exempt from public records disclosure requirements are not disclosed, except as authorized by law for the duration of the term of this Agreement and following completion of this Agreement if the Contractor does not transfer the records to the County.

(d) Upon completion of the Agreement, transfer, at no cost, to the County all public records in the possession of the Contractor or keep and maintain public records required by the County to perform the service. If the Contractor transfers all public records to the County upon completion of the Agreement, the Contractor shall destroy any duplicate public records that are exempt or confidential and exempt from public records disclosure requirements. If the Contractor keeps and maintains public records upon completion of the Agreement, the Contractor shall meet all applicable requirements for retaining public records. All records stored electronically must be provided to the County, upon request from the County's custodian of public records, in a format that is compatible with the information technology systems of the County.

If the Contractor fails to comply with the requirements in this Section 13.6, the County may enforce these provisions in accordance with the terms of this Agreement. If the Contractor fails to provide the public records to the County within a reasonable time, it may be subject to penalties under Section 119.10, Florida Statutes.

IF THE CONTRACTOR HAS QUESTIONS REGARDING THE APPLICATION OF CHAPTER 119, FLORIDA STATUTES, TO THE CONTRACTOR'S DUTY TO PROVIDE PUBLIC RECORDS RELATING TO THIS AGREEMENT, THE CONTRACTOR SHOULD CONTACT THE COUNTY'S CUSTODIAN OF PUBLIC RECORDS BY TELEPHONE AT (904) 209-0805, OR E-MAIL AT

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

**PUBLICRECORDS@SJCFL.US, OR MAIL AT ST. JOHNS COUNTY
ATTORNEY, ATTN: PUBLIC RECORDS CUSTODIAN, 500 SAN
SEBASTIAN VIEW, ST. AUGUSTINE, FL 32084.**

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**

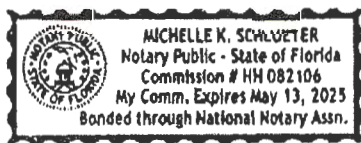
IN WITNESS WHEREOF, the Parties hereto have caused this Agreement to be executed on May 3, 2023.

CONTRACTOR

GFL Environmental
Name of Company
Signature: Todd Strong
Printed Name: Todd Strong
Title: Regional Vice President

STATE OF FLORIDA
COUNTY OF ST. JOHNS

The foregoing instrument was acknowledged before me by means of physical presence or online notarization, this 3rd day of May, 2023, by Todd Strong, as RVP of GFL Environmental, who is personally known to me or has produced as identification.



NOTARY PUBLIC, State of Florida
Name: Michelle K. Schwetzer
My Commission Expires: May 13, 2025
My Commission Number is: HH 082106

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 entered into by and between St. Johns County, Florida, a political subdivision of the State of Florida, ("County") and HICKS Land Clearing & Incinerator^{LLC} Florida (limited liability corporation, corporation, limited liability partnership) ("Contractor") (alternatively Contractor and County referred to herein as "Party" or collectively referred to herein as "Parties").

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 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 No. 2017-39 ("Solid Waste Ordinance"), as amended, 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 this Agreement and the Solid Waste Ordinance, 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

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

authorizes the Contractor to collect and transport Commercial / 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. No other collection or transportation of Solid Waste or Commercial / Industrial Solid Waste is authorized under this Agreement.

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, 2026.

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 Solid Waste Ordinance, the St. Johns County Code 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 Pursuant to St. Johns County Ordinance No. 2015-19 ("Noise Ordinance"), Contractor is permitted to collect and transport Commercial / Industrial Solid Waste Collection after 7:00am until 7:00pm Monday through Saturday and between the hours of 9:00am and 7:00pm on Sundays and holidays. The 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 County's Solid Waste Division.

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

5.4 All vehicles, Mechanical Containers and other containers used by the Contractor for the collection or transportation of Commercial / Industrial Solid Waste shall be marked on each side with the name and phone number of the Contractor and the markings shall be a minimum of three (3) inches in height.

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

5.5 All vehicles, Mechanical Containers and other containers used by the Contractor for collecting or transporting Commercial / Industrial Solid Waste shall be totally enclosed or securely covered in a manner that prevents the escape of any materials when transporting Commercial / Industrial Solid Waste within the County.

5.6 Each vehicle used by the Contractor for collecting or transporting Commercial / Industrial Solid Waste in the County shall be maintained in a good, clean, and safe operating condition.

5.7 On or before July 1 of each year, Contractor shall provide the County with a current list of all vehicles used to collect or transport Commercial / Industrial Solid Waste in the County. The list shall identify the year of manufacture, the manufacturer's name, the model, the vehicle configuration (e.g., rear loader) and the current license plate number for each vehicle. The list shall include the Contractor's certification that each vehicle has been inspected by a licensed professional mechanic within the preceding twelve (12) months and found to be in safe and operable condition. The list shall be updated and re-submitted to the County within fifteen (15) days after a vehicle is added to or removed from the fleet of vehicles used by the Contractor in the County.

5.8 Contractor shall immediately clean-up and properly dispose of any Solid Waste, waste materials, liquids, or products dropped or spilled by the Contractor. Upon completion of the clean-up, the Contractor shall prepare a written report that identifies the location and type of drop or spill, and the corrective action taken. The report shall be submitted to the County's Solid Waste Division within two business days after the drop or spill.

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 Solid Waste Management Facility that is properly licensed to receive Commercial / Industrial Solid Waste.

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

ARTICLE VII: APPLICATION FEES

7.0 The Contractor is required to complete and submit the standard St. Johns County application form for renewal or transfer of this Franchise Agreement and shall pay all applicable fees associated with the application.

ARTICLE VIII: FRANCHISE FEES

8.0 The Contractor shall pay a Franchise fee to the County for the privilege of collecting Commercial / Industrial Solid waste in the County as a business, for using the public right-of-way 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, and for the other rights and benefits conferred on the Contractor under this Agreement. The Franchise fee also may be used to pay the cost of implementing, administering and enforcing the County's Franchises and other regulations for the safe and proper 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 any and all applicable Franchise fees when they become due. The Franchise fee for a Non-Exclusive Commercial / Industrial Solid Waste Collection and Transportation Franchise shall be equal to five percent (5%) of the Gross Revenues collected by the Contractor for services provided pursuant to this Agreement, including the collection, transportation, processing and disposing of Commercial / Industrial Solid Waste originating in the unincorporated areas of St. Johns County, provided that such 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. Each quarterly payment of

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

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

8.3 Within one hundred twenty (120) days following (a) the expiration of the initial term of this Agreement, (b) the expiration of any renewal term of this Agreement, and (c) the termination of this Agreement, the Contractor shall file with the County a certified audit concerning the Gross Revenue collected by the Contractor as a result of the Contractor's operations under this Agreement. The audit shall be prepared by an independent accounting firm in accordance with generally accepted accounting principles or, at the County's option, prepared on such forms and in such detail as prescribed by the Clerk. The County may, upon application and a showing of good cause, extend the time for performance under this Section 8.3.

8.4 The County shall be given access at all reasonable hours to the Contractor's places of business and its records relating to the accumulation, collection, transportation, and disposal of Construction and Demolition Debris from properties within the County. The County may inspect, copy, and audit such records, at the County's expense, to verify the amount of any Franchise fee or other charge payable to the County pursuant to the Solid Waste Ordinance or this Agreement or to verify any information provided by the Contractor pursuant to the Solid Waste Ordinance or this Agreement. The Contractor shall keep and maintain all such records for the term of this Agreement, and any renewal term, and for at least three (3) years after the expiration or termination of this Agreement. To the extent authorized by Chapter 119, Florida Statutes, or other applicable laws, the information obtained by the County under this Section 8.4 shall remain confidential. Contractor shall comply with Chapter 119, Florida Statutes as related to public records.

8.5 Each report, audit and payment required under this Article VIII shall be timely submitted by the Contractor. Any failure to submit a report, audit or payment in a timely manner shall be a breach and default of this Agreement.

8.6 If the Contractor fails to pay the full amount of the Franchise fee within thirty (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

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

the collection of the Franchise fee, including but not limited to court costs and reasonable attorneys' fees. Any late payment of Franchise fees due under this Agreement or the Solid Waste Ordinance shall bear interest at the maximum legal rate in effect at the time of the default, as established by Section 55.03, Florida Statutes.

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 County's Solid Waste Division. A \$500.00 renewal fee and a vehicle fee of \$100.00 per vehicle shall accompany said renewal application. The submittal of a timely and complete renewal application shall extend this Agreement until the Board of County Commissioners approves or denies the renewal application. If the Contractor fails to submit a timely and complete renewal application, the Contractor shall forfeit its ability to renew this Agreement and must submit an application for a new Franchise.

9.1 The Contractor understands and acknowledges that renewal applications are subject to approval by the Board, after a public hearing, and that the Board may, without prior notice, limit the number of non-exclusive Franchises it awards whenever the Board deems it in the public interest to do so.

ARTICLE X: INSURANCE

10.0 The Contractor shall not commence work under this Agreement until it 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

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

endorsement must accompany the certificate. Compliance with the foregoing requirements shall not relieve the Contractor of its liability and obligations under this Agreement.

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

10.1 The Contractor shall maintain during the life of this Agreement, 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 this Agreement, 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 Agreement, 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 Agreement, 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

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

for, any and all claims, suits, causes of action, damages, liabilities, expenditures, or proceedings of any kind (collectively, "claims") arising from or related to any of the Contractor's activities or operations pursuant to this Agreement, including but not limited to claims based on bodily injury, loss of life or limb, damage to property, pollution or other environmental damages.

11.1 The provisions of Article XI relating to indemnification are 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 The provisions of Article XI relating to Indemnification shall survive the expiration or termination of this Agreement.

ARTICLE XII: TERMINATION BY COUNTY

12.0 If the County concludes that the Contractor is in violation of any of the terms of this Agreement or the Solid Waste Ordinance, or any resolution, rule or regulation promulgated thereunder, the County shall notify the Contractor by certified mail of the reasons why the Contractor is considered to be in violation and shall provide at least seven (7) days thereafter for the Contractor to comply with pertinent requirements. If the Contractor fails to comply within the specified time, the Board shall conduct a hearing concerning the Contractor's failure to comply. The Contractor shall be given notice at least seven (7) days prior to the hearing. The Contractor shall be given an opportunity at the hearing to testify, present evidence and otherwise demonstrate why this Agreement shall not be terminated and the Franchise granted herein revoked. At or subsequent to the hearing, the Board may, at its option, adopt a resolution (a) terminating this Agreement and revoking the Franchise granted herein; (b) requiring the Contractor, within a time certain, to perform the tasks necessary to comply with the terms of this Agreement; or (c) imposing such other requirements as the Board deems appropriate under the circumstances. In the event the Board adopts a resolution terminating this Agreement and revoking the Franchise granted herein, the Contractor shall immediately cease all activities under this Agreement.

12.1 Among other things, a material breach of this Agreement shall be deemed to have occurred if the Contractor (a) fails or refuses to comply with any lawful order of the

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

Board entered after public hearing; (b) violates or fails to comply with any provision of the Solid Waste Ordinance or any other county ordinances, or rule promulgated thereunder, relating to the collection, transportation, or disposal of Solid Waste, or violates or fails to comply with the provisions of this Agreement, or any state or federal law relating to the collection and disposal of Solid Waste; (c) fails to pay Franchise fees at the times and in the amounts required by this Agreement; (d) fails to timely submit any report, information, or audit required by the Solid Waste Ordinance or this Agreement; (e) disposes of Solid Waste at a site other than a properly permitted and authorized Solid Waste Management Facility; (f) collects or transports Solid Waste in a manner that is not authorized under this Agreement; (g) fails to continuously maintain the types and amounts of insurance required under this Agreement; or (h) declares bankruptcy.

12.2 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 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*

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

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 County's Solid Waste Division. 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 Division
2750 Industry Center Road
St. Augustine, FL 32084

If to the Contractor:

Micho Land Clearing & Incinerator LLC
PO Box 860358
St Augustine FL 32086

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

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

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, without respect to Florida conflict of law principles, and any and all controversies and claims relating to or arising out of this Agreement, or the breach or enforcement thereof, whether sounding in contract, tort, or otherwise, shall likewise be governed by the laws of the State of Florida, without respect to Florida conflict of law principles. 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 or proceeding to interpret and/or enforce the Agreement shall be brought and maintained in the State of Florida and venue shall be in St. Johns County, Florida.

13.4 *Assignment*

This Agreement shall be binding upon, and inure to the benefit of, the Parties. This Agreement may not be sold, assigned or transferred by the Contractor, without written approval of the Board in accordance with Section 7.D of the Solid Waste Ordinance. As a condition precedent to receiving Board approval, the Contractor or the proposed transferee must demonstrate that the proposed transferee has the ability to comply with all of the applicable requirements set forth in this Agreement and the Solid Waste Ordinance. An application for approval of a transfer shall be submitted to the Board by the proposed transferee. The application shall contain the same information that is required for a new Franchise and shall include the Contractor's written consent to the transfer and the proposed transferee's written stipulation that the proposed transferee will comply with all of the terms and conditions applicable to the Contractor.

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

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

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 expiration or 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 Contractor*

When performing the activities required by this Agreement, the Contractor will be acting in the capacity of an independent contractor and not as an agent, employee, partner, joint venture or associate of the County. The Contractor shall be solely responsible for the means, methods and procedures used by the Contractor to perform under this Agreement. Neither the Contractor nor any of its employees, officers, agents or subcontractors shall represent, act, purport to act, or be deemed to be the agent, representative, employee, or servant of the County.

The Contractor shall have no authority to bind the County to any agreement or contract. No person performing any work or services for the Contractor under this

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

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 more than five percent (5%) of the total assets or capital stock of the Contractor, nor will any such person directly or indirectly benefit by more than five percent (5%) from the profits or emoluments of this Agreement. The Contractor warrants that it has not employed or retained any company or person, other than a bona fide employee working solely for the Contractor, to solicit or secure this Agreement and the Contractor has not paid or agreed to pay any person, company, corporation, individual or firm, other than a bona fide employee working solely for the Contractor, any fee, commission, percentage gift or any other compensation contingent upon or resulting from the award or making of this Agreement. Further, the Contractor declares and warrants that it 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 is intended to nor shall be interpreted or construed to operate as a waiver on the part of the County of the limitations of liability set forth in Section 768.28, Florida Statutes, or of the County's sovereign immunity.

13.15 *Amendment*

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

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.

13.16 *Terms Generally*

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

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.

Pursuant to Section 119.0701, Florida Statutes, the Contractor shall:

- (a) Keep and maintain public records required by the County to perform the services provided hereunder.
- (b) Upon request from the County's custodian of public records, provide the County with a copy of the requested records or allow the records to be

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

inspected or copied within a reasonable time at a cost that does not exceed the cost provided in Chapter 119, Florida Statutes, or as otherwise provided by law.

(c) Ensure that public records that are exempt or confidential and exempt from public records disclosure requirements are not disclosed, except as authorized by law for the duration of the term of this Agreement and following completion of this Agreement if the Contractor does not transfer the records to the County.

(d) Upon completion of the Agreement, transfer, at no cost, to the County all public records in the possession of the Contractor or keep and maintain public records required by the County to perform the service. If the Contractor transfers all public records to the County upon completion of the Agreement, the Contractor shall destroy any duplicate public records that are exempt or confidential and exempt from public records disclosure requirements. If the Contractor keeps and maintains public records upon completion of the Agreement, the Contractor shall meet all applicable requirements for retaining public records. All records stored electronically must be provided to the County, upon request from the County's custodian of public records, in a format that is compatible with the information technology systems of the County.

If the Contractor fails to comply with the requirements in this Section 13.6, the County may enforce these provisions in accordance with the terms of this Agreement. If the Contractor fails to provide the public records to the County within a reasonable time, it may be subject to penalties under Section 119.10, Florida Statutes.

IF THE CONTRACTOR HAS QUESTIONS REGARDING THE APPLICATION OF CHAPTER 119, FLORIDA STATUTES, TO THE CONTRACTOR'S DUTY TO PROVIDE PUBLIC RECORDS RELATING TO THIS AGREEMENT, THE CONTRACTOR SHOULD CONTACT THE COUNTY'S CUSTODIAN OF PUBLIC RECORDS BY TELEPHONE AT (904) 209-0805, OR E-MAIL AT

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

**PUBLICRECORDS@SJCFL.US, OR MAIL AT ST. JOHNS COUNTY
ATTORNEY, ATTN: PUBLIC RECORDS CUSTODIAN, 500 SAN
SEBASTIAN VIEW, ST. AUGUSTINE, FL 32084.**

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**

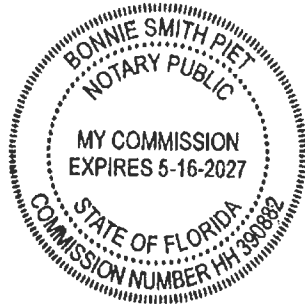
IN WITNESS WHEREOF, the Parties hereto have caused this Agreement to be executed on May 4, 2023.

CONTRACTOR

Hick Land Clearing & Incineration LLC
Name of Company
Signature: James Hicks
Printed Name: JAMES HICKS
Title: Owner

STATE OF FLORIDA
COUNTY OF ST. JOHNS

The foregoing instrument was acknowledged before me by means of physical presence or online notarization, this 4 day of May, 2023, by James Hicks, as owner of HICKS Land Clearing & Incn who is personally known to me or has produced _____ as identification.



NOTARY PUBLIC, State of Florida
Name: Bonnie Smith Piet
My Commission Expires: 5-16-2027
My Commission Number is: HH 390882

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 entered into by and between St. Johns County, Florida, a political subdivision of the State of Florida, ("County") and Jacksonville Dumpster LLC dba Bin There Dump That, a Florida (limited liability corporation, corporation, limited liability partnership) ("Contractor") (alternatively Contractor and County referred to herein as "Party" or collectively referred to herein as "Parties").

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 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 No. 2017-39 ("Solid Waste Ordinance"), as amended, 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 this Agreement and the Solid Waste Ordinance, 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

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

authorizes the Contractor to collect and transport Commercial / 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. No other collection or transportation of Solid Waste or Commercial / Industrial Solid Waste is authorized under this Agreement.

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, 2026.

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 Solid Waste Ordinance, the St. Johns County Code 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 Pursuant to St. Johns County Ordinance No. 2015-19 ("Noise Ordinance"), Contractor is permitted to collect and transport Commercial / Industrial Solid Waste Collection after 7:00am until 7:00pm Monday through Saturday and between the hours of 9:00am and 7:00pm on Sundays and holidays. The 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 County's Solid Waste Division.

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

5.4 All vehicles, Mechanical Containers and other containers used by the Contractor for the collection or transportation of Commercial / Industrial Solid Waste shall be marked on each side with the name and phone number of the Contractor and the markings shall be a minimum of three (3) inches in height.

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

5.5 All vehicles, Mechanical Containers and other containers used by the Contractor for collecting or transporting Commercial / Industrial Solid Waste shall be totally enclosed or securely covered in a manner that prevents the escape of any materials when transporting Commercial / Industrial Solid Waste within the County.

5.6 Each vehicle used by the Contractor for collecting or transporting Commercial / Industrial Solid Waste in the County shall be maintained in a good, clean, and safe operating condition.

5.7 On or before July 1 of each year, Contractor shall provide the County with a current list of all vehicles used to collect or transport Commercial / Industrial Solid Waste in the County. The list shall identify the year of manufacture, the manufacturer's name, the model, the vehicle configuration (e.g., rear loader) and the current license plate number for each vehicle. The list shall include the Contractor's certification that each vehicle has been inspected by a licensed professional mechanic within the preceding twelve (12) months and found to be in safe and operable condition. The list shall be updated and re-submitted to the County within fifteen (15) days after a vehicle is added to or removed from the fleet of vehicles used by the Contractor in the County.

5.8 Contractor shall immediately clean-up and properly dispose of any Solid Waste, waste materials, liquids, or products dropped or spilled by the Contractor. Upon completion of the clean-up, the Contractor shall prepare a written report that identifies the location and type of drop or spill, and the corrective action taken. The report shall be submitted to the County's Solid Waste Division within two business days after the drop or spill.

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 Solid Waste Management Facility that is properly licensed to receive Commercial / Industrial Solid Waste.

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

ARTICLE VII: APPLICATION FEES

7.0 The Contractor is required to complete and submit the standard St. Johns County application form for renewal or transfer of this Franchise Agreement and shall pay all applicable fees associated with the application.

ARTICLE VIII: FRANCHISE FEES

8.0 The Contractor shall pay a Franchise fee to the County for the privilege of collecting Commercial / Industrial Solid waste in the County as a business, for using the public right-of-way 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, and for the other rights and benefits conferred on the Contractor under this Agreement. The Franchise fee also may be used to pay the cost of implementing, administering and enforcing the County's Franchises and other regulations for the safe and proper 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 any and all applicable Franchise fees when they become due. The Franchise fee for a Non-Exclusive Commercial / Industrial Solid Waste Collection and Transportation Franchise shall be equal to five percent (5%) of the Gross Revenues collected by the Contractor for services provided pursuant to this Agreement, including the collection, transportation, processing and disposing of Commercial / Industrial Solid Waste originating in the unincorporated areas of St. Johns County, provided that such 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. Each quarterly payment of

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

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

8.3 Within one hundred twenty (120) days following (a) the expiration of the initial term of this Agreement, (b) the expiration of any renewal term of this Agreement, and (c) the termination of this Agreement, the Contractor shall file with the County a certified audit concerning the Gross Revenue collected by the Contractor as a result of the Contractor's operations under this Agreement. The audit shall be prepared by an independent accounting firm in accordance with generally accepted accounting principles or, at the County's option, prepared on such forms and in such detail as prescribed by the Clerk. The County may, upon application and a showing of good cause, extend the time for performance under this Section 8.3.

8.4 The County shall be given access at all reasonable hours to the Contractor's places of business and its records relating to the accumulation, collection, transportation, and disposal of Construction and Demolition Debris from properties within the County. The County may inspect, copy, and audit such records, at the County's expense, to verify the amount of any Franchise fee or other charge payable to the County pursuant to the Solid Waste Ordinance or this Agreement or to verify any information provided by the Contractor pursuant to the Solid Waste Ordinance or this Agreement. The Contractor shall keep and maintain all such records for the term of this Agreement, and any renewal term, and for at least three (3) years after the expiration or termination of this Agreement. To the extent authorized by Chapter 119, Florida Statutes, or other applicable laws, the information obtained by the County under this Section 8.4 shall remain confidential. Contractor shall comply with Chapter 119, Florida Statutes as related to public records.

8.5 Each report, audit and payment required under this Article VIII shall be timely submitted by the Contractor. Any failure to submit a report, audit or payment in a timely manner shall be a breach and default of this Agreement.

8.6 If the Contractor fails to pay the full amount of the Franchise fee within thirty (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

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

the collection of the Franchise fee, including but not limited to court costs and reasonable attorneys' fees. Any late payment of Franchise fees due under this Agreement or the Solid Waste Ordinance shall bear interest at the maximum legal rate in effect at the time of the default, as established by Section 55.03, Florida Statutes.

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 County's Solid Waste Division. A \$500.00 renewal fee and a vehicle fee of \$100.00 per vehicle shall accompany said renewal application. The submittal of a timely and complete renewal application shall extend this Agreement until the Board of County Commissioners approves or denies the renewal application. If the Contractor fails to submit a timely and complete renewal application, the Contractor shall forfeit its ability to renew this Agreement and must submit an application for a new Franchise.

9.1 The Contractor understands and acknowledges that renewal applications are subject to approval by the Board, after a public hearing, and that the Board may, without prior notice, limit the number of non-exclusive Franchises it awards whenever the Board deems it in the public interest to do so.

ARTICLE X: INSURANCE

10.0 The Contractor shall not commence work under this Agreement until it 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

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

endorsement must accompany the certificate. Compliance with the foregoing requirements shall not relieve the Contractor of its liability and obligations under this Agreement.

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

10.1 The Contractor shall maintain during the life of this Agreement, 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 this Agreement, 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 Agreement, 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 Agreement, 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

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

for, any and all claims, suits, causes of action, damages, liabilities, expenditures, or proceedings of any kind (collectively, "claims") arising from or related to any of the Contractor's activities or operations pursuant to this Agreement, including but not limited to claims based on bodily injury, loss of life or limb, damage to property, pollution or other environmental damages.

11.1 The provisions of Article XI relating to indemnification are 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 The provisions of Article XI relating to Indemnification shall survive the expiration or termination of this Agreement.

ARTICLE XII: TERMINATION BY COUNTY

12.0 If the County concludes that the Contractor is in violation of any of the terms of this Agreement or the Solid Waste Ordinance, or any resolution, rule or regulation promulgated thereunder, the County shall notify the Contractor by certified mail of the reasons why the Contractor is considered to be in violation and shall provide at least seven (7) days thereafter for the Contractor to comply with pertinent requirements. If the Contractor fails to comply within the specified time, the Board shall conduct a hearing concerning the Contractor's failure to comply. The Contractor shall be given notice at least seven (7) days prior to the hearing. The Contractor shall be given an opportunity at the hearing to testify, present evidence and otherwise demonstrate why this Agreement shall not be terminated and the Franchise granted herein revoked. At or subsequent to the hearing, the Board may, at its option, adopt a resolution (a) terminating this Agreement and revoking the Franchise granted herein; (b) requiring the Contractor, within a time certain, to perform the tasks necessary to comply with the terms of this Agreement; or (c) imposing such other requirements as the Board deems appropriate under the circumstances. In the event the Board adopts a resolution terminating this Agreement and revoking the Franchise granted herein, the Contractor shall immediately cease all activities under this Agreement.

12.1 Among other things, a material breach of this Agreement shall be deemed to have occurred if the Contractor (a) fails or refuses to comply with any lawful order of the

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

Board entered after public hearing; (b) violates or fails to comply with any provision of the Solid Waste Ordinance or any other county ordinances, or rule promulgated thereunder, relating to the collection, transportation, or disposal of Solid Waste, or violates or fails to comply with the provisions of this Agreement, or any state or federal law relating to the collection and disposal of Solid Waste; (c) fails to pay Franchise fees at the times and in the amounts required by this Agreement; (d) fails to timely submit any report, information, or audit required by the Solid Waste Ordinance or this Agreement; (e) disposes of Solid Waste at a site other than a properly permitted and authorized Solid Waste Management Facility; (f) collects or transports Solid Waste in a manner that is not authorized under this Agreement; (g) fails to continuously maintain the types and amounts of insurance required under this Agreement; or (h) declares bankruptcy.

12.2 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 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*

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

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 County's Solid Waste Division. The authorized representative of the Contractor for purposes of this Agreement shall be Kevin Stearns. 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 Division
2750 Industry Center Road
St. Augustine, FL 32084

If to the Contractor:

Jacksonville Dumpster LLC dba Bin There Dump That
5533 S. Richland Creek Road
Buford, GA 30518

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

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

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, without respect to Florida conflict of law principles, and any and all controversies and claims relating to or arising out of this Agreement, or the breach or enforcement thereof, whether sounding in contract, tort, or otherwise, shall likewise be governed by the laws of the State of Florida, without respect to Florida conflict of law principles. 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 or proceeding to interpret and/or enforce the Agreement shall be brought and maintained in the State of Florida and venue shall be in St. Johns County, Florida.

13.4 *Assignment*

This Agreement shall be binding upon, and inure to the benefit of, the Parties. This Agreement may not be sold, assigned or transferred by the Contractor, without written approval of the Board in accordance with Section 7.D of the Solid Waste Ordinance. As a condition precedent to receiving Board approval, the Contractor or the proposed transferee must demonstrate that the proposed transferee has the ability to comply with all of the applicable requirements set forth in this Agreement and the Solid Waste Ordinance. An application for approval of a transfer shall be submitted to the Board by the proposed transferee. The application shall contain the same information that is required for a new Franchise and shall include the Contractor's written consent to the transfer and the proposed transferee's written stipulation that the proposed transferee will comply with all of the terms and conditions applicable to the Contractor.

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

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

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 expiration or 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 Contractor*

When performing the activities required by this Agreement, the Contractor will be acting in the capacity of an independent contractor and not as an agent, employee, partner, joint venture or associate of the County. The Contractor shall be solely responsible for the means, methods and procedures used by the Contractor to perform under this Agreement. Neither the Contractor nor any of its employees, officers, agents or subcontractors shall represent, act, purport to act, or be deemed to be the agent, representative, employee, or servant of the County.

The Contractor shall have no authority to bind the County to any agreement or contract. No person performing any work or services for the Contractor under this

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

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 more than five percent (5%) of the total assets or capital stock of the Contractor, nor will any such person directly or indirectly benefit by more than five percent (5%) from the profits or emoluments of this Agreement. The Contractor warrants that it has not employed or retained any company or person, other than a bona fide employee working solely for the Contractor, to solicit or secure this Agreement and the Contractor has not paid or agreed to pay any person, company, corporation, individual or firm, other than a bona fide employee working solely for the Contractor, any fee, commission, percentage gift or any other compensation contingent upon or resulting from the award or making of this Agreement. Further, the Contractor declares and warrants that it 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 is intended to nor shall be interpreted or construed to operate as a waiver on the part of the County of the limitations of liability set forth in Section 768.28, Florida Statutes, or of the County's sovereign immunity.

13.15 *Amendment*

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

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.

13.16 *Terms Generally*

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

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.

Pursuant to Section 119.0701, Florida Statutes, the Contractor shall:

- (a) Keep and maintain public records required by the County to perform the services provided hereunder.
- (b) Upon request from the County’s custodian of public records, provide the County with a copy of the requested records or allow the records to be

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

inspected or copied within a reasonable time at a cost that does not exceed the cost provided in Chapter 119, Florida Statutes, or as otherwise provided by law.

(c) Ensure that public records that are exempt or confidential and exempt from public records disclosure requirements are not disclosed, except as authorized by law for the duration of the term of this Agreement and following completion of this Agreement if the Contractor does not transfer the records to the County.

(d) Upon completion of the Agreement, transfer, at no cost, to the County all public records in the possession of the Contractor or keep and maintain public records required by the County to perform the service. If the Contractor transfers all public records to the County upon completion of the Agreement, the Contractor shall destroy any duplicate public records that are exempt or confidential and exempt from public records disclosure requirements. If the Contractor keeps and maintains public records upon completion of the Agreement, the Contractor shall meet all applicable requirements for retaining public records. All records stored electronically must be provided to the County, upon request from the County's custodian of public records, in a format that is compatible with the information technology systems of the County.

If the Contractor fails to comply with the requirements in this Section 13.6, the County may enforce these provisions in accordance with the terms of this Agreement. If the Contractor fails to provide the public records to the County within a reasonable time, it may be subject to penalties under Section 119.10, Florida Statutes.

IF THE CONTRACTOR HAS QUESTIONS REGARDING THE APPLICATION OF CHAPTER 119, FLORIDA STATUTES, TO THE CONTRACTOR'S DUTY TO PROVIDE PUBLIC RECORDS RELATING TO THIS AGREEMENT, THE CONTRACTOR SHOULD CONTACT THE COUNTY'S CUSTODIAN OF PUBLIC RECORDS BY TELEPHONE AT (904) 209-0805, OR E-MAIL AT

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

**PUBLICRECORDS@SJCFL.US, OR MAIL AT ST. JOHNS COUNTY
ATTORNEY, ATTN: PUBLIC RECORDS CUSTODIAN, 500 SAN
SEBASTIAN VIEW, ST. AUGUSTINE, FL 32084.**

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 2, 2023.

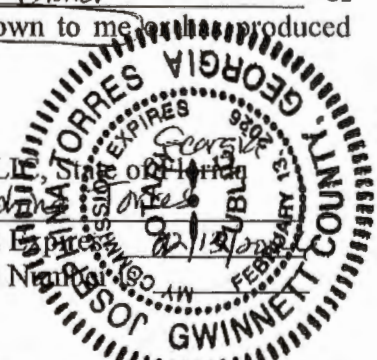
CONTRACTOR

Jacksonville Dumpster LLC dba Bin There Dump That
Name of Company
Signature: *Kevin Stearns*
Printed Name: Kevin Stearns
Title: Owner

STATE OF FLORIDA
COUNTY OF ST. JOHNS

The foregoing instrument was acknowledged before me by means of physical presence or online notarization, this 02 day of May, 2023, by Kevin Stearns, as Owner of Jacksonville Dumpster LLC, who is personally known to me, produced _____ as identification.

NOTARY PUBLIC, State of Florida
Name: Joseph Torres
My Commission Expires: 02/13/2024
My Commission Number: 19034



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 entered into by and between St. Johns County, Florida, a political subdivision of the State of Florida, (“County”) and Meridian Waste Florida, LLC, a Florida (limited liability corporation, corporation, limited liability partnership) (“Contractor”) (alternatively Contractor and County referred to herein as “Party” or collectively referred to herein as “Parties”).

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 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 No. 2017-39 (“Solid Waste Ordinance”), as amended, 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 this Agreement and the Solid Waste Ordinance, 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

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

authorizes the Contractor to collect and transport Commercial / 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. No other collection or transportation of Solid Waste or Commercial / Industrial Solid Waste is authorized under this Agreement.

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, 2026.

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 Solid Waste Ordinance, the St. Johns County Code 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 Pursuant to St. Johns County Ordinance No. 2015-19 ("Noise Ordinance"), Contractor is permitted to collect and transport Commercial / Industrial Solid Waste Collection after 7:00am until 7:00pm Monday through Saturday and between the hours of 9:00am and 7:00pm on Sundays and holidays. The 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 County's Solid Waste Division.

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

5.4 All vehicles, Mechanical Containers and other containers used by the Contractor for the collection or transportation of Commercial / Industrial Solid Waste shall be marked on each side with the name and phone number of the Contractor and the markings shall be a minimum of three (3) inches in height.

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

5.5 All vehicles, Mechanical Containers and other containers used by the Contractor for collecting or transporting Commercial / Industrial Solid Waste shall be totally enclosed or securely covered in a manner that prevents the escape of any materials when transporting Commercial / Industrial Solid Waste within the County.

5.6 Each vehicle used by the Contractor for collecting or transporting Commercial / Industrial Solid Waste in the County shall be maintained in a good, clean, and safe operating condition.

5.7 On or before July 1 of each year, Contractor shall provide the County with a current list of all vehicles used to collect or transport Commercial / Industrial Solid Waste in the County. The list shall identify the year of manufacture, the manufacturer's name, the model, the vehicle configuration (e.g., rear loader) and the current license plate number for each vehicle. The list shall include the Contractor's certification that each vehicle has been inspected by a licensed professional mechanic within the preceding twelve (12) months and found to be in safe and operable condition. The list shall be updated and re-submitted to the County within fifteen (15) days after a vehicle is added to or removed from the fleet of vehicles used by the Contractor in the County.

5.8 Contractor shall immediately clean-up and properly dispose of any Solid Waste, waste materials, liquids, or products dropped or spilled by the Contractor. Upon completion of the clean-up, the Contractor shall prepare a written report that identifies the location and type of drop or spill, and the corrective action taken. The report shall be submitted to the County's Solid Waste Division within two business days after the drop or spill.

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 Solid Waste Management Facility that is properly licensed to receive Commercial / Industrial Solid Waste.

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

ARTICLE VII: APPLICATION FEES

7.0 The Contractor is required to complete and submit the standard St. Johns County application form for renewal or transfer of this Franchise Agreement and shall pay all applicable fees associated with the application.

ARTICLE VIII: FRANCHISE FEES

8.0 The Contractor shall pay a Franchise fee to the County for the privilege of collecting Commercial / Industrial Solid waste in the County as a business, for using the public right-of-way 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, and for the other rights and benefits conferred on the Contractor under this Agreement. The Franchise fee also may be used to pay the cost of implementing, administering and enforcing the County's Franchises and other regulations for the safe and proper 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 any and all applicable Franchise fees when they become due. The Franchise fee for a Non-Exclusive Commercial / Industrial Solid Waste Collection and Transportation Franchise shall be equal to five percent (5%) of the Gross Revenues collected by the Contractor for services provided pursuant to this Agreement, including the collection, transportation, processing and disposing of Commercial / Industrial Solid Waste originating in the unincorporated areas of St. Johns County, provided that such 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. Each quarterly payment of

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

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

8.3 Within one hundred twenty (120) days following (a) the expiration of the initial term of this Agreement, (b) the expiration of any renewal term of this Agreement, and (c) the termination of this Agreement, the Contractor shall file with the County a certified audit concerning the Gross Revenue collected by the Contractor as a result of the Contractor's operations under this Agreement. The audit shall be prepared by an independent accounting firm in accordance with generally accepted accounting principles or, at the County's option, prepared on such forms and in such detail as prescribed by the Clerk. The County may, upon application and a showing of good cause, extend the time for performance under this Section 8.3.

8.4 The County shall be given access at all reasonable hours to the Contractor's places of business and its records relating to the accumulation, collection, transportation, and disposal of Construction and Demolition Debris from properties within the County. The County may inspect, copy, and audit such records, at the County's expense, to verify the amount of any Franchise fee or other charge payable to the County pursuant to the Solid Waste Ordinance or this Agreement or to verify any information provided by the Contractor pursuant to the Solid Waste Ordinance or this Agreement. The Contractor shall keep and maintain all such records for the term of this Agreement, and any renewal term, and for at least three (3) years after the expiration or termination of this Agreement. To the extent authorized by Chapter 119, Florida Statutes, or other applicable laws, the information obtained by the County under this Section 8.4 shall remain confidential. Contractor shall comply with Chapter 119, Florida Statutes as related to public records.

8.5 Each report, audit and payment required under this Article VIII shall be timely submitted by the Contractor. Any failure to submit a report, audit or payment in a timely manner shall be a breach and default of this Agreement.

8.6 If the Contractor fails to pay the full amount of the Franchise fee within thirty (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

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

the collection of the Franchise fee, including but not limited to court costs and reasonable attorneys' fees. Any late payment of Franchise fees due under this Agreement or the Solid Waste Ordinance shall bear interest at the maximum legal rate in effect at the time of the default, as established by Section 55.03, Florida Statutes.

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 County's Solid Waste Division. A \$500.00 renewal fee and a vehicle fee of \$100.00 per vehicle shall accompany said renewal application. The submittal of a timely and complete renewal application shall extend this Agreement until the Board of County Commissioners approves or denies the renewal application. If the Contractor fails to submit a timely and complete renewal application, the Contractor shall forfeit its ability to renew this Agreement and must submit an application for a new Franchise.

9.1 The Contractor understands and acknowledges that renewal applications are subject to approval by the Board, after a public hearing, and that the Board may, without prior notice, limit the number of non-exclusive Franchises it awards whenever the Board deems it in the public interest to do so.

ARTICLE X: INSURANCE

10.0 The Contractor shall not commence work under this Agreement until it 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

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

endorsement must accompany the certificate. Compliance with the foregoing requirements shall not relieve the Contractor of its liability and obligations under this Agreement.

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

10.1 The Contractor shall maintain during the life of this Agreement, 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 this Agreement, 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 Agreement, 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 Agreement, 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

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

for, any and all claims, suits, causes of action, damages, liabilities, expenditures, or proceedings of any kind (collectively, "claims") arising from or related to any of the Contractor's activities or operations pursuant to this Agreement, including but not limited to claims based on bodily injury, loss of life or limb, damage to property, pollution or other environmental damages.

11.1 The provisions of Article XI relating to indemnification are 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 The provisions of Article XI relating to Indemnification shall survive the expiration or termination of this Agreement.

ARTICLE XII: TERMINATION BY COUNTY

12.0 If the County concludes that the Contractor is in violation of any of the terms of this Agreement or the Solid Waste Ordinance, or any resolution, rule or regulation promulgated thereunder, the County shall notify the Contractor by certified mail of the reasons why the Contractor is considered to be in violation and shall provide at least seven (7) days thereafter for the Contractor to comply with pertinent requirements. If the Contractor fails to comply within the specified time, the Board shall conduct a hearing concerning the Contractor's failure to comply. The Contractor shall be given notice at least seven (7) days prior to the hearing. The Contractor shall be given an opportunity at the hearing to testify, present evidence and otherwise demonstrate why this Agreement shall not be terminated and the Franchise granted herein revoked. At or subsequent to the hearing, the Board may, at its option, adopt a resolution (a) terminating this Agreement and revoking the Franchise granted herein; (b) requiring the Contractor, within a time certain, to perform the tasks necessary to comply with the terms of this Agreement; or (c) imposing such other requirements as the Board deems appropriate under the circumstances. In the event the Board adopts a resolution terminating this Agreement and revoking the Franchise granted herein, the Contractor shall immediately cease all activities under this Agreement.

12.1 Among other things, a material breach of this Agreement shall be deemed to have occurred if the Contractor (a) fails or refuses to comply with any lawful order of the

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

Board entered after public hearing; (b) violates or fails to comply with any provision of the Solid Waste Ordinance or any other county ordinances, or rule promulgated thereunder, relating to the collection, transportation, or disposal of Solid Waste, or violates or fails to comply with the provisions of this Agreement, or any state or federal law relating to the collection and disposal of Solid Waste; (c) fails to pay Franchise fees at the times and in the amounts required by this Agreement; (d) fails to timely submit any report, information, or audit required by the Solid Waste Ordinance or this Agreement; (e) disposes of Solid Waste at a site other than a properly permitted and authorized Solid Waste Management Facility; (f) collects or transports Solid Waste in a manner that is not authorized under this Agreement; (g) fails to continuously maintain the types and amounts of insurance required under this Agreement; or (h) declares bankruptcy.

12.2 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 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*

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

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 County's Solid Waste Division. The authorized representative of the Contractor for purposes of this Agreement shall be Dave Shepler, Area President. 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 Division
2750 Industry Center Road
St. Augustine, FL 32084

If to the Contractor:

<u>Meridian Waste Florida, LLC</u>	<u>With Copy to: Meridian Waste Acquisitions, LLC</u>
<u>2078 Lane Avenue North, Jacksonville, FL 32254</u>	<u>5925 Carnegie Blvd, Ste. 370 Charlotte, NC 28209</u>
<u>ATTN: Area President</u>	<u>ATTN: General Council</u>

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

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

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, without respect to Florida conflict of law principles, and any and all controversies and claims relating to or arising out of this Agreement, or the breach or enforcement thereof, whether sounding in contract, tort, or otherwise, shall likewise be governed by the laws of the State of Florida, without respect to Florida conflict of law principles. 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 or proceeding to interpret and/or enforce the Agreement shall be brought and maintained in the State of Florida and venue shall be in St. Johns County, Florida.

13.4 Assignment

This Agreement shall be binding upon, and inure to the benefit of, the Parties. This Agreement may not be sold, assigned or transferred by the Contractor, without written approval of the Board in accordance with Section 7.D of the Solid Waste Ordinance. As a condition precedent to receiving Board approval, the Contractor or the proposed transferee must demonstrate that the proposed transferee has the ability to comply with all of the applicable requirements set forth in this Agreement and the Solid Waste Ordinance. An application for approval of a transfer shall be submitted to the Board by the proposed transferee. The application shall contain the same information that is required for a new Franchise and shall include the Contractor's written consent to the transfer and the proposed transferee's written stipulation that the proposed transferee will comply with all of the terms and conditions applicable to the Contractor.

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

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

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 expiration or 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 Contractor*

When performing the activities required by this Agreement, the Contractor will be acting in the capacity of an independent contractor and not as an agent, employee, partner, joint venture or associate of the County. The Contractor shall be solely responsible for the means, methods and procedures used by the Contractor to perform under this Agreement. Neither the Contractor nor any of its employees, officers, agents or subcontractors shall represent, act, purport to act, or be deemed to be the agent, representative, employee, or servant of the County.

The Contractor shall have no authority to bind the County to any agreement or contract. No person performing any work or services for the Contractor under this

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

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 more than five percent (5%) of the total assets or capital stock of the Contractor, nor will any such person directly or indirectly benefit by more than five percent (5%) from the profits or emoluments of this Agreement. The Contractor warrants that it has not employed or retained any company or person, other than a bona fide employee working solely for the Contractor, to solicit or secure this Agreement and the Contractor has not paid or agreed to pay any person, company, corporation, individual or firm, other than a bona fide employee working solely for the Contractor, any fee, commission, percentage gift or any other compensation contingent upon or resulting from the award or making of this Agreement. Further, the Contractor declares and warrants that it 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 is intended to nor shall be interpreted or construed to operate as a waiver on the part of the County of the limitations of liability set forth in Section 768.28, Florida Statutes, or of the County's sovereign immunity.

13.15 *Amendment*

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

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.

13.16 *Terms Generally*

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

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.

Pursuant to Section 119.0701, Florida Statutes, the Contractor shall:

- (a) Keep and maintain public records required by the County to perform the services provided hereunder.
- (b) Upon request from the County’s custodian of public records, provide the County with a copy of the requested records or allow the records to be

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

inspected or copied within a reasonable time at a cost that does not exceed the cost provided in Chapter 119, Florida Statutes, or as otherwise provided by law.

(c) Ensure that public records that are exempt or confidential and exempt from public records disclosure requirements are not disclosed, except as authorized by law for the duration of the term of this Agreement and following completion of this Agreement if the Contractor does not transfer the records to the County.

(d) Upon completion of the Agreement, transfer, at no cost, to the County all public records in the possession of the Contractor or keep and maintain public records required by the County to perform the service. If the Contractor transfers all public records to the County upon completion of the Agreement, the Contractor shall destroy any duplicate public records that are exempt or confidential and exempt from public records disclosure requirements. If the Contractor keeps and maintains public records upon completion of the Agreement, the Contractor shall meet all applicable requirements for retaining public records. All records stored electronically must be provided to the County, upon request from the County's custodian of public records, in a format that is compatible with the information technology systems of the County.

If the Contractor fails to comply with the requirements in this Section 13.6, the County may enforce these provisions in accordance with the terms of this Agreement. If the Contractor fails to provide the public records to the County within a reasonable time, it may be subject to penalties under Section 119.10, Florida Statutes.

IF THE CONTRACTOR HAS QUESTIONS REGARDING THE APPLICATION OF CHAPTER 119, FLORIDA STATUTES, TO THE CONTRACTOR'S DUTY TO PROVIDE PUBLIC RECORDS RELATING TO THIS AGREEMENT, THE CONTRACTOR SHOULD CONTACT THE COUNTY'S CUSTODIAN OF PUBLIC RECORDS BY TELEPHONE AT (904) 209-0805, OR E-MAIL AT

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

**PUBLICRECORDS@SJCFL.US, OR MAIL AT ST. JOHNS COUNTY
ATTORNEY, ATTN: PUBLIC RECORDS CUSTODIAN, 500 SAN
SEBASTIAN VIEW, ST. AUGUSTINE, FL 32084.**

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 5 May, 2023.

CONTRACTOR

Meridian Waste Florida, LLC

Name of Company

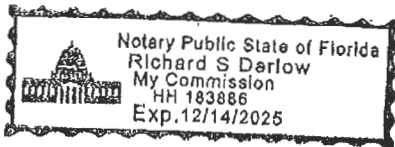
Signature: [Handwritten Signature]

Printed Name: Mary M. O'Brien

Title: Chief Marketing Officer

STATE OF FLORIDA
COUNTY OF ~~ST. JOHNS~~ DUVAL

The foregoing instrument was acknowledged before me by means of physical presence or online notarization, this 5 day of May, 2023, by Mary M. O'Brien, as Secretary of Meridian Waste Florida, LLC, who is personally known to me or has produced Florida Driver's License as identification.



[Handwritten Signature]
NOTARY PUBLIC, State of Florida
Name: Richard S. Darlow
My Commission Expires: 14 December 2025
My Commission Number is: HH183886

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 entered into by and between St. Johns County, Florida, a political subdivision of the State of Florida, (“County”) and My Dumpster Guy, LLC, a Florida (limited liability corporation, corporation, limited liability partnership) (“Contractor”) (alternatively Contractor and County referred to herein as “Party” or collectively referred to herein as “Parties”).

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 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 No. 2017-39 (“Solid Waste Ordinance”), as amended, 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 this Agreement and the Solid Waste Ordinance, 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

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

authorizes the Contractor to collect and transport Commercial / 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. No other collection or transportation of Solid Waste or Commercial / Industrial Solid Waste is authorized under this Agreement.

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, 2026.

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 Solid Waste Ordinance, the St. Johns County Code 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 Pursuant to St. Johns County Ordinance No. 2015-19 ("Noise Ordinance"), Contractor is permitted to collect and transport Commercial / Industrial Solid Waste Collection after 7:00am until 7:00pm Monday through Saturday and between the hours of 9:00am and 7:00pm on Sundays and holidays. The 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 County's Solid Waste Division.

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

5.4 All vehicles, Mechanical Containers and other containers used by the Contractor for the collection or transportation of Commercial / Industrial Solid Waste shall be marked on each side with the name and phone number of the Contractor and the markings shall be a minimum of three (3) inches in height.

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

5.5 All vehicles, Mechanical Containers and other containers used by the Contractor for collecting or transporting Commercial / Industrial Solid Waste shall be totally enclosed or securely covered in a manner that prevents the escape of any materials when transporting Commercial / Industrial Solid Waste within the County.

5.6 Each vehicle used by the Contractor for collecting or transporting Commercial / Industrial Solid Waste in the County shall be maintained in a good, clean, and safe operating condition.

5.7 On or before July 1 of each year, Contractor shall provide the County with a current list of all vehicles used to collect or transport Commercial / Industrial Solid Waste in the County. The list shall identify the year of manufacture, the manufacturer's name, the model, the vehicle configuration (e.g., rear loader) and the current license plate number for each vehicle. The list shall include the Contractor's certification that each vehicle has been inspected by a licensed professional mechanic within the preceding twelve (12) months and found to be in safe and operable condition. The list shall be updated and re-submitted to the County within fifteen (15) days after a vehicle is added to or removed from the fleet of vehicles used by the Contractor in the County.

5.8 Contractor shall immediately clean-up and properly dispose of any Solid Waste, waste materials, liquids, or products dropped or spilled by the Contractor. Upon completion of the clean-up, the Contractor shall prepare a written report that identifies the location and type of drop or spill, and the corrective action taken. The report shall be submitted to the County's Solid Waste Division within two business days after the drop or spill.

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 Solid Waste Management Facility that is properly licensed to receive Commercial / Industrial Solid Waste.

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

ARTICLE VII: APPLICATION FEES

7.0 The Contractor is required to complete and submit the standard St. Johns County application form for renewal or transfer of this Franchise Agreement and shall pay all applicable fees associated with the application.

ARTICLE VIII: FRANCHISE FEES

8.0 The Contractor shall pay a Franchise fee to the County for the privilege of collecting Commercial / Industrial Solid waste in the County as a business, for using the public right-of-way 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, and for the other rights and benefits conferred on the Contractor under this Agreement. The Franchise fee also may be used to pay the cost of implementing, administering and enforcing the County's Franchises and other regulations for the safe and proper 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 any and all applicable Franchise fees when they become due. The Franchise fee for a Non-Exclusive Commercial / Industrial Solid Waste Collection and Transportation Franchise shall be equal to five percent (5%) of the Gross Revenues collected by the Contractor for services provided pursuant to this Agreement, including the collection, transportation, processing and disposing of Commercial / Industrial Solid Waste originating in the unincorporated areas of St. Johns County, provided that such 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. Each quarterly payment of

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

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

8.3 Within one hundred twenty (120) days following (a) the expiration of the initial term of this Agreement, (b) the expiration of any renewal term of this Agreement, and (c) the termination of this Agreement, the Contractor shall file with the County a certified audit concerning the Gross Revenue collected by the Contractor as a result of the Contractor's operations under this Agreement. The audit shall be prepared by an independent accounting firm in accordance with generally accepted accounting principles or, at the County's option, prepared on such forms and in such detail as prescribed by the Clerk. The County may, upon application and a showing of good cause, extend the time for performance under this Section 8.3.

8.4 The County shall be given access at all reasonable hours to the Contractor's places of business and its records relating to the accumulation, collection, transportation, and disposal of Construction and Demolition Debris from properties within the County. The County may inspect, copy, and audit such records, at the County's expense, to verify the amount of any Franchise fee or other charge payable to the County pursuant to the Solid Waste Ordinance or this Agreement or to verify any information provided by the Contractor pursuant to the Solid Waste Ordinance or this Agreement. The Contractor shall keep and maintain all such records for the term of this Agreement, and any renewal term, and for at least three (3) years after the expiration or termination of this Agreement. To the extent authorized by Chapter 119, Florida Statutes, or other applicable laws, the information obtained by the County under this Section 8.4 shall remain confidential. Contractor shall comply with Chapter 119, Florida Statutes as related to public records.

8.5 Each report, audit and payment required under this Article VIII shall be timely submitted by the Contractor. Any failure to submit a report, audit or payment in a timely manner shall be a breach and default of this Agreement.

8.6 If the Contractor fails to pay the full amount of the Franchise fee within thirty (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

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

the collection of the Franchise fee, including but not limited to court costs and reasonable attorneys' fees. Any late payment of Franchise fees due under this Agreement or the Solid Waste Ordinance shall bear interest at the maximum legal rate in effect at the time of the default, as established by Section 55.03, Florida Statutes.

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 County's Solid Waste Division. A \$500.00 renewal fee and a vehicle fee of \$100.00 per vehicle shall accompany said renewal application. The submittal of a timely and complete renewal application shall extend this Agreement until the Board of County Commissioners approves or denies the renewal application. If the Contractor fails to submit a timely and complete renewal application, the Contractor shall forfeit its ability to renew this Agreement and must submit an application for a new Franchise.

9.1 The Contractor understands and acknowledges that renewal applications are subject to approval by the Board, after a public hearing, and that the Board may, without prior notice, limit the number of non-exclusive Franchises it awards whenever the Board deems it in the public interest to do so.

ARTICLE X: INSURANCE

10.0 The Contractor shall not commence work under this Agreement until it 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

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

endorsement must accompany the certificate. Compliance with the foregoing requirements shall not relieve the Contractor of its liability and obligations under this Agreement.

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

10.1 The Contractor shall maintain during the life of this Agreement, 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 this Agreement, 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 Agreement, 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 Agreement, 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

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

for, any and all claims, suits, causes of action, damages, liabilities, expenditures, or proceedings of any kind (collectively, "claims") arising from or related to any of the Contractor's activities or operations pursuant to this Agreement, including but not limited to claims based on bodily injury, loss of life or limb, damage to property, pollution or other environmental damages.

11.1 The provisions of Article XI relating to indemnification are 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 The provisions of Article XI relating to Indemnification shall survive the expiration or termination of this Agreement.

ARTICLE XII: TERMINATION BY COUNTY

12.0 If the County concludes that the Contractor is in violation of any of the terms of this Agreement or the Solid Waste Ordinance, or any resolution, rule or regulation promulgated thereunder, the County shall notify the Contractor by certified mail of the reasons why the Contractor is considered to be in violation and shall provide at least seven (7) days thereafter for the Contractor to comply with pertinent requirements. If the Contractor fails to comply within the specified time, the Board shall conduct a hearing concerning the Contractor's failure to comply. The Contractor shall be given notice at least seven (7) days prior to the hearing. The Contractor shall be given an opportunity at the hearing to testify, present evidence and otherwise demonstrate why this Agreement shall not be terminated and the Franchise granted herein revoked. At or subsequent to the hearing, the Board may, at its option, adopt a resolution (a) terminating this Agreement and revoking the Franchise granted herein; (b) requiring the Contractor, within a time certain, to perform the tasks necessary to comply with the terms of this Agreement; or (c) imposing such other requirements as the Board deems appropriate under the circumstances. In the event the Board adopts a resolution terminating this Agreement and revoking the Franchise granted herein, the Contractor shall immediately cease all activities under this Agreement.

12.1 Among other things, a material breach of this Agreement shall be deemed to have occurred if the Contractor (a) fails or refuses to comply with any lawful order of the

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

Board entered after public hearing; (b) violates or fails to comply with any provision of the Solid Waste Ordinance or any other county ordinances, or rule promulgated thereunder, relating to the collection, transportation, or disposal of Solid Waste, or violates or fails to comply with the provisions of this Agreement, or any state or federal law relating to the collection and disposal of Solid Waste; (c) fails to pay Franchise fees at the times and in the amounts required by this Agreement; (d) fails to timely submit any report, information, or audit required by the Solid Waste Ordinance or this Agreement; (e) disposes of Solid Waste at a site other than a properly permitted and authorized Solid Waste Management Facility; (f) collects or transports Solid Waste in a manner that is not authorized under this Agreement; (g) fails to continuously maintain the types and amounts of insurance required under this Agreement; or (h) declares bankruptcy.

12.2 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 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*

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

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 County's Solid Waste Division. The authorized representative of the Contractor for purposes of this Agreement shall be Allison Cleek. 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 Division
2750 Industry Center Road
St. Augustine, FL 32084

If to the Contractor:

My Dumpster Guy, LLC
709 Main Street
Grandview, MD 21030

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

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

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, without respect to Florida conflict of law principles, and any and all controversies and claims relating to or arising out of this Agreement, or the breach or enforcement thereof, whether sounding in contract, tort, or otherwise, shall likewise be governed by the laws of the State of Florida, without respect to Florida conflict of law principles. 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 or proceeding to interpret and/or enforce the Agreement shall be brought and maintained in the State of Florida and venue shall be in St. Johns County, Florida.

13.4 *Assignment*

This Agreement shall be binding upon, and inure to the benefit of, the Parties. This Agreement may not be sold, assigned or transferred by the Contractor, without written approval of the Board in accordance with Section 7.D of the Solid Waste Ordinance. As a condition precedent to receiving Board approval, the Contractor or the proposed transferee must demonstrate that the proposed transferee has the ability to comply with all of the applicable requirements set forth in this Agreement and the Solid Waste Ordinance. An application for approval of a transfer shall be submitted to the Board by the proposed transferee. The application shall contain the same information that is required for a new Franchise and shall include the Contractor's written consent to the transfer and the proposed transferee's written stipulation that the proposed transferee will comply with all of the terms and conditions applicable to the Contractor.

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

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

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 expiration or 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 Contractor*

When performing the activities required by this Agreement, the Contractor will be acting in the capacity of an independent contractor and not as an agent, employee, partner, joint venture or associate of the County. The Contractor shall be solely responsible for the means, methods and procedures used by the Contractor to perform under this Agreement. Neither the Contractor nor any of its employees, officers, agents or subcontractors shall represent, act, purport to act, or be deemed to be the agent, representative, employee, or servant of the County.

The Contractor shall have no authority to bind the County to any agreement or contract. No person performing any work or services for the Contractor under this

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

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 more than five percent (5%) of the total assets or capital stock of the Contractor, nor will any such person directly or indirectly benefit by more than five percent (5%) from the profits or emoluments of this Agreement. The Contractor warrants that it has not employed or retained any company or person, other than a bona fide employee working solely for the Contractor, to solicit or secure this Agreement and the Contractor has not paid or agreed to pay any person, company, corporation, individual or firm, other than a bona fide employee working solely for the Contractor, any fee, commission, percentage gift or any other compensation contingent upon or resulting from the award or making of this Agreement. Further, the Contractor declares and warrants that it 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 is intended to nor shall be interpreted or construed to operate as a waiver on the part of the County of the limitations of liability set forth in Section 768.28, Florida Statutes, or of the County's sovereign immunity.

13.15 *Amendment*

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

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.

13.16 *Terms Generally*

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

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.

Pursuant to Section 119.0701, Florida Statutes, the Contractor shall:

- (a) Keep and maintain public records required by the County to perform the services provided hereunder.
- (b) Upon request from the County’s custodian of public records, provide the County with a copy of the requested records or allow the records to be

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

inspected or copied within a reasonable time at a cost that does not exceed the cost provided in Chapter 119, Florida Statutes, or as otherwise provided by law.

(c) Ensure that public records that are exempt or confidential and exempt from public records disclosure requirements are not disclosed, except as authorized by law for the duration of the term of this Agreement and following completion of this Agreement if the Contractor does not transfer the records to the County.

(d) Upon completion of the Agreement, transfer, at no cost, to the County all public records in the possession of the Contractor or keep and maintain public records required by the County to perform the service. If the Contractor transfers all public records to the County upon completion of the Agreement, the Contractor shall destroy any duplicate public records that are exempt or confidential and exempt from public records disclosure requirements. If the Contractor keeps and maintains public records upon completion of the Agreement, the Contractor shall meet all applicable requirements for retaining public records. All records stored electronically must be provided to the County, upon request from the County's custodian of public records, in a format that is compatible with the information technology systems of the County.

If the Contractor fails to comply with the requirements in this Section 13.6, the County may enforce these provisions in accordance with the terms of this Agreement. If the Contractor fails to provide the public records to the County within a reasonable time, it may be subject to penalties under Section 119.10, Florida Statutes.

IF THE CONTRACTOR HAS QUESTIONS REGARDING THE APPLICATION OF CHAPTER 119, FLORIDA STATUTES, TO THE CONTRACTOR'S DUTY TO PROVIDE PUBLIC RECORDS RELATING TO THIS AGREEMENT, THE CONTRACTOR SHOULD CONTACT THE COUNTY'S CUSTODIAN OF PUBLIC RECORDS BY TELEPHONE AT (904) 209-0805, OR E-MAIL AT

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

**PUBLICRECORDS@SJCFL.US, OR MAIL AT ST. JOHNS COUNTY
ATTORNEY, ATTN: PUBLIC RECORDS CUSTODIAN, 500 SAN
SEBASTIAN VIEW, ST. AUGUSTINE, FL 32084.**

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 11, 2023.

CONTRACTOR

My Dumpster Guy, LLC
Name of Company
Signature: Allison M. Clerk
Printed Name: Allison M. Clerk
Title: President / Partner

STATE OF FLORIDA
COUNTY OF ST. JOHNS

The foregoing instrument was acknowledged before me by means of physical presence or online notarization, this 11th day of May, 2023, by Allison M. Clerk, as President / Partner of My Dumpster Guy LLC, who is personally known to me or has produced Kansas Driver License as identification.

NOTARY PUBLIC, State of ~~Florida~~ ^{Missouri}
Name: Mecca Hazziez
My Commission Expires: 10-19-2025
My Commission Number is: 21533254

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 entered into by and between St. Johns County, Florida, a political subdivision of the State of Florida, ("County") and Republic Services of Florida, LP _____, a Florida (limited liability corporation, corporation, limited liability partnership) ("Contractor") (alternatively Contractor and County referred to herein as "Party" or collectively referred to herein as "Parties").

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 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 No. 2017-39 ("Solid Waste Ordinance"), as amended, 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 this Agreement and the Solid Waste Ordinance, 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

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

authorizes the Contractor to collect and transport Commercial / 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. No other collection or transportation of Solid Waste or Commercial / Industrial Solid Waste is authorized under this Agreement.

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, 2026.

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 Solid Waste Ordinance, the St. Johns County Code 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 Pursuant to St. Johns County Ordinance No. 2015-19 ("Noise Ordinance"), Contractor is permitted to collect and transport Commercial / Industrial Solid Waste Collection after 7:00am until 7:00pm Monday through Saturday and between the hours of 9:00am and 7:00pm on Sundays and holidays. The 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 County's Solid Waste Division.

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

5.4 All vehicles, Mechanical Containers and other containers used by the Contractor for the collection or transportation of Commercial / Industrial Solid Waste shall be marked on each side with the name and phone number of the Contractor and the markings shall be a minimum of three (3) inches in height.

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

5.5 All vehicles, Mechanical Containers and other containers used by the Contractor for collecting or transporting Commercial / Industrial Solid Waste shall be totally enclosed or securely covered in a manner that prevents the escape of any materials when transporting Commercial / Industrial Solid Waste within the County.

5.6 Each vehicle used by the Contractor for collecting or transporting Commercial / Industrial Solid Waste in the County shall be maintained in a good, clean, and safe operating condition.

5.7 On or before July 1 of each year, Contractor shall provide the County with a current list of all vehicles used to collect or transport Commercial / Industrial Solid Waste in the County. The list shall identify the year of manufacture, the manufacturer's name, the model, the vehicle configuration (e.g., rear loader) and the current license plate number for each vehicle. The list shall include the Contractor's certification that each vehicle has been inspected by a licensed professional mechanic within the preceding twelve (12) months and found to be in safe and operable condition. The list shall be updated and re-submitted to the County within fifteen (15) days after a vehicle is added to or removed from the fleet of vehicles used by the Contractor in the County.

5.8 Contractor shall immediately clean-up and properly dispose of any Solid Waste, waste materials, liquids, or products dropped or spilled by the Contractor. Upon completion of the clean-up, the Contractor shall prepare a written report that identifies the location and type of drop or spill, and the corrective action taken. The report shall be submitted to the County's Solid Waste Division within two business days after the drop or spill.

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 Solid Waste Management Facility that is properly licensed to receive Commercial / Industrial Solid Waste.

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

ARTICLE VII: APPLICATION FEES

7.0 The Contractor is required to complete and submit the standard St. Johns County application form for renewal or transfer of this Franchise Agreement and shall pay all applicable fees associated with the application.

ARTICLE VIII: FRANCHISE FEES

8.0 The Contractor shall pay a Franchise fee to the County for the privilege of collecting Commercial / Industrial Solid waste in the County as a business, for using the public right-of-way 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, and for the other rights and benefits conferred on the Contractor under this Agreement. The Franchise fee also may be used to pay the cost of implementing, administering and enforcing the County's Franchises and other regulations for the safe and proper 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 any and all applicable Franchise fees when they become due. The Franchise fee for a Non-Exclusive Commercial / Industrial Solid Waste Collection and Transportation Franchise shall be equal to five percent (5%) of the Gross Revenues collected by the Contractor for services provided pursuant to this Agreement, including the collection, transportation, processing and disposing of Commercial / Industrial Solid Waste originating in the unincorporated areas of St. Johns County, provided that such 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. Each quarterly payment of

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

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

8.3 Within one hundred twenty (120) days following (a) the expiration of the initial term of this Agreement, (b) the expiration of any renewal term of this Agreement, and (c) the termination of this Agreement, the Contractor shall file with the County a certified audit concerning the Gross Revenue collected by the Contractor as a result of the Contractor's operations under this Agreement. The audit shall be prepared by an independent accounting firm in accordance with generally accepted accounting principles or, at the County's option, prepared on such forms and in such detail as prescribed by the Clerk. The County may, upon application and a showing of good cause, extend the time for performance under this Section 8.3.

8.4 The County shall be given access at all reasonable hours to the Contractor's places of business and its records relating to the accumulation, collection, transportation, and disposal of Construction and Demolition Debris from properties within the County. The County may inspect, copy, and audit such records, at the County's expense, to verify the amount of any Franchise fee or other charge payable to the County pursuant to the Solid Waste Ordinance or this Agreement or to verify any information provided by the Contractor pursuant to the Solid Waste Ordinance or this Agreement. The Contractor shall keep and maintain all such records for the term of this Agreement, and any renewal term, and for at least three (3) years after the expiration or termination of this Agreement. To the extent authorized by Chapter 119, Florida Statutes, or other applicable laws, the information obtained by the County under this Section 8.4 shall remain confidential. Contractor shall comply with Chapter 119, Florida Statutes as related to public records.

8.5 Each report, audit and payment required under this Article VIII shall be timely submitted by the Contractor. Any failure to submit a report, audit or payment in a timely manner shall be a breach and default of this Agreement.

8.6 If the Contractor fails to pay the full amount of the Franchise fee within thirty (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

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

the collection of the Franchise fee, including but not limited to court costs and reasonable attorneys' fees. Any late payment of Franchise fees due under this Agreement or the Solid Waste Ordinance shall bear interest at the maximum legal rate in effect at the time of the default, as established by Section 55.03, Florida Statutes.

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 County's Solid Waste Division. A \$500.00 renewal fee and a vehicle fee of \$100.00 per vehicle shall accompany said renewal application. The submittal of a timely and complete renewal application shall extend this Agreement until the Board of County Commissioners approves or denies the renewal application. If the Contractor fails to submit a timely and complete renewal application, the Contractor shall forfeit its ability to renew this Agreement and must submit an application for a new Franchise.

9.1 The Contractor understands and acknowledges that renewal applications are subject to approval by the Board, after a public hearing, and that the Board may, without prior notice, limit the number of non-exclusive Franchises it awards whenever the Board deems it in the public interest to do so.

ARTICLE X: INSURANCE

10.0 The Contractor shall not commence work under this Agreement until it 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

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

endorsement must accompany the certificate. Compliance with the foregoing requirements shall not relieve the Contractor of its liability and obligations under this Agreement.

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

10.1 The Contractor shall maintain during the life of this Agreement, 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 this Agreement, 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 Agreement, 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 Agreement, 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

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

for, any and all claims, suits, causes of action, damages, liabilities, expenditures, or proceedings of any kind (collectively, "claims") arising from or related to any of the Contractor's activities or operations pursuant to this Agreement, including but not limited to claims based on bodily injury, loss of life or limb, damage to property, pollution or other environmental damages.

11.1 The provisions of Article XI relating to indemnification are 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 The provisions of Article XI relating to Indemnification shall survive the expiration or termination of this Agreement.

ARTICLE XII: TERMINATION BY COUNTY

12.0 If the County concludes that the Contractor is in violation of any of the terms of this Agreement or the Solid Waste Ordinance, or any resolution, rule or regulation promulgated thereunder, the County shall notify the Contractor by certified mail of the reasons why the Contractor is considered to be in violation and shall provide at least seven (7) days thereafter for the Contractor to comply with pertinent requirements. If the Contractor fails to comply within the specified time, the Board shall conduct a hearing concerning the Contractor's failure to comply. The Contractor shall be given notice at least seven (7) days prior to the hearing. The Contractor shall be given an opportunity at the hearing to testify, present evidence and otherwise demonstrate why this Agreement shall not be terminated and the Franchise granted herein revoked. At or subsequent to the hearing, the Board may, at its option, adopt a resolution (a) terminating this Agreement and revoking the Franchise granted herein; (b) requiring the Contractor, within a time certain, to perform the tasks necessary to comply with the terms of this Agreement; or (c) imposing such other requirements as the Board deems appropriate under the circumstances. In the event the Board adopts a resolution terminating this Agreement and revoking the Franchise granted herein, the Contractor shall immediately cease all activities under this Agreement.

12.1 Among other things, a material breach of this Agreement shall be deemed to have occurred if the Contractor (a) fails or refuses to comply with any lawful order of the

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

Board entered after public hearing; (b) violates or fails to comply with any provision of the Solid Waste Ordinance or any other county ordinances, or rule promulgated thereunder, relating to the collection, transportation, or disposal of Solid Waste, or violates or fails to comply with the provisions of this Agreement, or any state or federal law relating to the collection and disposal of Solid Waste; (c) fails to pay Franchise fees at the times and in the amounts required by this Agreement; (d) fails to timely submit any report, information, or audit required by the Solid Waste Ordinance or this Agreement; (e) disposes of Solid Waste at a site other than a properly permitted and authorized Solid Waste Management Facility; (f) collects or transports Solid Waste in a manner that is not authorized under this Agreement; (g) fails to continuously maintain the types and amounts of insurance required under this Agreement; or (h) declares bankruptcy.

12.2 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 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*

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

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 County's Solid Waste Division. The authorized representative of the Contractor for purposes of this Agreement shall be Dan Baker. 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 Division
2750 Industry Center Road
St. Augustine, FL 32084

If to the Contractor:

Republic Services of Florida, LP
8619 Western Way
Jacksonville, FL 32256

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

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

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, without respect to Florida conflict of law principles, and any and all controversies and claims relating to or arising out of this Agreement, or the breach or enforcement thereof, whether sounding in contract, tort, or otherwise, shall likewise be governed by the laws of the State of Florida, without respect to Florida conflict of law principles. 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 or proceeding to interpret and/or enforce the Agreement shall be brought and maintained in the State of Florida and venue shall be in St. Johns County, Florida.

13.4 Assignment

This Agreement shall be binding upon, and inure to the benefit of, the Parties. This Agreement may not be sold, assigned or transferred by the Contractor, without written approval of the Board in accordance with Section 7.D of the Solid Waste Ordinance. As a condition precedent to receiving Board approval, the Contractor or the proposed transferee must demonstrate that the proposed transferee has the ability to comply with all of the applicable requirements set forth in this Agreement and the Solid Waste Ordinance. An application for approval of a transfer shall be submitted to the Board by the proposed transferee. The application shall contain the same information that is required for a new Franchise and shall include the Contractor's written consent to the transfer and the proposed transferee's written stipulation that the proposed transferee will comply with all of the terms and conditions applicable to the Contractor.

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

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

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 expiration or 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 Contractor*

When performing the activities required by this Agreement, the Contractor will be acting in the capacity of an independent contractor and not as an agent, employee, partner, joint venture or associate of the County. The Contractor shall be solely responsible for the means, methods and procedures used by the Contractor to perform under this Agreement. Neither the Contractor nor any of its employees, officers, agents or subcontractors shall represent, act, purport to act, or be deemed to be the agent, representative, employee, or servant of the County.

The Contractor shall have no authority to bind the County to any agreement or contract. No person performing any work or services for the Contractor under this

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

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 more than five percent (5%) of the total assets or capital stock of the Contractor, nor will any such person directly or indirectly benefit by more than five percent (5%) from the profits or emoluments of this Agreement. The Contractor warrants that it has not employed or retained any company or person, other than a bona fide employee working solely for the Contractor, to solicit or secure this Agreement and the Contractor has not paid or agreed to pay any person, company, corporation, individual or firm, other than a bona fide employee working solely for the Contractor, any fee, commission, percentage gift or any other compensation contingent upon or resulting from the award or making of this Agreement. Further, the Contractor declares and warrants that it 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 is intended to nor shall be interpreted or construed to operate as a waiver on the part of the County of the limitations of liability set forth in Section 768.28, Florida Statutes, or of the County's sovereign immunity.

13.15 *Amendment*

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

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.

13.16 *Terms Generally*

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

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.

Pursuant to Section 119.0701, Florida Statutes, the Contractor shall:

- (a) Keep and maintain public records required by the County to perform the services provided hereunder.
- (b) Upon request from the County's custodian of public records, provide the County with a copy of the requested records or allow the records to be

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

inspected or copied within a reasonable time at a cost that does not exceed the cost provided in Chapter 119, Florida Statutes, or as otherwise provided by law.

(c) Ensure that public records that are exempt or confidential and exempt from public records disclosure requirements are not disclosed, except as authorized by law for the duration of the term of this Agreement and following completion of this Agreement if the Contractor does not transfer the records to the County.

(d) Upon completion of the Agreement, transfer, at no cost, to the County all public records in the possession of the Contractor or keep and maintain public records required by the County to perform the service. If the Contractor transfers all public records to the County upon completion of the Agreement, the Contractor shall destroy any duplicate public records that are exempt or confidential and exempt from public records disclosure requirements. If the Contractor keeps and maintains public records upon completion of the Agreement, the Contractor shall meet all applicable requirements for retaining public records. All records stored electronically must be provided to the County, upon request from the County's custodian of public records, in a format that is compatible with the information technology systems of the County.

If the Contractor fails to comply with the requirements in this Section 13.6, the County may enforce these provisions in accordance with the terms of this Agreement. If the Contractor fails to provide the public records to the County within a reasonable time, it may be subject to penalties under Section 119.10, Florida Statutes.

IF THE CONTRACTOR HAS QUESTIONS REGARDING THE APPLICATION OF CHAPTER 119, FLORIDA STATUTES, TO THE CONTRACTOR'S DUTY TO PROVIDE PUBLIC RECORDS RELATING TO THIS AGREEMENT, THE CONTRACTOR SHOULD CONTACT THE COUNTY'S CUSTODIAN OF PUBLIC RECORDS BY TELEPHONE AT (904) 209-0805, OR E-MAIL AT

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

**PUBLICRECORDS@SJCFL.US, OR MAIL AT ST. JOHNS COUNTY
ATTORNEY, ATTN: PUBLIC RECORDS CUSTODIAN, 500 SAN
SEBASTIAN VIEW, ST. AUGUSTINE, FL 32084.**

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 1st, 2023.

CONTRACTOR

Republic Services of Florida, LP
Name of Company: _____
Signature: Bill Brinkley
Printed Name: Bill Brinkley
Title: General Manager

STATE OF FLORIDA
COUNTY OF ST. JOHNS

The foregoing instrument was acknowledged before me by means of physical presence or online notarization, this 1 day of May, 2023, by Bill Brinkley of Republic Services, as General Manager of _____, who is personally known to me or has produced _____ as identification.



NOTARY PUBLIC, State of Florida
Name: Kimberly Shiver
My Commission Expires: November 1, 2024
My Commission Number is: HH 232167

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 entered into by and between St. Johns County, Florida, a political subdivision of the State of Florida, (“County”) and Southern Comfort Mowing, Inc., a Florida (limited liability corporation, corporation, limited liability partnership) (“Contractor”) (alternatively Contractor and County referred to herein as “Party” or collectively referred to herein as “Parties”).

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 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 No. 2017-39 (“Solid Waste Ordinance”), as amended, 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 this Agreement and the Solid Waste Ordinance, 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

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

authorizes the Contractor to collect and transport Commercial / 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. No other collection or transportation of Solid Waste or Commercial / Industrial Solid Waste is authorized under this Agreement.

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, 2026.

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 Solid Waste Ordinance, the St. Johns County Code 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 Pursuant to St. Johns County Ordinance No. 2015-19 ("Noise Ordinance"), Contractor is permitted to collect and transport Commercial / Industrial Solid Waste Collection after 7:00am until 7:00pm Monday through Saturday and between the hours of 9:00am and 7:00pm on Sundays and holidays. The 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 County's Solid Waste Division.

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

5.4 All vehicles, Mechanical Containers and other containers used by the Contractor for the collection or transportation of Commercial / Industrial Solid Waste shall be marked on each side with the name and phone number of the Contractor and the markings shall be a minimum of three (3) inches in height.

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

5.5 All vehicles, Mechanical Containers and other containers used by the Contractor for collecting or transporting Commercial / Industrial Solid Waste shall be totally enclosed or securely covered in a manner that prevents the escape of any materials when transporting Commercial / Industrial Solid Waste within the County.

5.6 Each vehicle used by the Contractor for collecting or transporting Commercial / Industrial Solid Waste in the County shall be maintained in a good, clean, and safe operating condition.

5.7 On or before July 1 of each year, Contractor shall provide the County with a current list of all vehicles used to collect or transport Commercial / Industrial Solid Waste in the County. The list shall identify the year of manufacture, the manufacturer's name, the model, the vehicle configuration (e.g., rear loader) and the current license plate number for each vehicle. The list shall include the Contractor's certification that each vehicle has been inspected by a licensed professional mechanic within the preceding twelve (12) months and found to be in safe and operable condition. The list shall be updated and re-submitted to the County within fifteen (15) days after a vehicle is added to or removed from the fleet of vehicles used by the Contractor in the County.

5.8 Contractor shall immediately clean-up and properly dispose of any Solid Waste, waste materials, liquids, or products dropped or spilled by the Contractor. Upon completion of the clean-up, the Contractor shall prepare a written report that identifies the location and type of drop or spill, and the corrective action taken. The report shall be submitted to the County's Solid Waste Division within two business days after the drop or spill.

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 Solid Waste Management Facility that is properly licensed to receive Commercial / Industrial Solid Waste.

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

ARTICLE VII: APPLICATION FEES

7.0 The Contractor is required to complete and submit the standard St. Johns County application form for renewal or transfer of this Franchise Agreement and shall pay all applicable fees associated with the application.

ARTICLE VIII: FRANCHISE FEES

8.0 The Contractor shall pay a Franchise fee to the County for the privilege of collecting Commercial / Industrial Solid waste in the County as a business, for using the public right-of-way 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, and for the other rights and benefits conferred on the Contractor under this Agreement. The Franchise fee also may be used to pay the cost of implementing, administering and enforcing the County's Franchises and other regulations for the safe and proper 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 any and all applicable Franchise fees when they become due. The Franchise fee for a Non-Exclusive Commercial / Industrial Solid Waste Collection and Transportation Franchise shall be equal to five percent (5%) of the Gross Revenues collected by the Contractor for services provided pursuant to this Agreement, including the collection, transportation, processing and disposing of Commercial / Industrial Solid Waste originating in the unincorporated areas of St. Johns County, provided that such 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. Each quarterly payment of

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

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

8.3 Within one hundred twenty (120) days following (a) the expiration of the initial term of this Agreement, (b) the expiration of any renewal term of this Agreement, and (c) the termination of this Agreement, the Contractor shall file with the County a certified audit concerning the Gross Revenue collected by the Contractor as a result of the Contractor's operations under this Agreement. The audit shall be prepared by an independent accounting firm in accordance with generally accepted accounting principles or, at the County's option, prepared on such forms and in such detail as prescribed by the Clerk. The County may, upon application and a showing of good cause, extend the time for performance under this Section 8.3.

8.4 The County shall be given access at all reasonable hours to the Contractor's places of business and its records relating to the accumulation, collection, transportation, and disposal of Construction and Demolition Debris from properties within the County. The County may inspect, copy, and audit such records, at the County's expense, to verify the amount of any Franchise fee or other charge payable to the County pursuant to the Solid Waste Ordinance or this Agreement or to verify any information provided by the Contractor pursuant to the Solid Waste Ordinance or this Agreement. The Contractor shall keep and maintain all such records for the term of this Agreement, and any renewal term, and for at least three (3) years after the expiration or termination of this Agreement. To the extent authorized by Chapter 119, Florida Statutes, or other applicable laws, the information obtained by the County under this Section 8.4 shall remain confidential. Contractor shall comply with Chapter 119, Florida Statutes as related to public records.

8.5 Each report, audit and payment required under this Article VIII shall be timely submitted by the Contractor. Any failure to submit a report, audit or payment in a timely manner shall be a breach and default of this Agreement.

8.6 If the Contractor fails to pay the full amount of the Franchise fee within thirty (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

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

the collection of the Franchise fee, including but not limited to court costs and reasonable attorneys' fees. Any late payment of Franchise fees due under this Agreement or the Solid Waste Ordinance shall bear interest at the maximum legal rate in effect at the time of the default, as established by Section 55.03, Florida Statutes.

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 County's Solid Waste Division. A \$500.00 renewal fee and a vehicle fee of \$100.00 per vehicle shall accompany said renewal application. The submittal of a timely and complete renewal application shall extend this Agreement until the Board of County Commissioners approves or denies the renewal application. If the Contractor fails to submit a timely and complete renewal application, the Contractor shall forfeit its ability to renew this Agreement and must submit an application for a new Franchise.

9.1 The Contractor understands and acknowledges that renewal applications are subject to approval by the Board, after a public hearing, and that the Board may, without prior notice, limit the number of non-exclusive Franchises it awards whenever the Board deems it in the public interest to do so.

ARTICLE X: INSURANCE

10.0 The Contractor shall not commence work under this Agreement until it 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

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

endorsement must accompany the certificate. Compliance with the foregoing requirements shall not relieve the Contractor of its liability and obligations under this Agreement.

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

10.1 The Contractor shall maintain during the life of this Agreement, 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 this Agreement, 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 Agreement, 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 Agreement, 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

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

for, any and all claims, suits, causes of action, damages, liabilities, expenditures, or proceedings of any kind (collectively, "claims") arising from or related to any of the Contractor's activities or operations pursuant to this Agreement, including but not limited to claims based on bodily injury, loss of life or limb, damage to property, pollution or other environmental damages.

11.1 The provisions of Article XI relating to indemnification are 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 The provisions of Article XI relating to Indemnification shall survive the expiration or termination of this Agreement.

ARTICLE XII: TERMINATION BY COUNTY

12.0 If the County concludes that the Contractor is in violation of any of the terms of this Agreement or the Solid Waste Ordinance, or any resolution, rule or regulation promulgated thereunder, the County shall notify the Contractor by certified mail of the reasons why the Contractor is considered to be in violation and shall provide at least seven (7) days thereafter for the Contractor to comply with pertinent requirements. If the Contractor fails to comply within the specified time, the Board shall conduct a hearing concerning the Contractor's failure to comply. The Contractor shall be given notice at least seven (7) days prior to the hearing. The Contractor shall be given an opportunity at the hearing to testify, present evidence and otherwise demonstrate why this Agreement shall not be terminated and the Franchise granted herein revoked. At or subsequent to the hearing, the Board may, at its option, adopt a resolution (a) terminating this Agreement and revoking the Franchise granted herein; (b) requiring the Contractor, within a time certain, to perform the tasks necessary to comply with the terms of this Agreement; or (c) imposing such other requirements as the Board deems appropriate under the circumstances. In the event the Board adopts a resolution terminating this Agreement and revoking the Franchise granted herein, the Contractor shall immediately cease all activities under this Agreement.

12.1 Among other things, a material breach of this Agreement shall be deemed to have occurred if the Contractor (a) fails or refuses to comply with any lawful order of the

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

Board entered after public hearing; (b) violates or fails to comply with any provision of the Solid Waste Ordinance or any other county ordinances, or rule promulgated thereunder, relating to the collection, transportation, or disposal of Solid Waste, or violates or fails to comply with the provisions of this Agreement, or any state or federal law relating to the collection and disposal of Solid Waste; (c) fails to pay Franchise fees at the times and in the amounts required by this Agreement; (d) fails to timely submit any report, information, or audit required by the Solid Waste Ordinance or this Agreement; (e) disposes of Solid Waste at a site other than a properly permitted and authorized Solid Waste Management Facility; (f) collects or transports Solid Waste in a manner that is not authorized under this Agreement; (g) fails to continuously maintain the types and amounts of insurance required under this Agreement; or (h) declares bankruptcy.

12.2 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 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*

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

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 County's Solid Waste Division. The authorized representative of the Contractor for purposes of this Agreement shall be Samuel James. 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 Division
2750 Industry Center Road
St. Augustine, FL 32084

If to the Contractor:

Southern Comfort Mowing, Inc. - Samuel James

920 Cherry Tree Road St. Augustine, FL 32086

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

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

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, without respect to Florida conflict of law principles, and any and all controversies and claims relating to or arising out of this Agreement, or the breach or enforcement thereof, whether sounding in contract, tort, or otherwise, shall likewise be governed by the laws of the State of Florida, without respect to Florida conflict of law principles. 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 or proceeding to interpret and/or enforce the Agreement shall be brought and maintained in the State of Florida and venue shall be in St. Johns County, Florida.

13.4 *Assignment*

This Agreement shall be binding upon, and inure to the benefit of, the Parties. This Agreement may not be sold, assigned or transferred by the Contractor, without written approval of the Board in accordance with Section 7.D of the Solid Waste Ordinance. As a condition precedent to receiving Board approval, the Contractor or the proposed transferee must demonstrate that the proposed transferee has the ability to comply with all of the applicable requirements set forth in this Agreement and the Solid Waste Ordinance. An application for approval of a transfer shall be submitted to the Board by the proposed transferee. The application shall contain the same information that is required for a new Franchise and shall include the Contractor's written consent to the transfer and the proposed transferee's written stipulation that the proposed transferee will comply with all of the terms and conditions applicable to the Contractor.

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

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

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 expiration or 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 Contractor*

When performing the activities required by this Agreement, the Contractor will be acting in the capacity of an independent contractor and not as an agent, employee, partner, joint venture or associate of the County. The Contractor shall be solely responsible for the means, methods and procedures used by the Contractor to perform under this Agreement. Neither the Contractor nor any of its employees, officers, agents or subcontractors shall represent, act, purport to act, or be deemed to be the agent, representative, employee, or servant of the County.

The Contractor shall have no authority to bind the County to any agreement or contract. No person performing any work or services for the Contractor under this

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

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 more than five percent (5%) of the total assets or capital stock of the Contractor, nor will any such person directly or indirectly benefit by more than five percent (5%) from the profits or emoluments of this Agreement. The Contractor warrants that it has not employed or retained any company or person, other than a bona fide employee working solely for the Contractor, to solicit or secure this Agreement and the Contractor has not paid or agreed to pay any person, company, corporation, individual or firm, other than a bona fide employee working solely for the Contractor, any fee, commission, percentage gift or any other compensation contingent upon or resulting from the award or making of this Agreement. Further, the Contractor declares and warrants that it 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 is intended to nor shall be interpreted or construed to operate as a waiver on the part of the County of the limitations of liability set forth in Section 768.28, Florida Statutes, or of the County's sovereign immunity.

13.15 *Amendment*

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

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.

13.16 *Terms Generally*

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

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.

Pursuant to Section 119.0701, Florida Statutes, the Contractor shall:

- (a) Keep and maintain public records required by the County to perform the services provided hereunder.
- (b) Upon request from the County’s custodian of public records, provide the County with a copy of the requested records or allow the records to be

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

inspected or copied within a reasonable time at a cost that does not exceed the cost provided in Chapter 119, Florida Statutes, or as otherwise provided by law.

(c) Ensure that public records that are exempt or confidential and exempt from public records disclosure requirements are not disclosed, except as authorized by law for the duration of the term of this Agreement and following completion of this Agreement if the Contractor does not transfer the records to the County.

(d) Upon completion of the Agreement, transfer, at no cost, to the County all public records in the possession of the Contractor or keep and maintain public records required by the County to perform the service. If the Contractor transfers all public records to the County upon completion of the Agreement, the Contractor shall destroy any duplicate public records that are exempt or confidential and exempt from public records disclosure requirements. If the Contractor keeps and maintains public records upon completion of the Agreement, the Contractor shall meet all applicable requirements for retaining public records. All records stored electronically must be provided to the County, upon request from the County's custodian of public records, in a format that is compatible with the information technology systems of the County.

If the Contractor fails to comply with the requirements in this Section 13.6, the County may enforce these provisions in accordance with the terms of this Agreement. If the Contractor fails to provide the public records to the County within a reasonable time, it may be subject to penalties under Section 119.10, Florida Statutes.

IF THE CONTRACTOR HAS QUESTIONS REGARDING THE APPLICATION OF CHAPTER 119, FLORIDA STATUTES, TO THE CONTRACTOR'S DUTY TO PROVIDE PUBLIC RECORDS RELATING TO THIS AGREEMENT, THE CONTRACTOR SHOULD CONTACT THE COUNTY'S CUSTODIAN OF PUBLIC RECORDS BY TELEPHONE AT (904) 209-0805, OR E-MAIL AT

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

**PUBLICRECORDS@SJCFL.US, OR MAIL AT ST. JOHNS COUNTY
ATTORNEY, ATTN: PUBLIC RECORDS CUSTODIAN, 500 SAN
SEBASTIAN VIEW, ST. AUGUSTINE, FL 32084.**

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 10th day of May, 2023.

CONTRACTOR

Southern Comfort Mowing, Inc.
Name of Company
Signature: [Handwritten Signature]
Printed Name: Lani James
Title: Office Manager

**STATE OF FLORIDA
COUNTY OF ST. JOHNS**

The foregoing instrument was acknowledged before me by means of physical presence or online notarization, this 10 day of May, 2023, by Christine Davis, as Notary of Lani James, who is personally known to me or has produced Driver License as identification.



NOTARY PUBLIC, State of Florida
Name: Christine Davis
My Commission Expires: 11-26-26
My Commission Number is: HH335736

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 entered into by and between St. Johns County, Florida, a political subdivision of the State of Florida, (“County”) and United Site Services of Florida, LLC, a Florida (limited liability corporation, ~~corporation, limited liability partnership~~) (“Contractor”) (alternatively Contractor and County referred to herein as “Party” or collectively referred to herein as “Parties”).

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 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 No. 2017-39 (“Solid Waste Ordinance”), as amended, 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 this Agreement and the Solid Waste Ordinance, 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

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

authorizes the Contractor to collect and transport Commercial / 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. No other collection or transportation of Solid Waste or Commercial / Industrial Solid Waste is authorized under this Agreement.

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, 2026.

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 Solid Waste Ordinance, the St. Johns County Code 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 Pursuant to St. Johns County Ordinance No. 2015-19 ("Noise Ordinance"), Contractor is permitted to collect and transport Commercial / Industrial Solid Waste Collection after 7:00am until 7:00pm Monday through Saturday and between the hours of 9:00am and 7:00pm on Sundays and holidays. The 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 County's Solid Waste Division.

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

5.4 All vehicles, Mechanical Containers and other containers used by the Contractor for the collection or transportation of Commercial / Industrial Solid Waste shall be marked on each side with the name and phone number of the Contractor and the markings shall be a minimum of three (3) inches in height.

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

5.5 All vehicles, Mechanical Containers and other containers used by the Contractor for collecting or transporting Commercial / Industrial Solid Waste shall be totally enclosed or securely covered in a manner that prevents the escape of any materials when transporting Commercial / Industrial Solid Waste within the County.

5.6 Each vehicle used by the Contractor for collecting or transporting Commercial / Industrial Solid Waste in the County shall be maintained in a good, clean, and safe operating condition.

5.7 On or before July 1 of each year, Contractor shall provide the County with a current list of all vehicles used to collect or transport Commercial / Industrial Solid Waste in the County. The list shall identify the year of manufacture, the manufacturer's name, the model, the vehicle configuration (e.g., rear loader) and the current license plate number for each vehicle. The list shall include the Contractor's certification that each vehicle has been inspected by a licensed professional mechanic within the preceding twelve (12) months and found to be in safe and operable condition. The list shall be updated and re-submitted to the County within fifteen (15) days after a vehicle is added to or removed from the fleet of vehicles used by the Contractor in the County.

5.8 Contractor shall immediately clean-up and properly dispose of any Solid Waste, waste materials, liquids, or products dropped or spilled by the Contractor. Upon completion of the clean-up, the Contractor shall prepare a written report that identifies the location and type of drop or spill, and the corrective action taken. The report shall be submitted to the County's Solid Waste Division within two business days after the drop or spill.

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 Solid Waste Management Facility that is properly licensed to receive Commercial / Industrial Solid Waste.

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

ARTICLE VII: APPLICATION FEES

7.0 The Contractor is required to complete and submit the standard St. Johns County application form for renewal or transfer of this Franchise Agreement and shall pay all applicable fees associated with the application.

ARTICLE VIII: FRANCHISE FEES

8.0 The Contractor shall pay a Franchise fee to the County for the privilege of collecting Commercial / Industrial Solid waste in the County as a business, for using the public right-of-way 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, and for the other rights and benefits conferred on the Contractor under this Agreement. The Franchise fee also may be used to pay the cost of implementing, administering and enforcing the County's Franchises and other regulations for the safe and proper 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 any and all applicable Franchise fees when they become due. The Franchise fee for a Non-Exclusive Commercial / Industrial Solid Waste Collection and Transportation Franchise shall be equal to five percent (5%) of the Gross Revenues collected by the Contractor for services provided pursuant to this Agreement, including the collection, transportation, processing and disposing of Commercial / Industrial Solid Waste originating in the unincorporated areas of St. Johns County, provided that such 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. Each quarterly payment of

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

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

8.3 Within one hundred twenty (120) days following (a) the expiration of the initial term of this Agreement, (b) the expiration of any renewal term of this Agreement, and (c) the termination of this Agreement, the Contractor shall file with the County a certified audit concerning the Gross Revenue collected by the Contractor as a result of the Contractor's operations under this Agreement. The audit shall be prepared by an independent accounting firm in accordance with generally accepted accounting principles or, at the County's option, prepared on such forms and in such detail as prescribed by the Clerk. The County may, upon application and a showing of good cause, extend the time for performance under this Section 8.3.

8.4 The County shall be given access at all reasonable hours to the Contractor's places of business and its records relating to the accumulation, collection, transportation, and disposal of Construction and Demolition Debris from properties within the County. The County may inspect, copy, and audit such records, at the County's expense, to verify the amount of any Franchise fee or other charge payable to the County pursuant to the Solid Waste Ordinance or this Agreement or to verify any information provided by the Contractor pursuant to the Solid Waste Ordinance or this Agreement. The Contractor shall keep and maintain all such records for the term of this Agreement, and any renewal term, and for at least three (3) years after the expiration or termination of this Agreement. To the extent authorized by Chapter 119, Florida Statutes, or other applicable laws, the information obtained by the County under this Section 8.4 shall remain confidential. Contractor shall comply with Chapter 119, Florida Statutes as related to public records.

8.5 Each report, audit and payment required under this Article VIII shall be timely submitted by the Contractor. Any failure to submit a report, audit or payment in a timely manner shall be a breach and default of this Agreement.

8.6 If the Contractor fails to pay the full amount of the Franchise fee within thirty (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

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

the collection of the Franchise fee, including but not limited to court costs and reasonable attorneys' fees. Any late payment of Franchise fees due under this Agreement or the Solid Waste Ordinance shall bear interest at the maximum legal rate in effect at the time of the default, as established by Section 55.03, Florida Statutes.

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 County's Solid Waste Division. A \$500.00 renewal fee and a vehicle fee of \$100.00 per vehicle shall accompany said renewal application. The submittal of a timely and complete renewal application shall extend this Agreement until the Board of County Commissioners approves or denies the renewal application. If the Contractor fails to submit a timely and complete renewal application, the Contractor shall forfeit its ability to renew this Agreement and must submit an application for a new Franchise.

9.1 The Contractor understands and acknowledges that renewal applications are subject to approval by the Board, after a public hearing, and that the Board may, without prior notice, limit the number of non-exclusive Franchises it awards whenever the Board deems it in the public interest to do so.

ARTICLE X: INSURANCE

10.0 The Contractor shall not commence work under this Agreement until it 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

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

endorsement must accompany the certificate. Compliance with the foregoing requirements shall not relieve the Contractor of its liability and obligations under this Agreement.

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

10.1 The Contractor shall maintain during the life of this Agreement, 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 this Agreement, 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 Agreement, 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 Agreement, 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

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

for, any and all claims, suits, causes of action, damages, liabilities, expenditures, or proceedings of any kind (collectively, "claims") arising from or related to any of the Contractor's activities or operations pursuant to this Agreement, including but not limited to claims based on bodily injury, loss of life or limb, damage to property, pollution or other environmental damages.

11.1 The provisions of Article XI relating to indemnification are 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 The provisions of Article XI relating to Indemnification shall survive the expiration or termination of this Agreement.

ARTICLE XII: TERMINATION BY COUNTY

12.0 If the County concludes that the Contractor is in violation of any of the terms of this Agreement or the Solid Waste Ordinance, or any resolution, rule or regulation promulgated thereunder, the County shall notify the Contractor by certified mail of the reasons why the Contractor is considered to be in violation and shall provide at least seven (7) days thereafter for the Contractor to comply with pertinent requirements. If the Contractor fails to comply within the specified time, the Board shall conduct a hearing concerning the Contractor's failure to comply. The Contractor shall be given notice at least seven (7) days prior to the hearing. The Contractor shall be given an opportunity at the hearing to testify, present evidence and otherwise demonstrate why this Agreement shall not be terminated and the Franchise granted herein revoked. At or subsequent to the hearing, the Board may, at its option, adopt a resolution (a) terminating this Agreement and revoking the Franchise granted herein; (b) requiring the Contractor, within a time certain, to perform the tasks necessary to comply with the terms of this Agreement; or (c) imposing such other requirements as the Board deems appropriate under the circumstances. In the event the Board adopts a resolution terminating this Agreement and revoking the Franchise granted herein, the Contractor shall immediately cease all activities under this Agreement.

12.1 Among other things, a material breach of this Agreement shall be deemed to have occurred if the Contractor (a) fails or refuses to comply with any lawful order of the

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

Board entered after public hearing; (b) violates or fails to comply with any provision of the Solid Waste Ordinance or any other county ordinances, or rule promulgated thereunder, relating to the collection, transportation, or disposal of Solid Waste, or violates or fails to comply with the provisions of this Agreement, or any state or federal law relating to the collection and disposal of Solid Waste; (c) fails to pay Franchise fees at the times and in the amounts required by this Agreement; (d) fails to timely submit any report, information, or audit required by the Solid Waste Ordinance or this Agreement; (e) disposes of Solid Waste at a site other than a properly permitted and authorized Solid Waste Management Facility; (f) collects or transports Solid Waste in a manner that is not authorized under this Agreement; (g) fails to continuously maintain the types and amounts of insurance required under this Agreement; or (h) declares bankruptcy.

12.2 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 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*

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

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 County's Solid Waste Division. The authorized representative of the Contractor for purposes of this Agreement shall be Allen Lea, allen.lea@unitedsiteservices.com. 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 Division
2750 Industry Center Road
St. Augustine, FL 32084

If to the Contractor:

United Site Services of Florida, LLC

118 Flanders Road; Suite 1000

Westborough, MA 01581; Attn: Legal Dept.

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

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

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, without respect to Florida conflict of law principles, and any and all controversies and claims relating to or arising out of this Agreement, or the breach or enforcement thereof, whether sounding in contract, tort, or otherwise, shall likewise be governed by the laws of the State of Florida, without respect to Florida conflict of law principles. 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 or proceeding to interpret and/or enforce the Agreement shall be brought and maintained in the State of Florida and venue shall be in St. Johns County, Florida.

13.4 *Assignment*

This Agreement shall be binding upon, and inure to the benefit of, the Parties. This Agreement may not be sold, assigned or transferred by the Contractor, without written approval of the Board in accordance with Section 7.D of the Solid Waste Ordinance. As a condition precedent to receiving Board approval, the Contractor or the proposed transferee must demonstrate that the proposed transferee has the ability to comply with all of the applicable requirements set forth in this Agreement and the Solid Waste Ordinance. An application for approval of a transfer shall be submitted to the Board by the proposed transferee. The application shall contain the same information that is required for a new Franchise and shall include the Contractor's written consent to the transfer and the proposed transferee's written stipulation that the proposed transferee will comply with all of the terms and conditions applicable to the Contractor.

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

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

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 expiration or 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 Contractor*

When performing the activities required by this Agreement, the Contractor will be acting in the capacity of an independent contractor and not as an agent, employee, partner, joint venture or associate of the County. The Contractor shall be solely responsible for the means, methods and procedures used by the Contractor to perform under this Agreement. Neither the Contractor nor any of its employees, officers, agents or subcontractors shall represent, act, purport to act, or be deemed to be the agent, representative, employee, or servant of the County.

The Contractor shall have no authority to bind the County to any agreement or contract. No person performing any work or services for the Contractor under this

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

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 more than five percent (5%) of the total assets or capital stock of the Contractor, nor will any such person directly or indirectly benefit by more than five percent (5%) from the profits or emoluments of this Agreement. The Contractor warrants that it has not employed or retained any company or person, other than a bona fide employee working solely for the Contractor, to solicit or secure this Agreement and the Contractor has not paid or agreed to pay any person, company, corporation, individual or firm, other than a bona fide employee working solely for the Contractor, any fee, commission, percentage gift or any other compensation contingent upon or resulting from the award or making of this Agreement. Further, the Contractor declares and warrants that it 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 is intended to nor shall be interpreted or construed to operate as a waiver on the part of the County of the limitations of liability set forth in Section 768.28, Florida Statutes, or of the County's sovereign immunity.

13.15 *Amendment*

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

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.

13.16 *Terms Generally*

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

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.

Pursuant to Section 119.0701, Florida Statutes, the Contractor shall:

(a) Keep and maintain public records required by the County to perform the services provided hereunder.

(b) Upon request from the County’s custodian of public records, provide the County with a copy of the requested records or allow the records to be

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

inspected or copied within a reasonable time at a cost that does not exceed the cost provided in Chapter 119, Florida Statutes, or as otherwise provided by law.

(c) Ensure that public records that are exempt or confidential and exempt from public records disclosure requirements are not disclosed, except as authorized by law for the duration of the term of this Agreement and following completion of this Agreement if the Contractor does not transfer the records to the County.

(d) Upon completion of the Agreement, transfer, at no cost, to the County all public records in the possession of the Contractor or keep and maintain public records required by the County to perform the service. If the Contractor transfers all public records to the County upon completion of the Agreement, the Contractor shall destroy any duplicate public records that are exempt or confidential and exempt from public records disclosure requirements. If the Contractor keeps and maintains public records upon completion of the Agreement, the Contractor shall meet all applicable requirements for retaining public records. All records stored electronically must be provided to the County, upon request from the County's custodian of public records, in a format that is compatible with the information technology systems of the County.

If the Contractor fails to comply with the requirements in this Section 13.6, the County may enforce these provisions in accordance with the terms of this Agreement. If the Contractor fails to provide the public records to the County within a reasonable time, it may be subject to penalties under Section 119.10, Florida Statutes.

IF THE CONTRACTOR HAS QUESTIONS REGARDING THE APPLICATION OF CHAPTER 119, FLORIDA STATUTES, TO THE CONTRACTOR'S DUTY TO PROVIDE PUBLIC RECORDS RELATING TO THIS AGREEMENT, THE CONTRACTOR SHOULD CONTACT THE COUNTY'S CUSTODIAN OF PUBLIC RECORDS BY TELEPHONE AT (904) 209-0805, OR E-MAIL AT

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

**PUBLICRECORDS@SJCFL.US, OR MAIL AT ST. JOHNS COUNTY
ATTORNEY, ATTN: PUBLIC RECORDS CUSTODIAN, 500 SAN
SEBASTIAN VIEW, ST. AUGUSTINE, FL 32084.**

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 11, 2023.

CONTRACTOR

United Site Services of Florida, LLC
Name of Company
Signature: [Signature]
Printed Name: Jeffrey Dunlop
Title: Vice President

STATE OF FLORIDA
COUNTY OF ST. JOHNS

The foregoing instrument was acknowledged before me by means of physical presence or online notarization, this 11 day of May, 2023, by Jeffrey Dunlop, as VP of United Site Services of Florida, LLC, who is personally known to me or has produced [Signature] as identification.



NOTARY PUBLIC, State of ^{Massachusetts} Florida
Name: Dawn M. Desautel
My Commission Expires: 9/18/2027
My Commission Number is: N/A

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 entered into by and between St. Johns County, Florida, a political subdivision of the State of Florida, (“County”) and Waste Management Inc. of Florida, a Florida (limited liability corporation, corporation, limited liability partnership) (“Contractor”) (alternatively Contractor and County referred to herein as “Party” or collectively referred to herein as “Parties”).

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 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 No. 2017-39 (“Solid Waste Ordinance”), as amended, 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 this Agreement and the Solid Waste Ordinance, 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

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

authorizes the Contractor to collect and transport Commercial / 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. No other collection or transportation of Solid Waste or Commercial / Industrial Solid Waste is authorized under this Agreement.

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, 2026.

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 Solid Waste Ordinance, the St. Johns County Code 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 Pursuant to St. Johns County Ordinance No. 2015-19 ("Noise Ordinance"), Contractor is permitted to collect and transport Commercial / Industrial Solid Waste Collection after 7:00am until 7:00pm Monday through Saturday and between the hours of 9:00am and 7:00pm on Sundays and holidays. The 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 County's Solid Waste Division.

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

5.4 All vehicles, Mechanical Containers and other containers used by the Contractor for the collection or transportation of Commercial / Industrial Solid Waste shall be marked on each side with the name and phone number of the Contractor and the markings shall be a minimum of three (3) inches in height.

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

5.5 All vehicles, Mechanical Containers and other containers used by the Contractor for collecting or transporting Commercial / Industrial Solid Waste shall be totally enclosed or securely covered in a manner that prevents the escape of any materials when transporting Commercial / Industrial Solid Waste within the County.

5.6 Each vehicle used by the Contractor for collecting or transporting Commercial / Industrial Solid Waste in the County shall be maintained in a good, clean, and safe operating condition.

5.7 On or before July 1 of each year, Contractor shall provide the County with a current list of all vehicles used to collect or transport Commercial / Industrial Solid Waste in the County. The list shall identify the year of manufacture, the manufacturer's name, the model, the vehicle configuration (e.g., rear loader) and the current license plate number for each vehicle. The list shall include the Contractor's certification that each vehicle has been inspected by a licensed professional mechanic within the preceding twelve (12) months and found to be in safe and operable condition. The list shall be updated and re-submitted to the County within fifteen (15) days after a vehicle is added to or removed from the fleet of vehicles used by the Contractor in the County.

5.8 Contractor shall immediately clean-up and properly dispose of any Solid Waste, waste materials, liquids, or products dropped or spilled by the Contractor. Upon completion of the clean-up, the Contractor shall prepare a written report that identifies the location and type of drop or spill, and the corrective action taken. The report shall be submitted to the County's Solid Waste Division within two business days after the drop or spill.

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 Solid Waste Management Facility that is properly licensed to receive Commercial / Industrial Solid Waste.

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

ARTICLE VII: APPLICATION FEES

7.0 The Contractor is required to complete and submit the standard St. Johns County application form for renewal or transfer of this Franchise Agreement and shall pay all applicable fees associated with the application.

ARTICLE VIII: FRANCHISE FEES

8.0 The Contractor shall pay a Franchise fee to the County for the privilege of collecting Commercial / Industrial Solid waste in the County as a business, for using the public right-of-way 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, and for the other rights and benefits conferred on the Contractor under this Agreement. The Franchise fee also may be used to pay the cost of implementing, administering and enforcing the County's Franchises and other regulations for the safe and proper 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 any and all applicable Franchise fees when they become due. The Franchise fee for a Non-Exclusive Commercial / Industrial Solid Waste Collection and Transportation Franchise shall be equal to five percent (5%) of the Gross Revenues collected by the Contractor for services provided pursuant to this Agreement, including the collection, transportation, processing and disposing of Commercial / Industrial Solid Waste originating in the unincorporated areas of St. Johns County, provided that such 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. Each quarterly payment of

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

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

8.3 Within one hundred twenty (120) days following (a) the expiration of the initial term of this Agreement, (b) the expiration of any renewal term of this Agreement, and (c) the termination of this Agreement, the Contractor shall file with the County a certified audit concerning the Gross Revenue collected by the Contractor as a result of the Contractor's operations under this Agreement. The audit shall be prepared by an independent accounting firm in accordance with generally accepted accounting principles or, at the County's option, prepared on such forms and in such detail as prescribed by the Clerk. The County may, upon application and a showing of good cause, extend the time for performance under this Section 8.3.

8.4 The County shall be given access at all reasonable hours to the Contractor's places of business and its records relating to the accumulation, collection, transportation, and disposal of Construction and Demolition Debris from properties within the County. The County may inspect, copy, and audit such records, at the County's expense, to verify the amount of any Franchise fee or other charge payable to the County pursuant to the Solid Waste Ordinance or this Agreement or to verify any information provided by the Contractor pursuant to the Solid Waste Ordinance or this Agreement. The Contractor shall keep and maintain all such records for the term of this Agreement, and any renewal term, and for at least three (3) years after the expiration or termination of this Agreement. To the extent authorized by Chapter 119, Florida Statutes, or other applicable laws, the information obtained by the County under this Section 8.4 shall remain confidential. Contractor shall comply with Chapter 119, Florida Statutes as related to public records.

8.5 Each report, audit and payment required under this Article VIII shall be timely submitted by the Contractor. Any failure to submit a report, audit or payment in a timely manner shall be a breach and default of this Agreement.

8.6 If the Contractor fails to pay the full amount of the Franchise fee within thirty (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

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

the collection of the Franchise fee, including but not limited to court costs and reasonable attorneys' fees. Any late payment of Franchise fees due under this Agreement or the Solid Waste Ordinance shall bear interest at the maximum legal rate in effect at the time of the default, as established by Section 55.03, Florida Statutes.

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 County's Solid Waste Division. A \$500.00 renewal fee and a vehicle fee of \$100.00 per vehicle shall accompany said renewal application. The submittal of a timely and complete renewal application shall extend this Agreement until the Board of County Commissioners approves or denies the renewal application. If the Contractor fails to submit a timely and complete renewal application, the Contractor shall forfeit its ability to renew this Agreement and must submit an application for a new Franchise.

9.1 The Contractor understands and acknowledges that renewal applications are subject to approval by the Board, after a public hearing, and that the Board may, without prior notice, limit the number of non-exclusive Franchises it awards whenever the Board deems it in the public interest to do so.

ARTICLE X: INSURANCE

10.0 The Contractor shall not commence work under this Agreement until it 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

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

endorsement must accompany the certificate. Compliance with the foregoing requirements shall not relieve the Contractor of its liability and obligations under this Agreement.

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

10.1 The Contractor shall maintain during the life of this Agreement, 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 this Agreement, 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 Agreement, 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 Agreement, 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

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

for, any and all claims, suits, causes of action, damages, liabilities, expenditures, or proceedings of any kind (collectively, "claims") arising from or related to any of the Contractor's activities or operations pursuant to this Agreement, including but not limited to claims based on bodily injury, loss of life or limb, damage to property, pollution or other environmental damages.

11.1 The provisions of Article XI relating to indemnification are 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 The provisions of Article XI relating to Indemnification shall survive the expiration or termination of this Agreement.

ARTICLE XII: TERMINATION BY COUNTY

12.0 If the County concludes that the Contractor is in violation of any of the terms of this Agreement or the Solid Waste Ordinance, or any resolution, rule or regulation promulgated thereunder, the County shall notify the Contractor by certified mail of the reasons why the Contractor is considered to be in violation and shall provide at least seven (7) days thereafter for the Contractor to comply with pertinent requirements. If the Contractor fails to comply within the specified time, the Board shall conduct a hearing concerning the Contractor's failure to comply. The Contractor shall be given notice at least seven (7) days prior to the hearing. The Contractor shall be given an opportunity at the hearing to testify, present evidence and otherwise demonstrate why this Agreement shall not be terminated and the Franchise granted herein revoked. At or subsequent to the hearing, the Board may, at its option, adopt a resolution (a) terminating this Agreement and revoking the Franchise granted herein; (b) requiring the Contractor, within a time certain, to perform the tasks necessary to comply with the terms of this Agreement; or (c) imposing such other requirements as the Board deems appropriate under the circumstances. In the event the Board adopts a resolution terminating this Agreement and revoking the Franchise granted herein, the Contractor shall immediately cease all activities under this Agreement.

12.1 Among other things, a material breach of this Agreement shall be deemed to have occurred if the Contractor (a) fails or refuses to comply with any lawful order of the

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

Board entered after public hearing; (b) violates or fails to comply with any provision of the Solid Waste Ordinance or any other county ordinances, or rule promulgated thereunder, relating to the collection, transportation, or disposal of Solid Waste, or violates or fails to comply with the provisions of this Agreement, or any state or federal law relating to the collection and disposal of Solid Waste; (c) fails to pay Franchise fees at the times and in the amounts required by this Agreement; (d) fails to timely submit any report, information, or audit required by the Solid Waste Ordinance or this Agreement; (e) disposes of Solid Waste at a site other than a properly permitted and authorized Solid Waste Management Facility; (f) collects or transports Solid Waste in a manner that is not authorized under this Agreement; (g) fails to continuously maintain the types and amounts of insurance required under this Agreement; or (h) declares bankruptcy.

12.2 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 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*

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

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 County's Solid Waste Division. The authorized representative of the Contractor for purposes of this Agreement shall be James Johns - Sr. 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 Division
2750 Industry Center Road
St. Augustine, FL 32084

If to the Contractor:

James Johns - Waste Management
3515 Agricultural Center Dr.
St. Augustine, FL 32092

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

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

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, without respect to Florida conflict of law principles, and any and all controversies and claims relating to or arising out of this Agreement, or the breach or enforcement thereof, whether sounding in contract, tort, or otherwise, shall likewise be governed by the laws of the State of Florida, without respect to Florida conflict of law principles. 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 or proceeding to interpret and/or enforce the Agreement shall be brought and maintained in the State of Florida and venue shall be in St. Johns County, Florida.

13.4 Assignment

This Agreement shall be binding upon, and inure to the benefit of, the Parties. This Agreement may not be sold, assigned or transferred by the Contractor, without written approval of the Board in accordance with Section 7.D of the Solid Waste Ordinance. As a condition precedent to receiving Board approval, the Contractor or the proposed transferee must demonstrate that the proposed transferee has the ability to comply with all of the applicable requirements set forth in this Agreement and the Solid Waste Ordinance. An application for approval of a transfer shall be submitted to the Board by the proposed transferee. The application shall contain the same information that is required for a new Franchise and shall include the Contractor's written consent to the transfer and the proposed transferee's written stipulation that the proposed transferee will comply with all of the terms and conditions applicable to the Contractor.

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

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

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 expiration or 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 Contractor*

When performing the activities required by this Agreement, the Contractor will be acting in the capacity of an independent contractor and not as an agent, employee, partner, joint venture or associate of the County. The Contractor shall be solely responsible for the means, methods and procedures used by the Contractor to perform under this Agreement. Neither the Contractor nor any of its employees, officers, agents or subcontractors shall represent, act, purport to act, or be deemed to be the agent, representative, employee, or servant of the County.

The Contractor shall have no authority to bind the County to any agreement or contract. No person performing any work or services for the Contractor under this

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

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 more than five percent (5%) of the total assets or capital stock of the Contractor, nor will any such person directly or indirectly benefit by more than five percent (5%) from the profits or emoluments of this Agreement. The Contractor warrants that it has not employed or retained any company or person, other than a bona fide employee working solely for the Contractor, to solicit or secure this Agreement and the Contractor has not paid or agreed to pay any person, company, corporation, individual or firm, other than a bona fide employee working solely for the Contractor, any fee, commission, percentage gift or any other compensation contingent upon or resulting from the award or making of this Agreement. Further, the Contractor declares and warrants that it 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 is intended to nor shall be interpreted or construed to operate as a waiver on the part of the County of the limitations of liability set forth in Section 768.28, Florida Statutes, or of the County's sovereign immunity.

13.15 *Amendment*

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

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.

13.16 *Terms Generally*

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

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.

Pursuant to Section 119.0701, Florida Statutes, the Contractor shall:

- (a) Keep and maintain public records required by the County to perform the services provided hereunder.
- (b) Upon request from the County’s custodian of public records, provide the County with a copy of the requested records or allow the records to be

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

inspected or copied within a reasonable time at a cost that does not exceed the cost provided in Chapter 119, Florida Statutes, or as otherwise provided by law.

(c) Ensure that public records that are exempt or confidential and exempt from public records disclosure requirements are not disclosed, except as authorized by law for the duration of the term of this Agreement and following completion of this Agreement if the Contractor does not transfer the records to the County.

(d) Upon completion of the Agreement, transfer, at no cost, to the County all public records in the possession of the Contractor or keep and maintain public records required by the County to perform the service. If the Contractor transfers all public records to the County upon completion of the Agreement, the Contractor shall destroy any duplicate public records that are exempt or confidential and exempt from public records disclosure requirements. If the Contractor keeps and maintains public records upon completion of the Agreement, the Contractor shall meet all applicable requirements for retaining public records. All records stored electronically must be provided to the County, upon request from the County's custodian of public records, in a format that is compatible with the information technology systems of the County.

If the Contractor fails to comply with the requirements in this Section 13.6, the County may enforce these provisions in accordance with the terms of this Agreement. If the Contractor fails to provide the public records to the County within a reasonable time, it may be subject to penalties under Section 119.10, Florida Statutes.

IF THE CONTRACTOR HAS QUESTIONS REGARDING THE APPLICATION OF CHAPTER 119, FLORIDA STATUTES, TO THE CONTRACTOR'S DUTY TO PROVIDE PUBLIC RECORDS RELATING TO THIS AGREEMENT, THE CONTRACTOR SHOULD CONTACT THE COUNTY'S CUSTODIAN OF PUBLIC RECORDS BY TELEPHONE AT (904) 209-0805, OR E-MAIL AT

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

**PUBLICRECORDS@SJCFL.US, OR MAIL AT ST. JOHNS COUNTY
ATTORNEY, ATTN: PUBLIC RECORDS CUSTODIAN, 500 SAN
SEBASTIAN VIEW, ST. AUGUSTINE, FL 32084.**

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 _____, 202__.

CONTRACTOR

Waste Management Inc. of Florida

Name of Company

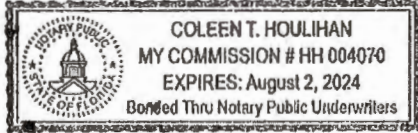
Signature: *David M. Myhan*

Printed Name: David M. Myhan

Title: President

STATE OF FLORIDA
COUNTY OF ~~ST. JOHNS~~ Palm Beach

The foregoing instrument was acknowledged before me by means of physical presence or online notarization, this 2 day of May, 2023, by David M. Myhan, as President of Waste Management Inc. of Florida, who is personally known to me or has produced _____ as identification.



NOTARY PUBLIC, State of Florida

Name: *Coleen T. Houlihan*

My Commission Expires: _____

My Commission Number is: _____

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 entered into by and between St. Johns County, Florida, a political subdivision of the State of Florida, ("County") and Waste Pro, a Florida (limited liability corporation, corporation, limited liability partnership) ("Contractor") (alternatively Contractor and County referred to herein as "Party" or collectively referred to herein as "Parties").

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 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 No. 2017-39 ("Solid Waste Ordinance"), as amended, 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 this Agreement and the Solid Waste Ordinance, 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

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

authorizes the Contractor to collect and transport Commercial / 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. No other collection or transportation of Solid Waste or Commercial / Industrial Solid Waste is authorized under this Agreement.

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, 2026.

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 Solid Waste Ordinance, the St. Johns County Code 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 Pursuant to St. Johns County Ordinance No. 2015-19 ("Noise Ordinance"), Contractor is permitted to collect and transport Commercial / Industrial Solid Waste Collection after 7:00am until 7:00pm Monday through Saturday and between the hours of 9:00am and 7:00pm on Sundays and holidays. The 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 County's Solid Waste Division.

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

5.4 All vehicles, Mechanical Containers and other containers used by the Contractor for the collection or transportation of Commercial / Industrial Solid Waste shall be marked on each side with the name and phone number of the Contractor and the markings shall be a minimum of three (3) inches in height.

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

5.5 All vehicles, Mechanical Containers and other containers used by the Contractor for collecting or transporting Commercial / Industrial Solid Waste shall be totally enclosed or securely covered in a manner that prevents the escape of any materials when transporting Commercial / Industrial Solid Waste within the County.

5.6 Each vehicle used by the Contractor for collecting or transporting Commercial / Industrial Solid Waste in the County shall be maintained in a good, clean, and safe operating condition.

5.7 On or before July 1 of each year, Contractor shall provide the County with a current list of all vehicles used to collect or transport Commercial / Industrial Solid Waste in the County. The list shall identify the year of manufacture, the manufacturer's name, the model, the vehicle configuration (e.g., rear loader) and the current license plate number for each vehicle. The list shall include the Contractor's certification that each vehicle has been inspected by a licensed professional mechanic within the preceding twelve (12) months and found to be in safe and operable condition. The list shall be updated and re-submitted to the County within fifteen (15) days after a vehicle is added to or removed from the fleet of vehicles used by the Contractor in the County.

5.8 Contractor shall immediately clean-up and properly dispose of any Solid Waste, waste materials, liquids, or products dropped or spilled by the Contractor. Upon completion of the clean-up, the Contractor shall prepare a written report that identifies the location and type of drop or spill, and the corrective action taken. The report shall be submitted to the County's Solid Waste Division within two business days after the drop or spill.

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 Solid Waste Management Facility that is properly licensed to receive Commercial / Industrial Solid Waste.

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

ARTICLE VII: APPLICATION FEES

7.0 The Contractor is required to complete and submit the standard St. Johns County application form for renewal or transfer of this Franchise Agreement and shall pay all applicable fees associated with the application.

ARTICLE VIII: FRANCHISE FEES

8.0 The Contractor shall pay a Franchise fee to the County for the privilege of collecting Commercial / Industrial Solid waste in the County as a business, for using the public right-of-way 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, and for the other rights and benefits conferred on the Contractor under this Agreement. The Franchise fee also may be used to pay the cost of implementing, administering and enforcing the County's Franchises and other regulations for the safe and proper 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 any and all applicable Franchise fees when they become due. The Franchise fee for a Non-Exclusive Commercial / Industrial Solid Waste Collection and Transportation Franchise shall be equal to five percent (5%) of the Gross Revenues collected by the Contractor for services provided pursuant to this Agreement, including the collection, transportation, processing and disposing of Commercial / Industrial Solid Waste originating in the unincorporated areas of St. Johns County, provided that such 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. Each quarterly payment of

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

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

8.3 Within one hundred twenty (120) days following (a) the expiration of the initial term of this Agreement, (b) the expiration of any renewal term of this Agreement, and (c) the termination of this Agreement, the Contractor shall file with the County a certified audit concerning the Gross Revenue collected by the Contractor as a result of the Contractor's operations under this Agreement. The audit shall be prepared by an independent accounting firm in accordance with generally accepted accounting principles or, at the County's option, prepared on such forms and in such detail as prescribed by the Clerk. The County may, upon application and a showing of good cause, extend the time for performance under this Section 8.3.

8.4 The County shall be given access at all reasonable hours to the Contractor's places of business and its records relating to the accumulation, collection, transportation, and disposal of Construction and Demolition Debris from properties within the County. The County may inspect, copy, and audit such records, at the County's expense, to verify the amount of any Franchise fee or other charge payable to the County pursuant to the Solid Waste Ordinance or this Agreement or to verify any information provided by the Contractor pursuant to the Solid Waste Ordinance or this Agreement. The Contractor shall keep and maintain all such records for the term of this Agreement, and any renewal term, and for at least three (3) years after the expiration or termination of this Agreement. To the extent authorized by Chapter 119, Florida Statutes, or other applicable laws, the information obtained by the County under this Section 8.4 shall remain confidential. Contractor shall comply with Chapter 119, Florida Statutes as related to public records.

8.5 Each report, audit and payment required under this Article VIII shall be timely submitted by the Contractor. Any failure to submit a report, audit or payment in a timely manner shall be a breach and default of this Agreement.

8.6 If the Contractor fails to pay the full amount of the Franchise fee within thirty (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

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

the collection of the Franchise fee, including but not limited to court costs and reasonable attorneys' fees. Any late payment of Franchise fees due under this Agreement or the Solid Waste Ordinance shall bear interest at the maximum legal rate in effect at the time of the default, as established by Section 55.03, Florida Statutes.

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 County's Solid Waste Division. A \$500.00 renewal fee and a vehicle fee of \$100.00 per vehicle shall accompany said renewal application. The submittal of a timely and complete renewal application shall extend this Agreement until the Board of County Commissioners approves or denies the renewal application. If the Contractor fails to submit a timely and complete renewal application, the Contractor shall forfeit its ability to renew this Agreement and must submit an application for a new Franchise.

9.1 The Contractor understands and acknowledges that renewal applications are subject to approval by the Board, after a public hearing, and that the Board may, without prior notice, limit the number of non-exclusive Franchises it awards whenever the Board deems it in the public interest to do so.

ARTICLE X: INSURANCE

10.0 The Contractor shall not commence work under this Agreement until it 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

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

endorsement must accompany the certificate. Compliance with the foregoing requirements shall not relieve the Contractor of its liability and obligations under this Agreement.

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

10.1 The Contractor shall maintain during the life of this Agreement, 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 this Agreement, 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 Agreement, 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 Agreement, 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

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

for, any and all claims, suits, causes of action, damages, liabilities, expenditures, or proceedings of any kind (collectively, "claims") arising from or related to any of the Contractor's activities or operations pursuant to this Agreement, including but not limited to claims based on bodily injury, loss of life or limb, damage to property, pollution or other environmental damages.

11.1 The provisions of Article XI relating to indemnification are 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 The provisions of Article XI relating to Indemnification shall survive the expiration or termination of this Agreement.

ARTICLE XII: TERMINATION BY COUNTY

12.0 If the County concludes that the Contractor is in violation of any of the terms of this Agreement or the Solid Waste Ordinance, or any resolution, rule or regulation promulgated thereunder, the County shall notify the Contractor by certified mail of the reasons why the Contractor is considered to be in violation and shall provide at least seven (7) days thereafter for the Contractor to comply with pertinent requirements. If the Contractor fails to comply within the specified time, the Board shall conduct a hearing concerning the Contractor's failure to comply. The Contractor shall be given notice at least seven (7) days prior to the hearing. The Contractor shall be given an opportunity at the hearing to testify, present evidence and otherwise demonstrate why this Agreement shall not be terminated and the Franchise granted herein revoked. At or subsequent to the hearing, the Board may, at its option, adopt a resolution (a) terminating this Agreement and revoking the Franchise granted herein; (b) requiring the Contractor, within a time certain, to perform the tasks necessary to comply with the terms of this Agreement; or (c) imposing such other requirements as the Board deems appropriate under the circumstances. In the event the Board adopts a resolution terminating this Agreement and revoking the Franchise granted herein, the Contractor shall immediately cease all activities under this Agreement.

12.1 Among other things, a material breach of this Agreement shall be deemed to have occurred if the Contractor (a) fails or refuses to comply with any lawful order of the

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

Board entered after public hearing; (b) violates or fails to comply with any provision of the Solid Waste Ordinance or any other county ordinances, or rule promulgated thereunder, relating to the collection, transportation, or disposal of Solid Waste, or violates or fails to comply with the provisions of this Agreement, or any state or federal law relating to the collection and disposal of Solid Waste; (c) fails to pay Franchise fees at the times and in the amounts required by this Agreement; (d) fails to timely submit any report, information, or audit required by the Solid Waste Ordinance or this Agreement; (e) disposes of Solid Waste at a site other than a properly permitted and authorized Solid Waste Management Facility; (f) collects or transports Solid Waste in a manner that is not authorized under this Agreement; (g) fails to continuously maintain the types and amounts of insurance required under this Agreement; or (h) declares bankruptcy.

12.2 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 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*

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

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 County's Solid Waste Division. The authorized representative of the Contractor for purposes of this Agreement shall be Heather Badger - Felmet 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 Division
2750 Industry Center Road
St. Augustine, FL 32084

If to the Contractor:

Waste Pro of Florida Inc.
P.O. Box 2139
Bunnell, FL 32110

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

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

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, without respect to Florida conflict of law principles, and any and all controversies and claims relating to or arising out of this Agreement, or the breach or enforcement thereof, whether sounding in contract, tort, or otherwise, shall likewise be governed by the laws of the State of Florida, without respect to Florida conflict of law principles. 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 or proceeding to interpret and/or enforce the Agreement shall be brought and maintained in the State of Florida and venue shall be in St. Johns County, Florida.

13.4 Assignment

This Agreement shall be binding upon, and inure to the benefit of, the Parties. This Agreement may not be sold, assigned or transferred by the Contractor, without written approval of the Board in accordance with Section 7.D of the Solid Waste Ordinance. As a condition precedent to receiving Board approval, the Contractor or the proposed transferee must demonstrate that the proposed transferee has the ability to comply with all of the applicable requirements set forth in this Agreement and the Solid Waste Ordinance. An application for approval of a transfer shall be submitted to the Board by the proposed transferee. The application shall contain the same information that is required for a new Franchise and shall include the Contractor's written consent to the transfer and the proposed transferee's written stipulation that the proposed transferee will comply with all of the terms and conditions applicable to the Contractor.

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

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

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 expiration or 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 Contractor*

When performing the activities required by this Agreement, the Contractor will be acting in the capacity of an independent contractor and not as an agent, employee, partner, joint venture or associate of the County. The Contractor shall be solely responsible for the means, methods and procedures used by the Contractor to perform under this Agreement. Neither the Contractor nor any of its employees, officers, agents or subcontractors shall represent, act, purport to act, or be deemed to be the agent, representative, employee, or servant of the County.

The Contractor shall have no authority to bind the County to any agreement or contract. No person performing any work or services for the Contractor under this

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

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 more than five percent (5%) of the total assets or capital stock of the Contractor, nor will any such person directly or indirectly benefit by more than five percent (5%) from the profits or emoluments of this Agreement. The Contractor warrants that it has not employed or retained any company or person, other than a bona fide employee working solely for the Contractor, to solicit or secure this Agreement and the Contractor has not paid or agreed to pay any person, company, corporation, individual or firm, other than a bona fide employee working solely for the Contractor, any fee, commission, percentage gift or any other compensation contingent upon or resulting from the award or making of this Agreement. Further, the Contractor declares and warrants that it 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 is intended to nor shall be interpreted or construed to operate as a waiver on the part of the County of the limitations of liability set forth in Section 768.28, Florida Statutes, or of the County's sovereign immunity.

13.15 *Amendment*

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

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.

13.16 *Terms Generally*

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

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.

Pursuant to Section 119.0701, Florida Statutes, the Contractor shall:

- (a) Keep and maintain public records required by the County to perform the services provided hereunder.
- (b) Upon request from the County’s custodian of public records, provide the County with a copy of the requested records or allow the records to be

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

inspected or copied within a reasonable time at a cost that does not exceed the cost provided in Chapter 119, Florida Statutes, or as otherwise provided by law.

(c) Ensure that public records that are exempt or confidential and exempt from public records disclosure requirements are not disclosed, except as authorized by law for the duration of the term of this Agreement and following completion of this Agreement if the Contractor does not transfer the records to the County.

(d) Upon completion of the Agreement, transfer, at no cost, to the County all public records in the possession of the Contractor or keep and maintain public records required by the County to perform the service. If the Contractor transfers all public records to the County upon completion of the Agreement, the Contractor shall destroy any duplicate public records that are exempt or confidential and exempt from public records disclosure requirements. If the Contractor keeps and maintains public records upon completion of the Agreement, the Contractor shall meet all applicable requirements for retaining public records. All records stored electronically must be provided to the County, upon request from the County's custodian of public records, in a format that is compatible with the information technology systems of the County.

If the Contractor fails to comply with the requirements in this Section 13.6, the County may enforce these provisions in accordance with the terms of this Agreement. If the Contractor fails to provide the public records to the County within a reasonable time, it may be subject to penalties under Section 119.10, Florida Statutes.

IF THE CONTRACTOR HAS QUESTIONS REGARDING THE APPLICATION OF CHAPTER 119, FLORIDA STATUTES, TO THE CONTRACTOR'S DUTY TO PROVIDE PUBLIC RECORDS RELATING TO THIS AGREEMENT, THE CONTRACTOR SHOULD CONTACT THE COUNTY'S CUSTODIAN OF PUBLIC RECORDS BY TELEPHONE AT (904) 209-0805, OR E-MAIL AT

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

**PUBLICRECORDS@SJCFL.US, OR MAIL AT ST. JOHNS COUNTY
ATTORNEY, ATTN: PUBLIC RECORDS CUSTODIAN, 500 SAN
SEBASTIAN VIEW, ST. AUGUSTINE, FL 32084.**

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 3, 2023.

CONTRACTOR

Waste Pro
Name of Company _____
Signature: [Signature]
Printed Name: Carolyn Rakoczy
Title: Office Manager

STATE OF FLORIDA
COUNTY OF ST. JOHNS

The foregoing instrument was acknowledged before me by means of physical presence or online notarization, this 3 day of May, 2023, by Carolyn Rakoczy as Office Manager of Waste Pro, who is personally known to me or has produced _____ as identification.

NOTARY PUBLIC, State of Florida
Name: Heather Felmet
My Commission Expires: 1-10-25
My Commission Number is: HA070440

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

ATTEST: _____
Deputy Clerk

By: _____
County Administrator

(OFFICIAL SEAL)

