

**AGREEMENT FOR  
BULK WASTE/TRASH AND BULK YARD WASTE COLLECTION SERVICES**

**THIS IS AN AGREEMENT**, dated the 20th day of October, 2021, by and between:

**THE CITY OF PEMBROKE PINES**, a municipal corporation of the State of Florida with a business address of 601 City Center Way, Pembroke Pines, Florida 33025 hereinafter referred to as "CITY",

and

**EASTERN WASTE SYSTEMS, INC.**, a for profit corporation, as registered with the Florida Division of Corporations, with a business address of **1660 NW 19 Avenue, Pompano Beach, FL 33069**, hereinafter referred to as "CONTRACTOR". CITY and CONTRACTOR may hereinafter be referred to collectively as the "PARTIES."

**W I T N E S S E T H:**

In consideration of the mutual terms and conditions, promises, covenants and payments hereinafter set forth, CITY and CONTRACTOR agree as follows:

**ARTICLE 1  
PREAMBLE**

1.1 In order to establish the background, context and form of reference for this Agreement, and to generally express the objectives and intentions of the respective parties herein, the following statements, representations, and explanations shall be accepted as predicates for the undertakings and commitments included within the provisions which follow, and may be relied upon by the parties as essential elements of the mutual considerations upon which this Agreement is based.

1.2 On **March 5, 2021**, the CITY advertised its Request for Proposals #AD-21-01 of the CITY's desire to hire a firm to provide Solid Waste, Recycling, HHW, Bulk & Yard Waste Collection Services as more particularly described in **Exhibit "A"** attached hereto and by this reference made a part hereof, for the said bid entitled:

**RFP# AD-21-01  
SOLID WASTE, RECYCLING, HHW, BULK & YARD WASTE COLLECTION  
SERVICES**

1.3 On **May 4, 2021**, the bids were opened at the offices of the City Clerk.

1.4 On **May 19, 2021**, the CITY **approved the evaluation committee's recommendation to award the Bulk Waste Collection portion of the solicitation** and authorized the proper CITY officials to negotiate and enter into an agreement with CONTRACTOR to render the services more particularly described herein below.

1.5 Good faith negotiations pertaining to the services to be performed by the CONTRACTOR were undertaken and this Agreement incorporates the results of such negotiation.

1.6 The Agreement consists of this Agreement, RFP# AD-21-01, "Solid Waste, Recycling, HHW, Bulk & Yard Waste Collection Services" (the "RFP"), attached hereto as **Exhibit "A,"** including all conditions therein, (General Terms and Conditions, Special Conditions and/or Special Provisions), drawings, Technical Specifications, all addenda; CONTRACTOR's bid/proposal, attached hereto as **Composite Exhibit "B";** and all modifications issued after execution of this Agreement. These contract documents form the Agreement, and all are as fully a part of the Agreement as if attached to this Agreement or repeated therein. In the event that there is a conflict between the RFP, this Agreement and CONTRACTOR's Proposal, the Agreement shall take precedence over the RFP as issued by the City and CONTRACTOR's Proposal. Furthermore, in the event of a conflict between the RFP and CONTRACTOR's Proposal, the RFP shall prevail.

## **ARTICLE 2**

### **DEFINITIONS**

2.1 As used in this Agreement, the following terms shall have the meanings as set forth in this Section. The words "shall," "will," and "must" are always mandatory and not merely discretionary. The word "may" indicates something that is not mandatory but permissible. When not inconsistent with the context, words in the plural shall include the singular and vice versa, words importing persons shall include firms and corporations, words in the present tense shall include the future, and use of the masculine gender shall include the feminine gender. The terms "herein," "hereunder," "hereby," "hereto," "hereof," and any similar terms, shall refer to this Agreement; the term "heretofore" shall mean before the date of adoption of this Agreement; and the term "hereafter" shall mean after the initial date of adoption of this Agreement.

2.1.1 **Additional Waste** – Additional Waste shall refer to any construction and demolition debris, tropical storm or hurricane related debris, yard-waste, recyclable materials, any large household appliances (commonly referred to as "white goods") including, without limitation, refrigerators, stoves, washing machines, drying machines, water heaters and the like, or other items of bulky waste, but in each case excluding any Unacceptable Waste.

2.1.2 **Agreement** - Agreement shall mean the written Agreement entered into between the CITY and the CONTRACTOR for the provision of Collection Services and any written amendment thereto as agreed upon by the CITY and the CONTRACTOR.

2.1.3 **Alleys** - Alleys shall mean a narrow street or passageway between or behind homes/houses or buildings.

2.1.4 **Automated Collection** - Automated Collection shall mean the collection of Solid Waste using Carts. Automated collection may mean an automated collection system or a semi-automated collection system.

**2.1.5 Biological Waste** - Biological waste means solid waste that causes or has the capability of causing disease or infection and includes, but is not limited to, biomedical waste, diseased or dead animals, and other wastes capable of transmitting pathogens to humans or animals.

**2.1.6 Biomedical Waste** - Biomedical waste means any solid waste or liquid waste that may present a threat of infection to humans. The term includes, but is not limited to, nonliquid human tissue and body parts; laboratory and veterinary waste that contains human-disease-causing agents; discarded disposable sharps; human blood and human blood products and body fluids; and other materials that in the opinion of the Department of Health represent a significant risk of infection to persons outside the generating facility.

**2.1.7 Bulk Waste/Trash** - Bulk Waste/trash shall mean large discarded items including, but not limited to, discarded White Goods, toilets, pool heaters, sheet metal, bedding, furniture, yard waste and other similar items.

Bulk generated by a contractor remodeling, repairing, or installing equipment and/or contractor generated yard waste at a residential home should be disposed of by the contractor performing the remodeling/repair/maintenance work. In the event that the bulk waste is left for curbside pickup, it shall be considered unacceptable waste and shall not be removed by CONTRACTOR.

Bulk Waste shall not include any items that are too large and cannot safely be collected by CONTRACTOR. For example: hot tubs, large automobile parts, boats, etc.

**2.1.8 Bulk Yard Waste** - Bulk Yard Waste shall mean large accumulations shrubbery, cuttings, palm fronds, or tree limbs, vegetative matter resulting from landscaping maintenance, and other items of a similar nature.

Contractor generated yard waste at a residential home should be disposed of by the contractor performing the maintenance work. In the event that the bulk waste is left for curbside pickup, it shall be considered unacceptable waste and shall not be removed by CONTRACTOR.

**2.1.9 Cans and Garbage Cans** - Cans and Garbage Cans shall mean a CITY approved plastic can of a type commonly sold as garbage cans of a capacity not more than 45 gallons in size.

**2.1.10 Carts** - Carts shall mean a container with an attached tight fitting lid of up to, approximately, 95 gallons mounted on wheels and designed to hold Recyclables or Solid Waste and to be mechanically dumped into a collection truck. All Carts shall be clearly marked in a manner approved by the Contract Administrator.

**2.1.11 City** - City shall mean the City of Pembroke Pines, Florida, a municipal corporation of the State of Florida acting through the City Commission, City Manager, or official designated by the City Manager.

**2.1.12 City Facility** - City Facility shall mean a City owned location designated for service under this agreement.

**2.1.13 Collection and Collect** - Collection and Collect shall mean the act of picking up Solid Waste, Yard Waste, or Bulk Waste and delivering it to a Disposal Facility.

**2.1.14 Collection Service** - Collection Service shall mean the Collection of Solid Waste, Yard Waste, Recyclables, Bulk Waste, and delivery to the Disposal Facility by the CONTRACTOR.

**2.1.15 Commingle** - Commingles refers to a system in which recyclables and solid waste are mixed together.

**2.1.16 Construction and Demolition Debris (C&D Waste)** - Construction and Demolition Debris (C&D Waste) means discarded materials generally considered to be not water-soluble and nonhazardous in nature, including, but not limited to, steel, glass, brick, concrete, asphalt roofing material, pipe, gypsum wallboard, and lumber, from the construction or destruction of a structure as part of a construction or demolition project or from the renovation of a structure, and includes rocks, soils, tree remains, trees, and other vegetative matter that normally results from land clearing or land development operations for a construction project, including such debris from construction of structures at a site remote from the construction or demolition project site. Mixing of construction and demolition debris with other types of solid waste will cause the resulting mixture to be classified as other than construction and demolition debris. The term also includes:

- (a) Clean cardboard, paper, plastic, wood, and metal scraps from a construction project;
- (b) Except as provided in Section 403.707(9)(j), F.S., yard trash and unpainted, nontreated wood scraps and wood pallets from sources other than construction or demolition projects;
- (c) Scrap from manufacturing facilities which is the type of material generally used in construction projects and which would meet the definition of construction and demolition debris if it were generated as part of a construction or demolition project. This includes debris from the construction of manufactured homes and scrap shingles, wallboard, siding concrete, and similar materials from industrial or commercial facilities; and
- (d) De minimis amounts of other nonhazardous wastes that are generated at construction or destruction projects, provided such amounts are consistent with best management practices of the industry.

**2.1.17 Commercial Service Unit** - Commercial Service Unit shall mean all units other than Residential Service Units, Multi-family Service Units, or City Facilities. Commercial Service Units includes apartment complexes. The City reserves the right to designate establishments as Commercial Service Units under this Agreement.

2.1.18 **Commercial Waste** - Commercial Waste shall refer to waste, refuse, garbage, trash and rubbish generated within unincorporated Broward County and the Participating Communities, excepting therefrom Residential Waste as defined herein and that is capable of being processed at the Disposal Facility, but shall not include Additional Waste, recyclable material that is source separated (removed from the waste stream at the point of generation) and recycled, or Unacceptable Waste.

2.1.19 **CONTRACTOR** - CONTRACTOR shall mean that person or entity that has entered into this agreement to provide the services described herein.

2.1.20 **Contract Administrator** - Contract Administrator means the City of Pembroke Pines City Manager or his/her designee.

2.1.21 **Compactor** - Compactor shall mean any Container, regardless of its size, which has a compaction mechanism, whether stationary or mobile, and approved for use by the Contract Administrator.

2.1.22 **Container** - Container shall mean Cart, Can, Compactor, Dumpster, and Roll-off.

2.1.23 **Curbside** - Curbside shall mean adjacent to, or in proximity, to thoroughfares, roadways, or parking areas as determined by the Contract Administrator.

2.1.24 **Disposal Facility** - Disposal Facility shall mean the disposal and recycling facilities designated by the City for receiving Solid Waste, Yard Waste, Bulk Waste, or Recyclable Materials under this Agreement.

2.1.25 **Dumpster** - Dumpster shall mean any container excluding compactors with a tight fitting lid and minimum of one (1) cubic yard and maximum of eight (8) cubic yards approved by contract administrator designed to receive and transport and dump waste.

2.1.26 **Enclosure** - Enclosure shall mean any structure designed for the storage of Containers at Commercial Service Units or Multi-Family Service Units.

2.1.27 **Extra Pick-Ups** - Extra pick-ups shall mean collection of services provided by CONTRACTOR on a day other than the scheduled collection days or extra loads other than usual collection.

2.1.28 **Franchise Fee** - Franchise Fee shall mean the charge for the CONTRACTOR's use of present and future streets, alleys, bridges, easements, and other public places in the City.

2.1.29 **Garbage** - Garbage shall mean kitchen and table refuse, all general combustible waste, such as paper and rags, paperboard boxes, and every accumulation of animal and vegetable matter that attend the preparation, decay, dealing in or storage of food such as: meats, fish, fowl, game, fruits and vegetables.

**2.1.30 Hazardous Waste** - Hazardous waste means solid waste, or a combination of solid wastes, which, because of its quantity, concentration, or physical, chemical, or infectious characteristics, may cause, or significantly contribute to, an increase in mortality or an increase in serious irreversible or incapacitating reversible illness or may pose a substantial present or potential hazard to human health or the environment when improperly transported, disposed of, stored, treated, or otherwise managed.

**2.1.31 Incident** - Incident shall mean one event (e.g., if CONTRACTOR misses collection of waste from two (2) residences, it shall count as two incidents).

**2.1.32 Multi-Family Service Unit** - Multi-family Service Unit shall mean condominium residential units typically receiving Collection Service by Dumpsters or Compactors. Multi-Family Service Units do not include apartment complexes. The City reserves the right to designate Multi-family Service Units.

**2.1.33 Recovered Materials or Recyclable Material and Recyclables** - Recovered Materials or Recyclable Material and Recyclables shall mean metal, paper, glass, or plastic materials that have known recycling potential, can be feasibly recycled, and have been diverted and Source Separated or have been removed from the Solid Waste stream for sale, use, or reuse as raw materials, whether or not the materials require subsequent processing or separation from each other, but does not include materials destined for any use that constitutes disposal. Recovered materials as described in this subsection are not solid waste.

**2.1.34 Recycling Bin** - Recycling Bin shall mean a City approved plastic bin of a type commonly sold as recycling bins of a capacity not more than 20 gallons in size.

**2.1.35 Recycling Cart** - Recycling Cart shall mean a receptacle with wheels with a capacity of up to, approximately, 65 gallons designed or intended to be mechanically dumped into a loader-packer type garbage truck and approved by Contract Administrator for the Collection of Recyclable Materials. All such Recycling Carts must be clearly marked in a manner as approved by the Contract Administrator.

**2.1.36 Residential Service Units** - Residential Service Units shall mean residential establishments located in Service Area and identified by Contract Administrator as Residential Service Units and utilizing a Can or Solid Waste Cart(s) for the accumulation and set-out of Solid Waste in accordance with this Agreement. At the sole discretion of Contract Administrator, some, all or none of the multi-family establishments utilizing Solid Waste Cart(s) shall be considered a Residential Service Unit(s). Residential Service Units shall exclude establishments utilizing Dumpsters or Compactors for the accumulation and set-out of Solid Waste.

**2.1.37 Residential Waste** - Residential Waste shall refer to waste, refuse, garbage, trash and rubbish generated within the unincorporated County or the Participating Communities from residential property and that is capable of being processed at the Disposal Facility, but shall not include Additional Waste, recyclable material that is source separated (removed from the waste stream at the point of generation) and recycled, or Unacceptable Waste.

2.1.38 **Roll-off** - Roll-off shall mean any container, excluding compactors and dumpsters with a capacity of greater than 8 cubic yards which is normally loaded onto a truck and transported to a disposal facilities approved by the contract administrator.

2.1.39 **Rubbish** - Rubbish shall mean any accumulation of useless material other than garbage, yard waste, or Unacceptable Waste.

2.1.40 **Single Stream** - Single Stream shall mean a Collection process in which all Recyclable Materials are collected mixed together with no sorting required by Residential Service Unit, Commercial Service Unit, City Facility, or other Person generating the Recyclable Materials.

2.1.41 **Special Events** - Special Events shall mean events sponsored or co-sponsored by City.

2.1.42 **Solid Waste** - Solid Waste means sludge unregulated under the federal Clean Water Act or Clean Air Act, sludge from a waste treatment works, water supply treatment plant, or air pollution control facility, or garbage, rubbish, refuse, special waste, or other discarded material, including solid, liquid, semisolid, or contained gaseous material resulting from domestic, industrial, commercial, mining, agricultural, or governmental operations. Recovered materials are not solid waste.

2.1.43 **Source Separated** - Source Separated shall mean that the Recyclable Materials (Recovered Material) are separated from Solid Waste at the location where the Recyclable Materials and Solid Waste are generated. The term does not require that various types of Recyclable Materials be separated from each other, and recognizes de minimis Solid Waste, in accordance with industry standards and practices, may be included in the Recyclable Materials.

Materials are not considered Source Separated when two or more types of Recyclable Materials are deposited in combination with each other in a Commercial Service Unit's Collection Container located where the materials are generated and when such materials contain more than 10 percent Solid Waste by volume or weight.

For purposes of this Agreement, the term "various types of Recyclable Materials" means metals, paper, glass, plastic, textiles, and rubber.

2.1.44 **Special Pick-up Service** - Special Pick-up Service shall mean Collection Services provided by CONTRACTOR other than the scheduled services.

2.1.45 **State** - State shall mean the State of Florida.

2.1.46 **Ton** - Ton shall mean a unit of weight equal to 2,000 pounds.

2.1.47 **Unacceptable Waste** - Unacceptable Waste shall refer to: (a) Hazardous Waste, (b) lead acid batteries, (c) nuclear waste, (d) radioactive waste, (e) sewage sludge, (f) explosives,

(g) asbestos containing materials, (h) beryllium-containing waste, (i) nickel cadmium batteries, (j) mercury containing devices, (k) untreated biomedical waste, (l) biological waste, (m) appliances containing chlorofluorocarbons (CFC's) or items of waste that a Company reasonably believes would be likely to pose a threat to health or safety or the acceptance and disposal of which may cause damage to the Disposal Facility or that are prohibited by state or federal law.

2.1.48 **White Goods** - White Goods shall include discarded air conditioners, heaters, refrigerators, ranges, water heaters, freezers, and other similar domestic and commercial large appliances. White Goods shall include non-freon containing appliances.

For disposal of refrigerators, the compressor (which contains hazardous waste materials) located at the rear of the unit and all doors, must be removed for safety prior to pick-up. Household appliances containing freon gas (air conditioning units, refrigerators) shall be picked up at normal bulk pick-up times only if the unit is certified and documented to have been professionally purged of freon gas. Units not certified and documented as being purged of freon gas shall not be picked up.

2.1.49 **Yard Waste** - Yard Waste shall mean include all accumulations of shrubbery, cuttings, palm fronds, or tree limbs, vegetative matter resulting from landscaping maintenance, and other items of a similar nature.

### **ARTICLE 3**

### **SERVICES AND RESPONSIBILITIES**

3.1 CONTRACTOR hereby agrees to perform the Bulk Waste/Trash and Bulk Yard Waste Collection Services, as more particularly described in **Exhibit "A"** attached hereto and by this reference made a part hereof, in accordance with the Scope of Work outlined in the RFP attached hereto and made a part hereof as **Exhibit "A"** and CONTRACTOR's response thereto, attached hereto and made a part hereof as **Composite Exhibit "B."** CONTRACTOR agrees to do everything required by this Agreement, the Sealed Bid Package, Addenda to this Agreement, and Commission award complete with proposal form.

3.2 CONTRACTOR shall furnish all services, labor, equipment, and materials necessary and as may be required in the performance of this Agreement, except as otherwise specifically provided for herein, and all work performed under this Agreement shall be done in a professional manner.

3.3 CONTRACTOR shall supervise the work force to ensure that all workers conduct themselves and perform their work in a safe and professional manner. CONTRACTOR shall comply with all OSHA safety rules and regulations in the operation of equipment and in the performance of the work. CONTRACTOR shall at all times have a competent field supervisor on the job site to enforce these policies and procedures at the CONTRACTOR'S expense.

3.4 CONTRACTOR shall schedule regular meetings with the CITY representatives at least once a month to discuss issues related to the services provided pursuant to this Agreement, as more specifically described in **Exhibit "A."**



3.5 CONTRACTOR hereby represents to CITY, with full knowledge that CITY is relying upon these representations when entering into this Agreement with CONTRACTOR, that CONTRACTOR has the professional expertise, experience and manpower to perform the services to be provided by CONTRACTOR pursuant to the terms of this Agreement.

3.6 CONTRACTOR hereby represents to CITY that CONTRACTOR is properly licensed by the applicable federal, state, and local agencies to provide the services under this Agreement. Furthermore, CONTRACTOR agrees to maintain such licenses during the term of this Agreement. If CONTRACTOR's license is revoked, suspended, or terminated for any reason by any governmental agency, CONTRACTOR shall notify the CITY immediately.

3.7 CONTRACTOR shall comply with any and all Federal, State, and local laws and regulations now in effect, or hereinafter enacted during the term of this Agreement, which are applicable to CONTRACTOR, its employees, agents or subcontractors, if any, with respect to the work and services described herein. A violation of any federal, state, or local law or regulation may be cause for breach, allowing the CITY to terminate this Agreement.

3.8 Notwithstanding anything herein to the contrary:

(i) CONTRACTOR shall have no obligation to collect any material which is or contains, or which CONTRACTOR reasonably believes to be or contain, radioactive, volatile, corrosive, highly flammable, explosive, biomedical, infectious, biohazardous, toxic or hazardous material as defined by applicable federal, state or local laws or regulations ("Excluded Waste");

(ii) If CONTRACTOR finds what reasonably appears to be discarded Excluded Waste, CONTRACTOR shall promptly notify the CITY and the producer of the Excluded Waste, if the producer can be readily identified; and

(iii) Title to and liability for any Excluded Waste shall remain with the producer of the Excluded Waste, even if CONTRACTOR inadvertently collects or disposes of such Excluded Waste.

(iv) If the Producer of the waste can prove that the material does not meet the above, the CONTRACTOR shall process the material as per the agreement.

(v) CONTRACTOR shall institute all reasonable procedures to prevent the delivery to the Disposal Facilities of Unacceptable Waste. CONTRACTOR shall be responsible for Unacceptable Waste brought to a Disposal Facility. Should the operator of the Disposal Facility incur any costs or expenses in removing, transporting, and disposing of any Unacceptable Waste brought to a Disposal Facility by CONTRACTOR, CONTRACTOR shall be responsible for such costs.

### 3.9 Trucks

3.9.1 All trucks shall be equipped with a real-time, cloud based, Global Positioning System (GPS) tracking equipment. The system shall be easily accessible through a remote online web portal without the need to download software onto the end user's computer. The GPS system shall be able to track trucks to see where they are at any given time, what speed the trucks are going and in which direction.

3.9.1.1 The GPS system shall also allow for the playback of data to see where trucks were on previous trips and what time and speed the trucks were going. The system shall allow for Custom Geofencing to allow the CITY and/or CONTRACTOR to establish boundaries and receive alerts if trucks leave the CITY's border or arrive and leave designated areas.

3.9.2 The equipment shall not be required to monitor Power-Take-Off (PTO), nor shall the trucks be required to have on-board weight monitoring technology.

3.9.3 Trucks shall also be equipped with external state of the art Cameras, as may be replaced from time to time during the term of this contract, so that the CITY can request and review footage on any potential situations that may occur, including accidents, missed pick up claims, etc.

3.9.4 The CITY's Contract Administrator shall be given a login access to view the GPS remotely, in real-time, to see exactly where trucks are located at any time and to review any previous situations.

3.9.5 Within 6 months of the Commencement Date of the Agreement, CONTRACTOR shall provide collection trucks that are no older than 3 years. A replacement schedule shall be provided to the City. Prior to the 6 month timeline, CONTRACTOR may utilize older trucks. All trucks shall be aesthetically pleasing, in the opinion of the City's Contract Administrator, and have a uniform appearance, as approved by the CITY's Contract Administrator. Collection trucks shall be watertight to a depth of eighteen (18) inches minimum, with solid sides to prevent discharge of accumulated water during load and transport operations.

3.9.5.1 In the event that one of the new trucks needs to be temporarily taken out of service, a temporary truck must be immediately put into service, however it must be no more than 7 years old.

3.9.5.2 With the exception of the initial 6 month period, during the course of the contract, including any renewal terms, no truck shall be more than 7 (seven) years old. Any request for an exception to requirement regarding the age of the vehicle shall be reviewed by the City's Administration, and the CONTRACTOR may only utilize the exception if the request is approved by the City's Administration in writing.

3.9.5.3 CONTRACTOR shall provide and maintain and have available at all times the necessary amount of collection trucks to perform the work as specified herein. The CONTRACTOR shall also provide sufficient equipment, in proper operating

condition so regular schedules and routes of collection can be maintained. Equipment is to be maintained in a reasonable, safe, working condition.

3.9.5.4 All collection trucks shall, at all times during the term of the contract, meet and comply with all State, County, and City laws, rules, regulations, and ordinances, for the appropriate class of truck.

3.9.6 **Appearance** - Collection trucks shall be painted uniformly in a color which shall be approved by the City, with the name of the CONTRACTOR and the number of the trucks printed in letters not less than nine (9) inches high, on each side of the truck, and trucks shall be numbered and a record kept of the truck to which each number is assigned.

In addition, the vehicle number and cubic capacity shall be permanently and conspicuously displayed on the truck cab, directly below the driver's side cab window, or if space is not available on the aforementioned position, it shall be displayed on the body of the truck directly to the right of the driver's door. The vehicle may also be required to display an assigned vehicle number from the disposal facility in the aforementioned positions on the vehicle.

No advertising of any kind shall be permitted on trucks servicing the City.

The CONTRACTOR is required to keep collection trucks and containers emptied by mechanical means, cleaned and painted to present a pleasing appearance.

Trucks are to be washed weekly or more often, if needed.

3.9.6.1 **Schedule for Cleaning and Painting Trucks** – Upon request of the CITY's Contract Administrator, the CONTRACTOR shall submit, for approval by the CITY, a schedule showing the frequency of the cleaning and painting of the trucks, the age, and miles.

3.9.7 **Covers for Non-Packer Trash Trucks** - Each non-packer trash truck shall be equipped with a cover, which may be net with mesh not greater than one and one-half inches, or tarpaulin, or fully enclosed metal top. Such cover shall be kept in good order and used to cover the load going to and from the disposal facility during loading operations or when parked, if the contents are likely to be scattered if not covered.

3.9.8 **Overloaded Trucks & Spillage** - Each truck shall have a fork and broom to address spillage. Trucks shall not be overloaded so as to scatter refuse, however, if refuse is scattered from the CONTRACTOR's truck for any reasons, it shall be picked up immediately.

The CONTRACTOR shall not litter or cause any spillage to occur upon the premises or the right-of-way where collection occurs. During hauling, all waste shall be containerized, tied, or enclosed so that leaking, spilling or blowing is prevented. In the event of any spillage caused by CONTRACTOR, CONTRACTOR shall promptly clean up all spillage. Spillage shall be promptly reported to Contractor Administrator. Clean up must be approved by the Contract Administrator.

**3.9.9 Spillage of Hydraulic Fluids** - Drivers of trucks which break hydraulic hoses and discharge entering on storm drains shall be acted upon in accordance with the appropriate state and county environmental regulation at CONTRACTOR's expense. Any discharge on City roads or rights-of-way shall be immediately reported to the Contract Administrator, operations stopped and area thoroughly cleaned placing all cleaning material in truck. A call for a replacement truck or repair of leaking hydraulic hose shall be required before proceeding with the scheduled route. All clean ups must be reported immediately to the City of Pembroke Pines Contract Administrator who in turn shall coordinate with the City's Public Services Department. The report shall include the address(es) of the area the spilled occurred. When, in the opinion of CONTRACTOR, the damaged area is cleaned, CONTRACTOR shall contact the City of Pembroke Pines Contract Administrator and Public Services Department which shall have the authority for approving that the clean-up was satisfactory and accepted.

**3.9.10 Communication Technology / Radio Transceiver** - All trucks shall be equipped with operational radio transceiver capable of communicating with the CONTRACTOR's dispatch from anywhere within the City. In lieu of a radio transceiver, CONTRACTOR may use cell phone technology in which they shall be capable of communicating with the CONTRACTOR's dispatch from anywhere within the City.

**3.9.11 Prohibition on Impeding Traffic** - CONTRACTOR's trucks are not to interfere unduly with vehicular or pedestrian traffic and trucks are not to be left standing on streets unattended except as made necessary by loading operations, and shall move with the traffic flow.

### **3.10 General Collection Requirements**

**3.10.1 Hours of Operation** - CONTRACTOR shall make collections between the hours of 7 a.m. and 7 p.m. on Monday through Saturday.

**3.10.2 Service Standards** - CONTRACTOR shall provide a high quality level of service for each account.

The work shall be done in a sanitary manner. The CONTRACTOR's employees shall pick up trash or yard trimmings spilled by CONTRACTOR immediately. All areas where glass has been broken or dropped shall be swept clean and glass deposited in the truck immediately.

CONTRACTOR shall keep all equipment in safe operating condition and in proper repair, in a clean, sanitary, and presentable condition.

CONTRACTOR shall schedule and dispatch sufficient quantities of equipment and labor (including reserve resources) to successfully complete the routes each day, within the allotted time period and obtaining desired program results.

Noise and disturbance shall be kept to a minimum and CONTRACTOR shall comply with any and all applicable rules and laws including § 96.01 “Pembroke Pines Noise Abatement Chapter” of the City’s Code of Ordinances.

**3.10.3 Unapproved Materials & Customer Education** - Any unapproved materials set out for collection shall be left at the pick-up location along with instructional materials educating the customer about the City’s waste collection program.

**3.10.4 Temporary Street Closures for Residential Services Units** - In those instances where a public or private street within the Service Area is temporarily closed to vehicular traffic due to construction, special event, public safety incident, etc., CONTRACTOR shall make every effort to service the customer, if available, to provide no disruption of service to the Residential Service Unit.

CONTRACTOR shall not receive additional compensation, or a waiver on collection times and completion, resulting from the streets being inaccessible. CONTRACTOR is responsible for determining whether to utilize pedestrian access or return within 24 hours to collect the missed pickups.

**3.10.5 Exclusive Routes & Route Restructuring** - CONTRACTOR shall be free to establish exclusive routes to achieve the maximum efficiency of operation. Exclusive shall mean that for any route in which CONTRACTOR operates in the City, CONTRACTOR shall not cross over any City boundaries for collection of other material. CONTRACTOR shall provide any suggested route restructuring request to the City’s Contract Administrator for approval, prior to implementation. CONTRACTOR shall notify the public of the collection schedule at the time service is established. All route changes that were approved by the City’s Contract Administrator, must be communicated to both the City and Subscribers, in writing, thirty days in advance of the effective date. The minimum notification requirement to the Subscribers shall be through a mailer.

**3.10.6 Holidays / Christmas Day** - For this contract, the only recognized holiday shall be Christmas Day, annually on December 25, in which CONTRACTOR shall not be required to provide collection service to customers. In those instances where the scheduled collection day falls on Christmas Day, CONTRACTOR shall conduct the collection service on the next regularly scheduled collection day for the customer. No additional “make up” service shall be required.

### **3.11 Collection of Bulk and Yard Trash from Residential Service Units**

**3.11.1 Bulk Waste/Trash** - CONTRACTOR will be required to pick up all bulk waste/trash, including large discarded items such as White Goods, toilets, pool heaters, sheet metal, bedding, furniture, and other similar items at the subscribing household from the property adjacent to the street.

**3.11.2 Bulk Yard Waste** - All trucks used for collection of yard waste (shrubbery, cuttings, palm fronds, or tree limbs and other items of a similar nature) will be either covered or secured

so as to prevent yard trimmings from being scattered or spilled. All yard debris collected shall be handled and disposed of in accordance with all Federal, State and local laws, standards, or requirements.

Before processing the yard waste collected from within City of Pembroke Pines, the CONTRACTOR will weigh and record the amount of materials collected.

**3.11.3 Limit of 10 Cubic Yards per Bulk Pickup for Residential Service Units** - There will be a limit of 10 cubic yards of bulk that may be collected per collection, per residential service unit.

If a residential service unit places too much bulk for pickup or if it is not properly placed, CONTRACTOR shall not pick up the bulk items and shall take a picture of the bulk waste that is left on the property, documenting the address, date and time and shall tag the bulk pile with a notice and notify the City's Code Enforcement / Compliance Division and Contract Administrator within 24 hours.

**3.11.4 Frequency – Pickups Twice per Month** - CONTRACTOR shall collect Bulk Waste Bulk Yard Waste from each subscribing household twice, per month, on a scheduled route basis. CITY may designate that one of the monthly pickups will be strictly for Bulk Yard Waste and the other bulk pickup for Bulk Waste/Trash.

CITY intends for CONTRACTOR to conduct bulk pickups on either the first or second normally scheduled trash pickup date for the resident(s). CONTRACTOR shall propose a schedule to the CITY's Contract Administrator for approval, prior to implementation.

CONTRACTOR shall also provide a phone number or an online portal where Residential Service Units can make up to two requests, per calendar year, to exceed the Cubic Yard Limit on a regularly scheduled bulk pick up.

### **3.12 City Facilities and Events**

**3.12.1 No Cost to the City** - CONTRACTOR shall provide for the collection bulk trash at all City facilities at no cost to the City.

**3.12.2 Frequency** - Frequency of service shall be determined between Contract Administrator and CONTRACTOR.

**3.12.3 Emergencies** - In the event of an emergency, such as severe storms, CONTRACTOR shall foresee an increase in the number of pickups needed from City Facilities and shall coordinate and perform services accordingly.

**3.12.4 Locations** - CONTRACTOR understands that the list of City facilities can change and agrees that services are to be provided at all City locations.

### **3.13 Disposal Location**

3.13.1 CONTRACTOR shall be required to deliver all collected Residential Waste to the Disposal Facility(ies), except where CONTRACTOR complies with the requirements of the City's Interlocal Agreement with Broward County, or any other agreement, for delivery of waste outside the State.

3.13.2 **Disposal Facility** - All bulk waste/trash and bulk yard waste collected shall be delivered to a permitted solid waste disposal facility operating in compliance with applicable federal, state, and local laws. The CITY has determined that the Wheelabrator South Broward, Inc. South Disposal Waste to Energy Facility located at 4400 South State Road 7, Davie, Florida shall be used as the initial Disposal Facility at the commencement of this agreement. CONTRACTOR shall provide CITY with recommendations on potential alternate and available Disposal Facilities and locations on a regular basis. The CITY may consider these options along with any other cost-effective and efficient options to determine potential future Disposal Facilities during the term of this agreement.

CONTRACTOR shall be authorized to deliver waste to the Disposal Facility(ies) from 6:00 a.m. to 6:00 p.m., Monday through Friday, and from 6:00 a.m. to 4:00 p.m. on Saturday, during every day of the year, excluding Christmas and Sundays, or as approved otherwise by the City's Contract Administrator.

3.13.3 **Alternate Disposal Facility** – In the event that the designated Disposal Facility is rendered incapable, for any reason, to receive waste for any length of time, or should the CITY determine that it is necessary to change Disposal Facilities, the CONTRACTOR shall be required to dispose of the waste at the following Alternate Disposal Facility(ies):

- (i) Monarch Hill Landfill, 2700 Wiles Road, Pompano Beach, FL 33073
- (ii) Okeechobee Landfill Facility, 10800 N.E. 128<sup>th</sup> Avenue, Okeechobee FL 33972
- (iii) such other disposal facility as may be approved by CITY.

3.13.4 **Tare Weight** - TARE weights are used by material receiving facilities to calculate the final disposal charge. These weights need to be validated each year. Depending on the scale system in use at the disposal facility, CONTRACTOR may be required to assist the CITY by weighing each collection truck in & out three times and recording the information on a TARE WEIGHT REPORT. The average TARE Weight shall be used by the disposal facility and the CITY to validate disposal charges. In the event that the disposal facility(ies) change their scale or the CITY changes disposal facilities, CONTRACTOR may be required re-weigh the trucks to re-determine the average TARE Weights for each truck.

3.13.5 **Potential Changes to the Disposal Facility and Location** - With the understanding that the CITY may need to change its Disposal Facility and location, the CITY has included **Exhibit D** which has a map that shows a 10 mile Radius Ring from the center of Pines Boulevard and Flamingo Road.

3.13.5.1 The Collection portion of the Fees outlined in this agreement shall be applicable to any Disposal Facility that may be located in the 10 mile radius ring.

3.13.5.2 In the event that CONTRACTOR proposes a change to the designated Disposal Facility;

- (a) If the CITY agrees to the requested change of the designated Disposal Facility to another Disposal Facility that has a higher Disposal Fee, for some or all of the Bulk Waste, the CONTRACTOR shall hold the Disposal Fee portion of the rates at the rates set forth in this Agreement, and any future adjustments to the Disposal Fee portion of the rates, as outlined in Section 4.3.1, shall be based on the Disposal Facility and rates that were set forth in **Exhibit "C."**
- (b) If the CONTRACTOR cannot hold the Disposal Fee portion of the rates, the CITY may negotiate the Disposal Fee portion of the rates with the CONTRACTOR due to the requested change in the Disposal Facility and the rates set forth by the proposed Disposal Facility for some or all of the Bulk Waste. In the event that the PARTIES agree to change the Disposal Facility, **Exhibit "C"** shall be updated with the agreed upon rates, which shall be used as the new base for any future adjustments to the Disposal Fee portion of the rates, as outlined in Section 4.3.1.

3.13.5.3 In the event that CITY proposes a change to the designated Disposal Facility, the CITY shall negotiate the Disposal Fee portion of the rates with the CONTRACTOR due to the requested change in the Disposal Facility and the rates set forth by the proposed Disposal Facility for some or all of the Bulk Waste. In the event that the PARTIES agree to change the Disposal Facility, **Exhibit "C"** shall be updated with the agreed upon rates, which shall be used as the new base for any future adjustments to the Disposal Fee portion of the rates, as outlined in Section 4.3.1.

3.13.5.4 Should the CITY be required by an agreement it has for solid waste disposal services with Broward County or another entity established to provide waste disposal facilities for local governments in Broward County, including entities established by state law, local ordinance or interlocal agreement, and the PARTIES are not able to renegotiate the Fees, then CITY may terminate this Agreement pursuant to the process in Section 14.2.

- 3.14 **Disaster / Suspension of Collection Services** - In the event of a disaster such as a hurricane, the CONTRACTOR shall be expected to continue with collection service until the CITY declares a "State of Emergency" or until the Contract Administrator and CONTRACTOR agree, in writing, that service shall be suspended due to unsafe conditions, such as wind speeds exceeding 35 miles per hour (mph), excessive flooding in areas, etc. CONTRACTOR shall stop all work when so directed by the CITY during severe weather. CONTRACTOR shall complete the work as soon as authority has been granted to proceed. If collection is suspended, CONTRACTOR shall perform collection on the next regular collection day. At the present time, the CITY's Disaster plan calls for the CONTRACTOR to resume and continue the collection schedule as soon as safely possible.



**3.15 CONTRACTOR's Personnel** - CONTRACTOR shall employ competent and qualified personnel that shall adhere to municipal, State and federal laws, in performance of Collection Services.

**3.15.1 CONTRACTOR's Representative** - CONTRACTOR shall have a competent and reliable representative on duty that is authorized to make decisions and act on its behalf. CONTRACTOR agrees that City shall have twenty-four (24) hour access to said representative via a non-toll call from City. CONTRACTOR shall conduct a background criminal check on CONTRACTOR's representative assigned to this contract.

**3.15.2 Route Supervisor(s)** - CONTRACTOR shall have a minimum of one (1) permanent full time Route Supervisor dedicated to the City. Route Supervisor shall be scheduled to respond Monday through Saturday, 7:00AM to 7:00 PM. CONTRACTOR shall provide relief personnel coverage by qualified personnel when the permanent Route Supervisor is off. CONTRACTOR shall provide City with Route Supervisor's phone number and email address so contact can be made directly when required. CONTRACTOR shall conduct a background criminal check on CONTRACTOR's Route Supervisor assigned to this contract. Route Supervisor shall:

- (a) Be equipped with and respond to collection related issues received from City from the field via a laptop computer with wireless internet access card, or with a hand held data device such as a smart phone.
- (b) Be equipped with a cellular phone for communications with City and customers to immediately return phone calls to City and customers.
- (c) Be in a company uniform and carry company identification credentials.
- (d) Utilize a company vehicle to respond and meet with customers.
- (e) Be responsible to tag unapproved materials and leave informational flyers, on front door or container, to notify customer the reason why they were not serviced.
- (f) Be responsible to identify non-conforming bulk trash and contact City to notify City of non-conforming bulk trash.
- (g) Be responsible to respond to complaints on the same day complaint is received up to 7:00 PM. If the complaint is received after 7:00 PM, the Route Supervisor shall respond to the complaint on the following day, including Sundays.
- (h) Assist customers by passing out and explaining program information.

- (i) Be required, upon the request of City, to conduct route audits to verify information regarding collection service.
- (j) Have strong public relations skills, be able to effectively deal with angry or difficult customers, be able to successfully solve problems while protecting City's interest, highly motivated, dedicated, dependable, resourceful, and ability to establish positive relationships with City and the general public.
- (k) Attend periodic meetings with City, at a place and time determined by the City, to discuss and evaluate Collection Services, solve performance related issues, provide input, and share information, to ensure delivery of quality service.
- (l) Be required, upon the request of City, to attend public meetings, with City, to explain or promote Collection Services.
- (m) Be required, upon the request of City, to perform duties related to Collection Services.

**3.15.3 Operation Supervisor(s)** - In addition to the Route Supervisor position(s) in the section above, CONTRACTOR shall also assign a qualified Person or Persons to be in charge of its operations within City, and shall provide the name, office telephone number, mobile phone number, email address, and fax number of CONTRACTOR's representatives and key personnel to Contract Administrator. Such records shall be updated as personnel or contact information changes.

**3.15.4 Hiring of City Residents and Qualified Personnel** - CONTRACTOR is encouraged to hire City residents to fill vacant positions at all levels, if deemed qualified. CONTRACTOR shall conduct a background criminal check on all employees assigned to this contract. In addition, CONTRACTOR shall ensure that they hire and maintain qualified personnel to provide Collection Services under this Agreement.

**3.15.5 Employee Uniforms & Safety Equipment/Supplies** - All supervisory and Collection employees must be provided safety equipment, and supplies prior to and during the performance of their duties. CONTRACTOR shall furnish each employee, involved in the performance of this Contract, with a uniform with names, proper identification and a safety vest, shirt or jacket which clearly displays the name of CONTRACTOR. Such uniforms and safety equipment shall make the employee readily visible to other motorists. CONTRACTOR's employees shall wear complete uniforms and safety vest, shirt or jacket at all times. All safety equipment and procedures shall meet all federal OSHA, state and local safety requirements. Please note, this does not require for executives to wear the company attire when meeting with the City.

**3.15.6 Employee Training** - All employees involved in the performance of this Agreement including office and all Collection personnel, must be provided adequate training before and during their employment with CONTRACTOR.

**3.15.6.1 Customer Service Training** - All Collection, administrative, supervisory and customer service personnel must receive customer service training prior to and during the time they are employed by CONTRACTOR.

CONTRACTOR's employees shall treat all customers, co-workers, City employees and any individual with whom they come in contact in the performance of their duties in a polite and courteous manner. Rudeness, belligerence, and the use of profanity are strictly prohibited.

**3.15.6.2 Route and Performance Standards Training** - CONTRACTOR shall provide training to familiarize employees with the required duties and standards of performance, specific requirement on routes to which they shall be assigned, teach the route layouts previously established and approved, and provide necessary knowledge to eliminate delays and missed Collections.

**3.15.6.3 Operating and Safety Training** - All temporary and newly hired permanent Collection and Supervisory personnel must receive comprehensive safety and operational training prior to working on the Collection trucks.

CONTRACTOR shall provide regularly scheduled, on-going operating and safety training for all employees. Such meetings shall be mandatory for all Collection and supervisory personnel, and held not less than once per month.

**3.15.6.4 Training Plan & Manuals** - Training manuals and schedules shall be maintained at the local office of CONTRACTOR and available for review at any time by Contract Administrator.

CONTRACTOR must maintain and provide evidence to the City of ongoing employee safety training and practices, upon request of the City. The plan, at a minimum, shall include provisions for the proper training in identifying and handling unacceptable hazardous wastes and worker safety practices, which prevent damage to human health, the environment and private property.

**3.15.7 Prohibition against Soliciting and Gratuities** - CONTRACTOR's employees shall not solicit, accept or encourage tips, gratuities, gifts or anything of value including promises to return after hours to perform Collection Services or accept any payments whatsoever on behalf of City while performing duties under this Agreement.

**3.15.8 City's right to have CONTRACTOR Remove Employees** - City reserves the right to make a complaint regarding any employee of CONTRACTOR who violates any provision herein, or who is wanton, negligent or discourteous in the performance of his/her duties. City may recommend appropriate action be taken by CONTRACTOR and may require

CONTRACTOR to remove any unacceptable employee, as determined by City, from service to City. City reserves the right to have CONTRACTOR remove employees who fail to meet these criteria from services related to this Agreement. In addition, the City may require the CONTRACTOR to remove an employee it deems careless, incompetent, insubordinate or otherwise objectionable.

**3.16 Use of Subcontractors** - If one or more subcontractors are to be used, the subcontractor must be clearly identified prior to the contract award. The City must approve any changes in the use of subcontractors in advance and in writing. No such approval shall be construed as making the City a party to such subcontract, or subjecting the City to liability of any kind to any subcontractor. No subcontractor shall under any circumstances relieve the CONTRACTOR of its liability and obligation under any resulting contract. Subcontractor is subject to the same contractual conditions as is the CONTRACTOR.

**3.17 Property Damage** - CONTRACTOR shall conduct the work in such a manner as to avoid damage to any utilities, private property and public property. CONTRACTOR shall be responsible for all cost associated with repair and replacement of any damages incurred through their operations, and at no additional cost to the City or property owner. Any damages shall be immediately reported to the City's Contract Administrator. Any such damage must be resolved within a period of three business days.

**3.17.1 Damages to Private Property** - CONTRACTOR assumes liability for damages to private property such as fences, awnings, trees, etc. during the collection of trash or garbage. CONTRACTOR shall promptly contact the CITY reporting any damage to private property and shall restore, at the CONTRACTOR's expense, to a condition at least equal to which existed immediately prior to infliction of damage within a reasonable period of time. CONTRACTOR shall provide a written report to the CITY's Contract Administrator immediately after the repairs have been completed including before and after photographs of damages and repairs. Private property owners shall report the damage to the CITY within seven calendar days of the event, or other time frame as determined reasonable by the CITY.

**3.17.2 Damages to City Property** - CONTRACTOR shall promptly contact the CITY in the event of any damage to any CITY property, road, right of way, bridge, or highway caused by the CONTRACTOR except through normal wear and tear. The CITY shall restore the CITY property, road, right of way, bridge, or highway at the CONTRACTOR's expense to a condition at least equal to that, which existed immediately prior to infliction of damage.

**3.18 Liquidated Damages & Administrative Charges** - The City Manager or his designee shall be in charge of assessing liquidated damages.

**3.18.1 Notice of Non-Compliance** - For liquidated damages, a notice of non-compliance shall be sent to the CONTRACTOR's designated personnel via email. CONTRACTOR shall have 24 hours, or the time frame specified in the specific sections below, to correct the non-compliance or the fee shall begin to accrue until the CONTRACTOR has proven compliance, as applicable.

**3.18.2 Missed Collections \$100/household/day** - If a collection is missed and the household notifies the CITY, the CITY's Contract Administrator shall notify the CONTRACTOR, via e-mail, who shall return to collect the materials. In all cases, the missed collection shall be handled within 24 hours of notification or during the next scheduled work shift, whichever is sooner.

CONTRACTOR shall make note of any waste that is not at curbside during the regular collection. The liquidated damage shall not be assessed for noted addresses. Therefore, if a customer sets out waste later, and the address is noted as not set out, the CONTRACTOR shall not have to collect within 24 hours.

CONTRACTOR shall be assessed liquidated damages of \$100.00 for each missed household pickup per day that is not resolved within 24 hours in the form of a deduction from the proceeds due from the CITY.

**3.18.3 Failure to Clean Spillage \$250/incident/day** - CONTRACTOR shall be assessed at a liquidated damage of \$250 per incident, per day, for failure to clean spillage (oil, hydraulic fluid, garbage, trash, etc.) on the day the spillage occurs.

**3.18.4 Failure to Repair Damage \$250/incident/day** - Failure to repair damage to public or private property within five (5) calendar days or within the timeframe approved by the City CONTRACTOR shall be assessed at a liquidated damage of \$250 per incident per day.

**3.18.5 Failure to Maintain Clean & Sanitary Trucks \$100/incident/day** - Failure to maintain a collection truck or equipment in a clean and sanitary manner shall result in the imposition of an assessment of one hundred dollars (\$100) per incident per day.

**3.18.6 Failure to Maintain Licenses \$100/incident/day** - Failure to have a truck properly licensed or failure of the operator to carry his license while on duty shall resolve in \$100 per incident per day.

**3.18.7 Failure to access the Remote Monitoring System \$100/truck/day** - In the event that the Remote Online Web Portal to access the GPS or Camera system is not accessible to the City for any of the applicable trucks, or the equipment for any of the trucks is unplugged, not working and/or failing to report data, then CONTRACTOR shall be assessed at a liquidated damage of \$100 per truck, per day if not repaired within 24 hours. The 24 hour period to cure shall only be allowed once, per truck, per consecutive 3 month period.

**3.18.8 Collections outside of Approved Operating Hours \$100/incident/day** - CONTRACTOR shall make collections between the hours of 7 a.m. and 7 p.m. Therefore, any collections made prior to 7 a.m. or after 7 p.m., without prior approval of the Contract Administrator, shall result in a one hundred dollars (\$100) assessment per incident per calendar day.

### **3.19 Customer Service**

**3.19.1 Office Staff and Hours for Complaint Handling** - CONTRACTOR shall provide for prompt handling of complaints by maintaining an office staff that shall receive record and handle complaints. Such staff shall be available during the hours of 7 a.m. until 7 p.m., Monday through Saturday. During after hours, weekends, and holidays, CONTRACTOR must make available a phone number to a call center or team of staff that can take calls and messages and respond to those citizen complaints in a timely fashion. CONTRACTOR shall see to it that its employees serve the public in a courteous, helpful, and impartial manner. In the case of complaints regarding collection service or any related activities, CONTRACTOR shall, upon being notified of the complaint resolve the complaint in a timely manner. All complaints shall be logged in an electronic system and shall be accessible to the City's Contract Administrator at any time.

**3.19.2 Customer Service Program** - The CONTRACTOR shall develop a customer service program focusing on elimination of repeat customer complaints/requests. Customer Service Program.

**3.20 Education Services** - CONTRACTOR shall provide the following public education services:

**3.20.1 Annual Bulk Waste Notice** - Each year during the term of this agreement the CONTRACTOR shall publish and distribute a notice to the residents regarding the collection service programs for residential customers. The notice shall contain at a minimum, definitions of the materials to be collected, procedures for setting out the materials and maps of the service area indicating the days when collection services shall be provided. The notice shall be approved by the City prior to publication. The notice shall be distributed by CONTRACTOR no later than March 1st of every year of the agreement or such other extended date as may be mutually agreed upon by the City and CONTRACTOR.

The notice may include items such as a magnet for the Residential Service Units, which could describe the day and date of the month on which Collection Service shall be provided.

**3.20.2 Public Awareness Program** - CONTRACTOR agrees to cooperate in complying with requests of up to forty (40) hours per year from the City to bulk pickup truck and driver at public outreach events, provided that notice of at least five (5) work days is given. It is understood and agreed that there shall be no charge to the City by CONTRACTOR for compliance with any requests to provide a demonstration collection truck and driver in response to the City's request. In the event that the City's notice for CONTRACTOR's cooperation under this section is less than five (5) work days, CONTRACTOR, at its sole discretion, may agree to provide the requested demonstration truck and driver.

**3.21 Monthly Records and Reporting**

**3.21.1 Monthly Tonnage Reports, with Customers Served & Weight Tickets** - Before disposal, all garbage collected from waste generators in the City of Pembroke Pines shall be weighed and recorded. CONTRACTOR shall keep accurate monthly records of the number of customers served and the monthly tonnage of waste handled and shall provide a monthly report, with invoices and weigh tickets, to the City's Contract Administrator and Finance

Director within ten days of the end of the month for which the data was collected. The monthly tonnage report shall be broken down by, a minimum of, bulk waste/trash and bulk yard waste for residential service units. CONTRACTOR shall maintain, for a period of seven (7) years, copies of weight tickets that are to be made available for City inspection.

**3.21.2 Complaints and Resolutions** - For each complaint received, CONTRACTOR shall maintain a log for all complaints and the actual or planned resolution.

CONTRACTOR shall submit a monthly report including a summary of all complaints received and resolutions of such during the reporting period. The report format is to be approved by the City's Contract Administrator prior to the award of the contract.

**3.21.3 Staffing Reports** - At the Commencement of the agreement, and every month thereafter, CONTRACTOR shall provide the City with a report on all employees that work for CONTRACTOR and provide services related to this contract. The report shall include employee name, position, date of hire, and the City in which the employee resides.

**3.21.4 Report Timeline and Formatting** - The required monthly reports shall be filed not later than ten (10) calendar days after the last day of the preceding month. The final report format shall be approved by the Contract Administrator or designee. The city reserves the right to modify the report format and require more or different information throughout the term of the contract. The city reserves the right to terminate the contract upon CONTRACTOR's repetitive failure to comply with record keeping.

**3.22 Quarterly Performance Report Cards & Reviews** - The City's Contract Administrator shall complete a Performance Report Card on a quarterly basis, at minimum, to address all areas of the CONTRACTOR's Performance and to document all services that are being performed in a satisfactory or un-satisfactory manner. These Performance Report Cards shall be shared with the CONTRACTOR so that they can provide a written plan on how to cure and remedy all areas of concerns and the time line in which these items shall be addressed. Failure of CONTRACTOR to comply in a timely manner may result in a breach of contract. This process shall in no way limit the City's Contract Administrator and CONTRACTOR from addressing issues as they arise on a day to day basis.

## **ARTICLE 4** **FRANCHISE**

**4.1 FRANCHISE** - For the entire term of the agreement, including any renewal terms, the CITY hereby grants **CONTRACTOR** the exclusive franchise and the sole obligation to operate and maintain a comprehensive Bulk Waste/Trash and Bulk Yard Waste Collection Services for residential customers in and for CITY of Pembroke Pines as specified in the RFP, which is attached hereto as **Exhibit "A"**, and incorporated herein by reference. **Unless specified otherwise in a written amendment, Regular Residential Solid Waste, Residential Recycling and Commercial Waste Collection Services shall not in form and content be a part of this agreement, as the City shall enter into a separate agreement(s) for these services.** CONTRACTOR is authorized by CITY to enter in and upon private property, in, upon, over and

across the present and future streets, alleys, bridges, easements and other public places of the City of Pembroke Pines for the purposes of collecting the bulk waste/trash and bulk yard waste of the residents, and inhabitants existing within the municipal corporate limits of the City of Pembroke Pines, Broward County, Florida, or as directed in conformance with the Charter and Ordinances of the City of Pembroke Pines and other applicable law.

4.2 **TERM OF FRANCHISE** - The term of this Contract/Franchise for Bulk Waste/Trash and Bulk Yard Waste Collection Services (the "Term") shall be for an initial period commencing on January 2, 2022 at 12:00 AM through September 30, September 30, 2028 at 11:59 PM. The Term may be extended for one (1) additional seven (7) year term, subject to the execution of a written amendment to this Agreement signed by both parties.

4.3 **TURNKEY**

4.3.1 **Turnkey** – The Bulk Waste/Trash and Bulk Yard Waste Collection Services shall be a Turnkey Solution. The CITY shall utilize the Disposal Fee(s) in **Exhibit "C"** and the CONTRACTOR shall be responsible for paying the Tipping Fees at the disposal site.

In the event that there is a change to the tipping fee at the Disposal Facility, the Disposal Fee portion of the rates shall be adjusted by re-calculating the Disposal Fees based on the percent of change in the tipping fee at the Disposal Facility.

4.4 **COLLECTION ONLY (DISPOSAL PASS THROUGH)**

4.4.1 The Bulk Waste/Trash and Bulk Yard Waste Collection Services may be switched from Turnkey to Collection Only (Disposal Pass Through), upon mutual consent of the PARTIES, based on a written amendment between the PARTIES at the rates set forth in **Exhibit "C,"** as amended throughout the term of the contract.

4.4.2 **Collection Only (Disposal Pass Through)** – If the Collection Only (Disposal Pass Through) option is utilized, the CONTRACTOR will still be responsible for taking the waste to the designated disposal facility, however the CITY shall pay the actual disposal fees directly to Disposal Facility and the CONTRACTOR shall not be responsible for the disposal fee and shall not receive any compensation for the disposal fees.

4.5 **INITIAL RATES AND CPI ADJUSTMENTS** - The initial collection rates as more specifically described in **Exhibit "C,"** shall remain firm for an initial period ending on September 30, 2023 at 11:59 PM. On October 1<sup>st</sup> 2023, and annually thereafter, the collection component of the monthly rate shall be automatically increased according to the annual Consumers Price Index for All Urban Consumers (CPI/U), Seasonally Adjusted as published by U. S. Department of Labor, Bureau of Labor Statistics in the Detailed Report Series ID: CUSR0000SEHG – “Water and Sewer and Trash Collection Services” in U.S. city average for the annual change for the month of April or 3%, whichever is less but not less than zero.

4.6 **BULK WASTE/TRASH AND BULK YARD WASTE MIXED OR SEPERATED, AND FREQUENCY**



4.6.1 **Collection Frequency** - The CONTRACTOR will collect Bulk Yard Waste and Bulk Waste/Trash from each subscribing Residential Service Unit **twice, per month**, on a scheduled route basis, rates as more specifically described in **Exhibit "C."**

4.6.2 **Cubic Yard Limit** – There will be a limit of 10 cubic yards of bulk that may be collected per collection, per Residential Service Unit.

4.6.2.1 **Cubic Yard Limit Allowances** - The CONTRACTOR shall provide a phone number or an online portal where Residential Service Units can make up to two requests, per calendar year, to exceed the 10 Cubic Yard Limit on a regularly scheduled bulk pick up.

4.6.2.2 **Cubic Yard Limit Overage Fee** – After the initial two allowances, per calendar year, to exceed the cubic yard limit, the CITY shall charge the Residential Service Unit a fee of \$15.00 per cubic yard for each cubic yard over the cubic yard limit. CONTRACTOR shall leave a notice at the Residential Service Unit at the time of collection and shall take photographs and documentation of the overage to send to the CITY to bill the Residential Service Unit. After the CITY's Contract Administrator concurs with the CONTRACTOR's findings, the CITY shall invoice the Residential Service Unit. After collecting the fee from the Residential Service Unit, the CITY shall retain \$3.19 per cubic yard and remit the remaining \$11.81 per cubic yard to the CONTRACTOR.

4.6.3 **Non-Conforming Bulk** – In the event that the bulk waste is left for curbside pickup, it shall be considered unacceptable waste and may not be removed by CONTRACTOR. Non-conforming bulk includes but is not limited to Contractor generated debris, overweight and oversized bulk, hazardous household waste, etc.

4.6.3.1 **Fee for Contractor Generated Debris** – Bulk generated by a contractor remodeling, repairing, or installing equipment and/or contractor generated yard waste at a residential home should be disposed of by the contractor performing the remodeling/repair/maintenance work.

CONTRACTOR shall leave a notice at the Residential Service Unit at the time of collection and shall take photographs and documentation of the non-conforming bulk to send to the CITY for evaluation. If the debris is determined to be contractor generated debris, and the Residential Service Unit elects for CONTRACTOR to remove the waste, the Residential Service Unit shall be charged a fee of \$25.00 per cubic yard for the entire pile of non-conforming bulk waste. After collecting the fee from the Residential Service Unit, the CITY shall retain \$5.31 per cubic yard and remit the remaining \$19.69 per cubic yard to the CONTRACTOR.

4.6.3.2 **Fee for Overweight and Oversized Bulk** – Bulk Waste shall not include any items that are too large and cannot safely be collected by CONTRACTOR. For example: hot tubs, large automobile parts, boats, etc. In the event that the Residential Service Unit would like to have overweight and/or oversized bulk items collected, the

Residential Service Unit may contact CONTRACTOR to evaluate and provide a quote to the Residential Service Unit for the specialized pickup service.

4.6.4 **Mixed Collection** - The households may mix the Bulk Yard Waste and Bulk Waste/Trash in the same piles for collection.

4.6.5 **Separated Collection** - The CITY may elect to have the Bulk Yard Waste collected on separate pickups from the general Bulk Waste/Trash, in lieu of having Bulk Yard Waste mixed with the general Bulk Waste/Trash. In this event, the CITY will designate that one of the monthly pickups will be strictly for Bulk Yard Waste and that the other Bulk Pickup would be for general Bulk Waste/Trash. In addition, households will be notified that they will need to separate their bulk, and the CONTRACTOR shall collect the Bulk at the same rates established for the Mixed Collection.

## **ARTICLE 5**

### **COMPLIANCE WITH LAWS**

5.1 CONTRACTOR shall comply with all applicable County, State and Federal laws relating to wages, hours and all other applicable laws relating to the employment or protection of employees, now or thereafter in effect. CONTRACTOR hereby agrees to abide by and comply with all applicable Federal, State and County laws, Ordinances and regulations. CONTRACTOR and its cash/surety shall indemnify, defend and save harmless City, its City Commissioners, all its officers, representatives, agents and employees against any claim or liability arising from or based on the violation of any such laws, regulations, ordinances, orders or decrees, whether by itself or its employees.

5.2 CONTRACTOR is required and hereby agrees by execution of this contract to pay all employees not less than the Federal minimum wage and to abide by other requirements as established by the Congress of the United States in the Fair Labor Standards Act, as amended and changed from time to time.

## **ARTICLE 6**

### **INSURANCE**

6.1 The CONTRACTOR shall indemnify and hold harmless the CITY and its officers, employees, agents and instrumentalities from any and all liability, losses or damages, including attorneys' fees and costs of defense, which the CITY or its officers, employees, agents or instrumentalities may incur as a result of claims, demands, suits, causes of actions or proceedings of any kind or nature arising out of, relating to or resulting from the performance of this Agreement by the CONTRACTOR or its employees, agents, servants, partners, principals or subcontractors. The CONTRACTOR shall pay all claims and losses in connection therewith and shall investigate and defend all claims, suits or actions of any kind or nature in the name of the CITY, where applicable, including appellate proceedings, and shall pay all costs, judgments, and attorneys' fees which may issue thereon. The CONTRACTOR expressly understands and agrees that any insurance protection required by this Agreement or otherwise provided by the CONTRACTOR shall in no way limit the responsibility to indemnify, keep and save harmless and defend the CITY or its

officers, employees, agents and instrumentalities as herein provided. CONTRACTOR shall not be responsible for the following conditions caused by the CITY:

- (i) gross negligence or willful misconduct;
- (ii) material breach of the contract (which cannot be cured), or;
- (iii) violations of law (which cannot be cured).

6.2 CONTRACTOR shall not commence work under this Agreement until it has obtained all insurance required under this paragraph and such insurance has been approved by the Risk Manager of the CITY nor shall the CONTRACTOR allow any subcontractor to commence work on any subcontract until all similar such insurance required of the subcontractor has been obtained and similarly approved.

6.3 Certificates of Insurance, reflecting evidence of the required insurance, shall be filed with the CITY's Risk Manager prior to the commencement of this Agreement. Policies shall be issued by companies authorized to do business under the laws of the State of Florida. The insurance company shall be rated no less than "A" as to management, and no less than "Class VI" as to financial strength according to the latest edition of Best's Insurance Guide published by A.M. Best Company.

6.4 Certificates of Insurance shall provide for thirty (30) days' prior written notice to the CITY in case of cancellation or material changes in the policy limits or coverage states. If the carrier cannot provide thirty (30) days' notice of cancellation, either the CONTRACTOR or their Insurance Broker must agree to provide notice.

6.5 Insurance shall be in force until all obligations required to be fulfilled under the terms of the Agreement are satisfactorily completed as evidenced by the formal acceptance by the CITY. In the event the insurance certificate provided indicates that the insurance shall terminate and lapse during the period of this Agreement, the CONTRACTOR shall furnish, at least forty-five (45) days prior to the expiration of the date of such insurance, a renewed certificate of insurance as proof that equal and like coverage for the balance of the period of the Agreement and extension thereunder is in effect. The CONTRACTOR shall neither commence nor continue to provide any services pursuant to this Agreement unless all required insurance remains in full force and effect. CONTRACTOR shall be liable to CITY for any lapses in service resulting from a gap in insurance coverage.

## 6.6 REQUIRED INSURANCE

CONTRACTOR shall be required to obtain all applicable insurance coverage, as indicated below, prior to commencing any work pursuant to this Agreement:

6.6.1 Comprehensive General Liability Insurance written on an occurrence basis including, but not limited to: coverage for bodily injury and property damage, personal & advertising injury, products & completed operations, and contractual liability. Coverage must be written on an occurrence basis, with limits of liability no less than:

1. Each Occurrence Limit - \$1,000,000
2. Fire Damage Limit (Damage to rented premises) - \$100,000

3. Personal & Advertising Injury Limit - \$1,000,000
4. General Aggregate Limit - \$2,000,000
5. Products & Completed Operations Aggregate Limit - \$2,000,000

Products & Completed Operations Coverage shall be maintained for the later of three (3) years after the delivery of goods/services or final payment under the Agreement.

**The City of Pembroke Pines must be shown as an additional insured with respect to this coverage. The CITY's additional insured status shall extend to any coverage beyond the minimum limits of liability found herein.**

6.6.2 Workers' Compensation and Employers' Liability Insurance covering all employees, and/or volunteers of the CONTRACTOR engaged in the performance of the scope of work associated with this Agreement. In the case any work is sublet, the CONTRACTOR shall require the subcontractors similarly to provide Workers' Compensation Insurance for all the latter's employees unless such employees are covered by the protection afforded by the CONTRACTOR. Coverage for the CONTRACTOR and all subcontractors shall be in accordance with applicable state and/or federal laws that may apply to Workers' Compensation Insurance with limits of liability no less than:

1. Workers' Compensation: Coverage A – Statutory
2. Employers Liability: Coverage B \$500,000 Each Accident  
\$500,000 Disease – Policy Limit  
\$500,000 Disease – Each Employee

If CONTRACTOR claims to be exempt from this requirement, CONTRACTOR shall provide CITY proof of such exemption along with a written request for CITY to exempt CONTRACTOR, written on CONTRACTOR letterhead.

6.6.3 Comprehensive Auto Liability Insurance covering all owned, non-owned and hired vehicles used in connection with the performance of work under this Agreement, with a combined single limit of liability for bodily injury and property damage no less than:

1. Any Auto (Symbol 1)  
Combined Single Limit (Each Accident) - \$1,000,000
2. Hired Autos (Symbol 8)  
Combined Single Limit (Each Accident) - \$1,000,000
3. Non-Owned Autos (Symbol 9)  
Combined Single Limit (Each Accident) - \$1,000,000

If work under this Agreement includes transportation of hazardous materials, policy shall include pollution liability coverage equivalent to that provided by the latest version of the ISO pollution liability broadened endorsement for auto and the latest version of the ISO Motor Carrier Act endorsement, equivalents or broader language.

6.6.4 Umbrella/Excess Liability Insurance in the amount of **\$2,000,000.00** as determined appropriate by the CITY depending on the type of job and exposures contemplated. Coverage must be follow form of the General Liability, Auto Liability and Employer's Liability. This coverage shall be maintained for a period of no less than the later of three (3) years after the delivery of goods/services or final payment pursuant to this Agreement.

**The City of Pembroke Pines and Wheelabrator Environmental Services, Inc., must be shown as an additional insured with respect to this coverage. The CITY's additional insured status shall extend to any coverage beyond the minimum limits of liability found herein.**

6.6.5 Environmental/Pollution Liability insurance shall be required with a limit of no less than \$1,000,000 per wrongful act. Coverage shall include: CONTRACTOR's completed operations, sudden, accidental and gradual pollution conditions. This coverage shall be maintained for a period of no less than the later of three (3) years after the delivery of goods/services or final payment pursuant to this Agreement. Retroactive date, if any, to be no later than the first day of service to the CITY.

**The City of Pembroke Pines and Wheelabrator Environmental Services, Inc., must be shown as an additional insured with respect to this coverage. The CITY's additional insured status shall extend to any coverage beyond the minimum limits of liability found herein.**

## 6.7 REQUIRED ENDORSEMENTS

- 6.7.1 The City of Pembroke Pines shall be named as an Additional Insured on each of the Liability Policies required herein.
- 6.7.2 Wheelabrator Environmental Services, Inc., shall be named as an Additional Insured on each of the Liability Policies required herein.
- 6.7.3 Thirty (30) Day Notice of Cancellation or Non-Renewal to the CITY.
- 6.7.4 CONTRACTOR's policies shall be Primary & Non-Contributory.
- 6.7.5 All policies shall contain a "severability of interest" or "cross liability" clause without obligation for premium payment of the CITY.
- 6.7.6 The City of Pembroke Pines shall be named as a Loss Payee on all Property and/or Inland Marine Policies as their interest may appear.

6.8 Any and all insurance required of the CONTRACTOR pursuant to this Agreement must also be required by any subcontractor in the same limits and with all requirements as provided herein, including naming the CITY as an additional insured, in any work that is subcontracted unless such subcontractor is covered by the protection afforded by the CONTRACTOR and provided proof of such coverage is provided to CITY. The CONTRACTOR and any subcontractors shall maintain such policies during the term of this Agreement.

6.9 The CITY reserves the right to require any other additional types of insurance coverage and/or higher limits of liability it deems necessary based on the nature of work being performed under this Agreement.

6.10 The insurance requirements specified in this Agreement are minimum requirements and in no way reduce any liability the CONTRACTOR has assumed in the indemnification/hold harmless section(s) of this Agreement.

## **ARTICLE 7**

### **INDEMNIFICATION**

7.1 CONTRACTOR shall indemnify, save harmless and undertake the defense of CITY, its City Commissioners, agents, servants and employees from and against any and all claims, suits, actions, damages, or causes of action arising during the term of this Contract/Franchise, for any personal or bodily injury, loss of life, or damage to property arising directly or indirectly from CONTRACTOR's operation pursuant to this Contract/Franchise and from and against all costs, counsel fees, expenses and liabilities incurred in and about any such claims, the investigation thereof, or the defense of any action or proceedings brought thereon, and from and against any orders or judgments which may be entered therein. CITY shall notify CONTRACTOR within ten (10) days of receipt by CITY of any claim, suit or action against CITY arising directly or indirectly from the operations of CONTRACTOR hereunder, for which CITY may be entitled to a claim or indemnity against CONTRACTOR, under the provisions of this Contract. CONTRACTOR shall have the right to control the defense of any such claim, suit or actions. CONTRACTOR shall also be liable to CITY for all costs, expenses, attorneys' fees and damages which may be incurred or sustained by CITY by reason of CONTRACTOR'S breach of any of the provisions of the contract. CONTRACTOR shall not be responsible for negligent acts of CITY or its employees.

7.2 CONTRACTOR hereby additionally agrees to defend, indemnify and hold harmless Wheelabrator Environmental Services, Inc., from and against any and all claims, suits, actions, damages, or causes of action arising during the term of this Contract/Franchise, for any personal or bodily injury, loss of life, or damage to property arising directly or indirectly from CONTRACTOR's negligence or intentional misconduct arising directly or indirectly from its delivery of waste to a Disposal Facility.

## **ARTICLE 8**

### **RECORDKEEPING, REPORTING, AUDIT AND INSPECTION RIGHTS**

8.1 Access and Audits: CONTRACTOR shall maintain, within Broward County, adequate records of the solid waste collection and/or Recovered Materials services during the fiscal year and for three years following the end of each fiscal year of the Contract. The City shall have the right to review all records, including recording and recordkeeping requirements, maintained by CONTRACTOR during normal business hours upon three (3) business days' notice.

8.2 CONTRACTOR shall provide the City with a review of the Revenue and Expense Financial Statement representing the financial results of operations. The review must be performed in accordance with Statements on Standards for Attestation Engagements and Related Interpretations promulgated by the American Institute of Certified Public Accountants. The annual review shall be delivered to the City within one hundred and twenty (120) days of the twelve (12) month period ending the CONTRACTOR's fiscal year. The audit can be limited to the entity actually providing services. In addition, a certified annual financial statement ("Annual Report")

of CONTRACTOR, shall be furnished to City within six (6) months of the close of CONTRACTOR's fiscal year, and its parent company, if applicable, for each fiscal year, on an annual basis throughout the term of this contract or any extension thereof.

8.3 As required herein, CONTRACTOR shall create, maintain, and make available records as defined in, and required by, all applicable local, state, and federal laws, rules and regulations, and any reports as are reasonably necessary to:

(i) Document collection of materials, source of materials, time delivered to Disposal Facility, and other information as requested by the Contract Administrator. For Residential Service Units the report shall indicate monthly residential material collected in tons by material type (e.g., Bulk Waste/Trash, Bulk Yard Waste, etc.).

(ii) Document missed collections, late set-outs and improper set-outs on a daily basis including the address, time and date for each and the reason and notice for the improper set-outs.

(iii) Document non-conforming bulk waste with photos that must be produced upon demand by the CITY or the Customer.

(iv) Document customer contact or complaints.

(v) Such other documents and reports as the Contract Administrator may reasonably require to verify compliance with this Agreement or to meet the City's reporting requirements with the State of Florida.

(vi) CONTRACTOR agrees to maintain separate records in a form sufficient to identify gross receipts from the City of Pembroke Pines from gross receipts for other municipalities and/or other operations.

(vii) A summary table of delivery ticket information from each facility must be attached to the monthly reports.

#### 8.4 Reporting Requirements

(i) CONTRACTOR shall submit monthly reports by the 10th of the following month in an electronic format approved by the Contract Administrator summarizing the records the CONTRACTOR is required to create, maintain, and make available to the City pursuant to this Agreement.

(ii) CONTRACTOR shall submit annual reports in an electronic format approved by the Contract Administrator within thirty (30) calendar days following the end of the contract year summarizing the records CONTRACTOR is required to create, maintain, and make available to the City pursuant to this Agreement.

#### 8.5 Inspection Rights - CONTRACTOR shall consent to inspection of loads by the City.

8.6 Interpretation of Performance and Administrative Charges. The City's Contract Administrator shall make the interpretation or decision regarding any and all questions which may arise concerning the quality and acceptability of the work and services provided by CONTRACTOR, the interpretation of the provisions of the Agreement, and the acceptable fulfillment of CONTRACTOR's duties under the Agreement. CONTRACTOR shall have the right to appeal any decisions or findings of the Contract Administrator to the City Manager or his designee. In addition, CONTRACTOR shall have the right to appeal any decisions or findings of the City Manager to the City Commission, whose findings and conclusions shall be final and legally binding.

## **ARTICLE 9**

### **ASSIGNMENT OF CONTRACT**

This Contract/Franchise or any portion thereof, shall not, under any circumstances, be sublet or assigned without the prior written approval of the City. CONTRACTOR shall not sell or otherwise dispose of any assets during the term of this Contract/Franchise which sale or disposition will in any way affect the ability of CONTRACTOR to perform its obligations under this Contract/Franchise, without the express consent of City Commission by action taken in a formal meeting of said body. For the purposes of this Contract/Franchise, a stock sale of CONTRACTOR's stock in excess of fifty-one (51%) shall constitute a non-permitted assignment and subject CONTRACTOR to the default provisions of this Contract.

## **ARTICLE 10**

### **NON-DISCRIMINATION & EQUAL OPPORTUNITY EMPLOYMENT**

During the performance of the Agreement, neither CONTRACTOR nor its subcontractors shall discriminate against any employee or applicant for employment because of race, religion, color, gender, national origin, sex, age, marital status, political affiliation, familial status, sexual orientation, or disability if qualified. CONTRACTOR will take affirmative action to ensure that employees are treated during employment, without regard to their race, religion, color, gender, national origin, sex, age, marital status, political affiliation, familial status, sexual orientation, or disability if qualified. Such actions must include, but not be limited to, the following: employment, promotion; demotion or transfer; recruitment or recruitment advertising, layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. CONTRACTOR shall agree to post in conspicuous places, available to employees and applicants for employment, notices to be provided by the contracting officer setting forth the provisions of this nondiscrimination clause. CONTRACTOR further agrees that he/she/it will ensure that subcontractors, if any, will be made aware of and will comply with this nondiscrimination clause.

## **ARTICLE 11**

### **INDEPENDENT CONTRACTOR**

This Agreement does not create an employee/employer relationship between the parties. It is the intent of the parties that the CONTRACTOR is an independent CONTRACTOR under this Agreement and not the CITY's employee for all purposes, including but not limited to, the application



of the Fair Labor Standards Act minimum wage and overtime payments, Federal Insurance Contribution Act, the Social Security Act, the Federal Unemployment Tax Act, the provisions of the Internal Revenue Code, the State Workers' Compensation Act, and the State unemployment insurance law. The CONTRACTOR shall retain sole and absolute discretion in the judgment of the manner and means of carrying out CONTRACTOR's activities and responsibilities hereunder provided, further that administrative procedures applicable to services rendered under this Agreement shall be those of CONTRACTOR, which policies of CONTRACTOR shall not conflict with CITY, State, or United States policies, rules or regulations relating to the use of CONTRACTOR's Funds provided for herein. The CONTRACTOR agrees that it is a separate and independent enterprise from the CITY, that it has full opportunity to find other business, that it has made its own investment in its business, and that it will utilize a high level of skill necessary to perform the work. This Agreement shall not be construed as creating any joint employment relationship between the CONTRACTOR and the CITY and the CITY will not be liable for any obligation incurred by CONTRACTOR, including but not limited to unpaid minimum wages and/or overtime premiums.

## **ARTICLE 12**

### **UNCONTROLLABLE FORCES**

12.1 Neither CITY nor CONTRACTOR shall be considered to be in default of this Agreement if delays in or failure of performance shall be due to Uncontrollable Forces, the effect of which, by the exercise of reasonable diligence, the non-performing party could not avoid. The term "Uncontrollable Forces" shall mean any event which results in the prevention or delay of performance by a party of its obligations under this Agreement and which is beyond the reasonable control of the nonperforming party. It includes, but is not limited to fire, flood, earthquakes, storms, lightning, pandemic, epidemic, war, riot, civil disturbance, sabotage, and governmental actions.

12.2 Neither party shall, however, be excused from performance if nonperformance is due to forces, which are preventable, removable, or remediable, and which the nonperforming party could have, with the exercise of reasonable diligence, prevented, removed, or remedied with reasonable dispatch. The nonperforming party shall, within a reasonable time of being prevented or delayed from performance by an uncontrollable force, give written notice to the other party describing the circumstances and uncontrollable forces preventing continued performance of the obligations of this Agreement.

## **ARTICLE 13**

### **WITHHOLDING OF PAYMENTS**

13.1 The City may withhold part or all of any payment otherwise due CONTRACTOR from the City if the Contract Administrator concludes that the CONTRACTOR's actions or inactions have resulted in the following:

- (i) Unsatisfactory work not caused by conditions beyond the CONTRACTOR's control;
- (ii) Defective work that has not been corrected;

- (iii) The CONTRACTOR's failure to carry out instructions or orders of the City;
- (iv) Failure of the CONTRACTOR to make payments to any subcontractor for materials or labor, which results in a claim against the City;
- (v) Unsafe working conditions allowed to persist by the CONTRACTOR;
- (vi) Failure of the CONTRACTOR to provide routes, schedules, data, or reports requested by the City.

If the foregoing problems are corrected, payment shall be made to the CONTRACTOR for the amounts withheld, but the City shall not be liable to the CONTRACTOR for interest on any delayed payment. The Contract Administrator shall not exercise the City's right to withhold payments under this section unless the Contract Administrator concludes that such action is reasonable and necessary in light of the CONTRACTOR's problems or failure of performance.

#### **ARTICLE 14** **TERMINATION**

14.1 Default by CONTRACTOR. In addition to all other remedies available to the City, this Agreement shall be subject to cancellation by the City for cause, should CONTRACTOR neglect or fail to perform or observe any of the terms, provisions, conditions, or requirements herein contained, if such neglect or failure shall continue for a period of thirty (30) days after receipt by CONTRACTOR of written notice of such neglect or failure. The City shall be the sole judge of nonperformance.

#### 14.2 City Termination

(i) In the event there should occur any Material Breach or Material Default in the performance of any covenant or obligation of CONTRACTOR which has not been remedied within thirty (30) days after receipt of written notice from City specifying such breach or default (or such longer period of time as is reasonably necessary to cure any such breach or default which is not capable of being cured within thirty (30) days, provided that CONTRACTOR has undertaken the cure within such thirty (30) days and proceeds diligently thereafter to cure in an expeditious manner), City, may if such breach or default is continuing, terminate this Agreement upon written notice to CONTRACTOR.

(ii) If CONTRACTOR shall fail to cure its breach or default as specified in this Section, City may terminate this Agreement upon ten (10) days written notice. In such case, CONTRACTOR shall not be entitled to receive further payment for services rendered from the Effective Date of the Notice of Termination.

(iii) In addition, City may invoke performance and payment bonds and may enter into a separate contract for the completion of the Agreement, according to its terms and provisions, or use such other methods as in City's sole opinion shall be required for the completion of the Agreement.

(iv) All damages, costs and charges incurred by City, together with the cost of completing the terms and provisions of the Agreement, shall be deducted from any monies due or which may become due to CONTRACTOR. In case the damages, and expenses so incurred by City shall exceed the unpaid balance, then CONTRACTOR shall be liable and shall pay to City the amount of such excess.

(v) If after Notice of Termination it is determined for any reason that CONTRACTOR was not in breach or default, then the rights and obligations of City and CONTRACTOR shall be the same as if the Notice of Termination had not been issued pursuant to the termination for cause clause as set forth in this Section.

(vi) Upon receipt of Notice of Termination, CONTRACTOR shall promptly discontinue all affected work unless the Notice of Termination directs otherwise, deliver or otherwise make available to City all data, drawings, specifications, reports, estimates, summaries, such other information as may have been required under the terms of Agreement whether completed or in process.

(vii) The following events shall, without limitation, constitute a Material Breach or a Material Default by CONTRACTOR for purposes of this Section:

1. CONTRACTOR shall abandon as hereinafter defined, the performance of Collection Services for a period of five (5) consecutive calendar days unless caused by event of Uncontrollable Force. As used herein, the term "abandon" shall refer to voluntary cessation of performance of Collection Service.

2. The failure of CONTRACTOR to pay amounts owed to City under the terms of this Agreement within fourteen (14) calendar days after such amounts become finally due and payable.

3. In the event that the CONTRACTOR becomes financially distressed as evidenced by one or more of the following:

- i. CONTRACTOR fails to pay its debts when they become due;
  - ii. CONTRACTOR has filed for relief or reorganization and bankruptcy or insolvency;
  - iii. CONTRACTOR makes an assignment for benefit of its creditors in lieu of taking advantage of any available bankruptcy or insolvency law;

CONTRACTOR shall consent to the appointment of a custodian, receiver, trustee or other officer with similar powers with respect to any substantial part of its property; or if CONTRACTOR is adjudicated insolvent or shall take corporate action for the purpose of any of the foregoing.

4. The default by CONTRACTOR with respect to any obligation to any third party pertaining to CONTRACTOR or to Collection Services, which may permit

any third party, either immediately or following notice and/or the passage of time to accelerate the maturity of any obligation of CONTRACTOR, to assume control of CONTRACTOR or take possession of or to transfer or caused to be transferred to any third party any portion of the assets of CONTRACTOR, but only if such default materially interferes with or prevents CONTRACTOR's performance under the terms of this Agreement.

5. If CONTRACTOR shall fail to submit a Performance Bond or a renewal or substitute Performance Bond as required pursuant to this Agreement.

6. If CONTRACTOR shall fail to diligently perform its work in accordance with the requirements of this Agreement.

14.3 Post Contractual Obligations / Transition. In the event of a termination, for any reason, or the expiration of the Renewal Term or any subsequent term, CONTRACTOR shall continue to coordinate and work with the City during any transition to a subsequent vendor and ensure that there is no interruption in the services provided by the Original Agreement and any subsequent amendments, at the then current rates, on a month to month period. During the month to month term, any normal price adjustments to the collection and/or disposal fees, as contemplated by the Agreement, shall be applied. Upon termination of this Contract under any circumstance, the Contractor shall affirmatively exercise such diligence and commitment, and in all ways operationally possible, to insure that a seamless transition to a subsequent contractor, of this critical and unique public service, is implemented, in order to best protect the health, safety and welfare of the citizens and residents of the City of Pembroke Pines.

## **ARTICLE 15**

### **CLAIMS/DISPUTE RESOLUTION/OPERATIONS DURING DISPUTE/ COST SAVINGS**

15.1 Definition of Claim - As used herein "claim" means a written demand or assertion by one of the parties seeking, as a legal right, the payment of money, adjustment or interpretation of the Agreement terms, or other relief, arising under or relating to this Agreement. A voucher, invoice, or request for payment that is not in dispute when submitted is not a claim under this clause. However, where the submission is subsequently not acted upon in a reasonable time, or disputed either as to liability or amount, it may be converted to a claim for the purpose of this clause. A claim by CONTRACTOR shall be made in writing and submitted to Contract Administrator.

15.2 When a controversy cannot be resolved by mutual Agreement, CONTRACTOR shall submit a written request for final decision to Contract Administrator. The written request shall set forth all the facts surrounding the controversy.

15.3 Process for Dispute Resolution

i. In connection with any claim under this clause, CONTRACTOR, at the discretion of Contract Administrator, may be afforded an opportunity to be heard and to offer evidence in support of their claim. Contract Administrator shall render a written decision on all claims within

thirty (30) Business Days of receipt of CONTRACTOR's written claim, unless Contract Administrator determines that a longer period is necessary to resolve the claim. The decision shall be furnished to CONTRACTOR by certified mail, return receipt requested, or by any other method that provides evidence of receipt. If a decision is not issued within thirty (30) calendar days, Contract Administrator shall notify CONTRACTOR of the time within which a decision shall be rendered and the reasons for such time extension.

ii. Except as provided otherwise in this Agreement and to the extent permitted by law, the Contract Administrator shall be responsible for interpreting this Agreement to resolve disputes that may arise hereunder. The CONTRACTOR shall have the right to appeal any decisions or findings of the Contract Administrator to the City Manager. In addition, the CONTRACTOR shall have the right to appeal any decisions or findings of the City Manager to the City Commission, whose findings and conclusions shall be final and binding. Nothing contained herein shall limit any party's right to pursue any rights or remedies available at law.

#### 15.4 Operations During Dispute

i. In the event that any dispute arises between City and CONTRACTOR relating to this Agreement performance or compensation hereunder, CONTRACTOR shall continue to render service and receive compensation in full compliance with all terms and conditions of this Agreement as interpreted, in good faith, by City, regardless of such dispute.

ii. CONTRACTOR expressly recognizes the paramount right and duty of City to provide adequate services to its residents, businesses and commercial establishments, and further agrees, in consideration of the execution of this Agreement, that in the event of such a dispute, if any, it will not seek injunctive relief in any court without first negotiating with City in good faith for an adjustment on the matter or matters in dispute and, upon failure of said negotiations to resolve the dispute shall present the matter to mediation in the courts of Florida. If mediation fails, CONTRACTOR shall present the matter to a court in Florida.

iii. Notwithstanding the other provisions in this Section, City reserves the right to terminate this Agreement at any time whenever the service provided by CONTRACTOR fails to meet reasonable standards of the trade, after City provides written notice to CONTRACTOR pursuant to the terms of this Agreement. Upon termination, City may call the performance bond and apply the cash and surety bond for the cost of service in excess of that charged to City by the firm engaged for the balance of the Agreement period.

15.5 In the event that CONTRACTOR and/or City identify terms and conditions to be added or subtracted to this Agreement which are in the best interest of the City, then CONTRACTOR and City may agree to modify this Agreement to provide for such, provided that any such changes do not create an undue hardship on CONTRACTOR and are mutually agreed upon by City and CONTRACTOR. Any modification will be in the form of a written amendment agreed to and signed by both parties.

### **ARTICLE 16** **PERFORMANCE BOND**

The performance bond shall be conditioned that CONTRACTOR performs the contract in the time and manner prescribed in the contract.

CONTRACTOR shall furnish at its own cost, to City, an irrevocable Performance Bond, in form and content approved by the City Attorney, for the faithful performance of this contract and all of its obligations arising hereunder in the amount of **Five Hundred Thousand and 00/100 Dollars (\$500,000.00)**.

CONTRACTOR shall be held responsible for renewal of the bond for each successive year of the Agreement, including renewal terms.

Bonds shall be written by a corporate surety, having a resident agent in the State of Florida and having been in business with a record of successful continuous operation for at least five (5) years. The surety shall hold a current certificate of authority from the Secretary of Treasury of the United States as an acceptable surety on federal bonds in accordance with United States Department of Treasury Circular No. 570. If the amount of the Bond exceeds the underwriting limitation set forth in the circular, in order to qualify, the net retention of the surety company shall not exceed the underwriting limitation in the circular and the excess risks must be protected by coinsurance, reinsurance, or other methods, in accordance with Treasury Circular 297, revised September 1, 1978 (31DFR, Section 223.10, Section 223.11). Further, the surety company shall provide City with evidence satisfactory to City, that such excess risk has been protected in an acceptable manner. The surety company shall have at least the following minimum qualification in accordance with the latest edition of A.M. Best's Insurance Guide, published by Alfred M. Best Company, Inc., Ambest Road, Oldwick, New Jersey 08858: B+ to A+

CONTRACTOR shall furnish to City proof of such bond within fifteen (15) days after the execution of this Contract, and in any event prior to commencing work, such proof shall include a statement that the policy or bond may not be canceled or altered without at least thirty (30) days prior notice to City.

Maintenance of said bond and the performance by CONTRACTOR of all of the obligations under this paragraph shall not relieve CONTRACTOR of liability under the default provisions set forth in this Contract or from any other liability as a result of any breach hereunder. The performance Bond may be "called" in the event of any default hereunder by CONTRACTOR. The calling of the Bond shall in no manner restrict or preclude any additional or further remedies available to City against CONTRACTOR for breach, default or damages hereunder.

A payment bond shall not be required for this contract as the CONTRACTOR shall self-perform and shall not utilize any subcontractors for the performance of these services.

## **ARTICLE 17**

### **PUBLIC RECORDS**

17.1 The City of Pembroke Pines is a public agency subject to Chapter 119, Florida Statutes. CONTRACTOR shall comply with Florida's Public Records Law. Specifically, CONTRACTOR shall:

17.1.1 Keep and maintain public records required by the City to perform the service;

17.1.2 Upon request from the City's custodian of public records, provide the City with a copy of the requested records or allow the records to be 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;

17.1.3 Ensure that public records that are exempt or that are confidential and exempt from public record disclosure requirements are not disclosed except as authorized by law for the duration of the Agreement term and, following completion of the Agreement, CONTRACTOR shall destroy all copies of such confidential and exempt records remaining in its possession after CONTRACTOR transfers the records in its possession to the City; and

17.1.4 Upon completion of the Agreement, CONTRACTOR shall transfer to the City, at no cost to the City, all public records in CONTRACTOR's possession. All records stored electronically by CONTRACTOR must be provided to the City, upon request from the City's custodian of public records, in a format that is compatible with the information technology systems of the City.

17.2 The failure of CONTRACTOR to comply with the provisions set forth in this Article shall constitute a default and breach of this Agreement, for which, the City may terminate the Agreement in accordance with the terms herein.

**IF CONTRACTOR HAS QUESTIONS REGARDING THE APPLICATION OF CHAPTER 119, FLORIDA STATUTES, TO CONTRACTOR'S DUTY TO PROVIDE PUBLIC RECORDS RELATING TO THIS AGREEMENT, CONTACT THE CUSTODIAN OF PUBLIC RECORDS AT:**

**CITY CLERK  
601 City Center Way  
Pembroke Pines, FL 33025  
(954) 450-1050  
mgraham@ppines.com**

**ARTICLE 18  
SCRUTINIZED COMPANIES**

CONTRACTOR, its principals or owners, certify that they are not listed on the Scrutinized Companies that Boycott Israel List, Scrutinized Companies with Activities in Sudan List, Scrutinized Companies with Activities in the Iran Petroleum Energy Sector List, or are engaged in

business operations with Syria. In accordance with Section 287.135, Florida Statutes, as amended, a company is ineligible to, and may not, bid on, submit a proposal for, or enter into or renew a contract with any agency or local governmental entity for goods or services of:

18.1 Any amount if, at the time bidding on, submitting a proposal for, or entering into or renewing such contract, the company is on the Scrutinized Companies that Boycott Israel List, created pursuant to Section 215.4725, Florida Statutes, or is engaged in a boycott of Israel; or

18.2 One million dollars or more if, at the time of bidding on, submitting a proposal for, or entering into or renewing such contract, the company:

18.2.1 Is on the Scrutinized Companies with Activities in Sudan List or the Scrutinized Companies with Activities in the Iran Petroleum Energy Sector List, created pursuant to Section 215.473, Florida Statutes; or

18.2.2 Is engaged in business operations in Syria.

## **ARTICLE 19**

### **E-VERIFY**

CONTRACTOR certifies that it is aware of and complies with the requirements of Section 448.095, Florida Statutes, as may be amended from time to time and briefly described herein below.

#### **19.1 Definitions for this Section:**

19.1.1 “CONTRACTOR” means a person or entity that has entered or is attempting to enter into a contract with a public employer to provide labor, supplies, or services to such employer in exchange for salary, wages, or other remuneration. “CONTRACTOR” includes, but is not limited to, a vendor or consultant.

19.1.2 “Subcontractor” means a person or entity that provides labor, supplies, or services to or for a CONTRACTOR or another subcontractor in exchange for salary, wages, or other remuneration.

19.1.3 “E-Verify system” means an Internet-based system operated by the United States Department of Homeland Security that allows participating employers to electronically verify the employment eligibility of newly hired employees.

#### **19.2 Registration Requirement; Termination:**

Pursuant to Section 448.095, Florida Statutes, effective January 1, 2021, Contractors, shall register with and use the E-verify system in order to verify the work authorization status of all newly hired employees. CONTRACTOR shall register for and utilize the U.S. Department of Homeland Security’s E-Verify System to verify the employment eligibility of:



19.2.1 All persons employed by a CONTRACTOR to perform employment duties within Florida during the term of the contract;

19.2.2 All persons (including subconsultants/subcontractors) assigned by CONTRACTOR to perform work pursuant to the contract with the City of Pembroke Pines. The CONTRACTOR acknowledges and agrees that registration and use of the U.S. Department of Homeland Security's E-Verify System during the term of the contract is a condition of the contract with the City of Pembroke Pines; and

19.2.3 The CONTRACTOR shall comply with the provisions of Section 448.095, Fla. Stat., "Employment Eligibility," as amended from time to time. This includes, but is not limited to registration and utilization of the E-Verify System to verify the work authorization status of all newly hired employees. CONTRACTOR shall also require all subcontractors to provide an affidavit attesting that the subcontractor does not employ, contract with, or subcontract with, an unauthorized alien. The CONTRACTOR shall maintain a copy of such affidavit for the duration of the contract. Failure to comply will lead to termination of this Contract, or if a subcontractor knowingly violates the statute, the subcontract must be terminated immediately. Any challenge to termination under this provision must be filed in the Circuit Court no later than twenty (20) calendar days after the date of termination. Termination of this Contract under this Section is not a breach of contract and may not be considered as such. If this contract is terminated for a violation of the statute by the CONTRACTOR, the CONTRACTOR may not be awarded a public contract for a period of one (1) year after the date of termination.

## **ARTICLE 20**

### **MISCELLANEOUS**

20.1 Succession of Agreement. This Agreement and the rights and obligation contained herein shall inure to the benefit of and be Binding upon the parties hereto and their respective successors and assigns.

20.2 Survival. Any rights either party may have in the event it terminates this Agreement pursuant to the terms hereof shall survive such termination.

20.3 No Penalties. No provision of this Agreement is to be interpreted as a penalty upon any party to this Agreement. The parties hereby agree that the rights of City in the event CONTRACTOR takes or fails to take certain actions pursuant to this Agreement, are reasonable, and that the parties desire such certainty with regard to such matters.

20.4 Further Assurance. CONTRACTOR and City agree to execute, acknowledge and deliver and cause to be done, executed, acknowledged and delivered all such further documents and perform such acts as shall reasonably be requested of it in order to carry out this Agreement and give effect hereto. Accordingly, without in any manner limiting the specific rights and obligations set forth in this Agreement, the parties declare their intention to cooperate with each other in effecting the terms of this Agreement.

20.5 Time of the Essence. For purposes herein, the parties agree that time shall be of the essence of this Agreement and the representations and warranties made are all material and of the essence of this Agreement.

20.6 Captions and Section Headings. Captions and Sections headings contained in this Agreement are for convenience and reference only and in no way define, describe, extend, or limit the scope or intent of this Agreement, nor the intent of any provision hereof.

20.7 No Waiver. No waiver by City of any term, covenant or condition herein contained shall be deemed to be a waiver of such term, covenant or condition or any subsequent breach of the same or any other term, covenant or condition herein contained. The rights and remedies created by this Contract/Franchise are cumulative, and are not intended to be exclusive. The use of one remedy under this Contract/Franchise shall not be taken to exclude or waive the right or use of another Contract/Franchise, and each party shall be entitled to pursue all remedies generally available under the laws of the State of Florida.

20.8 Exhibits. All Appendices attached hereto contain additional terms of this Agreement and are incorporated into this Agreement by reference. Typewritten provisions inserted in this form or attached hereto shall control all printed provisions in conflict therewith.

20.9 Authorization. Each party hereby warrants and represents that it has full power and authority to enter into and perform this Agreement, and that the Person signing on behalf of each has been properly authorized and empowered to enter this Agreement. Each party further acknowledges that it has read this Agreement, understands it, and agrees to be bound by it.

20.10 Taxes. CONTRACTOR shall pay all applicable sales, consumer use and other similar taxes required by law. The City of Pembroke Pines is exempt from all Federal, State, and Local taxes. An exemption certificate will be provided where applicable upon request.

20.11 Permits Fees and Notices. CONTRACTOR shall secure and pay for all permits and fees, licenses and charges necessary for the proper execution and completion of the work, if applicable. The costs of all permits, fees, licenses and charges shall be included in the Price Proposal except where expressly noted in the specifications.

20.12 Unauthorized Aliens. The employment of unauthorized aliens by any CONTRACTOR is considered a violation of Section 274A(e) of the Immigration and Nationality Act. If CONTRACTOR knowingly employs unauthorized aliens, such violation shall be cause for unilateral cancellation of any contract resulting from this solicitation. This applies to any sub-contractors used by the CONTRACTOR as well.

20.13 City's Ordinances. Nothing contained in any City ordinance hereafter adopted, pertaining to the collection of garbage or trash, shall in anyway be construed to affect, change, modify or otherwise alter the duties, responsibilities, and operations of CONTRACTOR in the performance of the terms of this Contract/Franchise, unless it is agreed to in writing by both CONTRACTOR and City and this Contract/Franchise is amended accordingly.

20.14 No Contingent Fees. CONTRACTOR warrants that it has not employed or retained any company or person, other than a bona fide employee, subcontractor, lobbyist, or consultant working solely for CONTRACTOR to solicit or secure this agreement, and that it has not paid or

agreed to pay any person, company, corporation, individual or firm, other than a bona fide employee, subcontractor, lobbyist, or consultant working solely for CONTRACTOR any fee, commission, percentage, gift, or other consideration contingent upon or resulting from the award or making of this Contract/Franchise. For the breach or violation of this provision, City shall have the right to terminate the Contract/Franchise without liability at its discretion, to deduct from the contract price, or otherwise recover the full amount of such fee, commission, percentage, gift or consideration.

20.15 Attorney's Fees. In the event that either party shall have to enforce the provisions of this Contract/Franchise the prevailing party shall be entitled to recover all of its attorneys' fees, and costs, including paralegal expenses, at both the trial and appellate levels, and further including any post-judgment proceedings.

20.16 Legal Representation. It is acknowledged that each party to this Contract/Franchise had the opportunity to be represented by legal counsel in the preparation of this Contract/Franchise and, accordingly, the rule that a contract shall be interpreted strictly against the party preparing the same shall not apply herein due to the joint contributions of both parties.

20.17 Records. CONTRACTOR shall keep books and records and require any and all subcontractors to keep books and records as may be necessary in order to record complete and correct entries as to services provided and fees charged pursuant to this contract/franchise. Upon providing reasonable notice, such books and records shall be available at all reasonable times for examination and audit by City and its representatives, and shall be kept for a period of three (3) years, or as required by the State of Florida Record Retention Requirements and Ch. 119, FS, whichever is longer, after the completion of all work to be performed pursuant to this Agreement. Incomplete or incorrect entries in such books and records may be grounds for disallowance by City of any fees or expenses based upon such entries.

20.18 Proprietary Information. The documents, records, routing, charges, and pricing of CONTRACTOR are proprietary information and records of CONTRACTOR, and are exempt from disclosure pursuant to Section 815.045, Florida Statutes, as may be amended from time to time, unless in the sole opinion and judgment of either the City Manager or the City Attorney, such documents and records are not within said statutory exemption.

20.19 Notice. Whenever any party desires to give notice unto any other party, it must be given by written notice, sent by certified United States mail, with return receipt requested, or by facsimile transmission with certification of transmission to the receiving party, addressed to the party for whom it is intended and the remaining party, at the places last specified, and the places for giving of notice shall remain such until they shall have been changed by written notice in compliance with the provisions of this section. For the present, the CONTRACTOR and the City designate the following as the respective places for giving of notice:

As to **CITY**:

Charles F. Dodge, City Manager  
City of Pembroke Pines  
601 City Center Way  
Pembroke Pines, Florida 33025  
Telephone: (954) 450-1040

Copy to:

Samuel S. Goren, City Attorney

Goren, Cherof, Doody & Ezrol, P.A.  
3099 East Commercial Boulevard, Suite 200  
Fort Lauderdale, Florida 33308  
Telephone: (954) 771-4500  
Facsimile: (954) 771-4923

As to **CONTRACTOR**: Angelo Marzano  
Eastern Waste Systems, Inc.  
1660 NW 19<sup>th</sup> Avenue  
Pompano Beach, FL 33069  
Telephone: 954-543-9800  
Email: [amarzano@easternwaste.com](mailto:amarzano@easternwaste.com)

20.20 Severability. If any provision of this Agreement or application thereof to any person or situation shall to any extent, be held invalid or unenforceable, the remainder of this Agreement, and the application of such provisions to persons or situations other than those as to which it shall have been held invalid or unenforceable, shall not be affected thereby, and shall continue in full force and effect, and be enforced to the fullest extent permitted by law.

20.21 Entire Agreement and Conflicts: This Agreement is intended by the parties hereto to be final expression of this Agreement, and it constitutes the full and entire understanding between the parties with respect to the subject hereof, notwithstanding any representations, statements, or agreements to the contrary heretofore made. In the event of a conflict between this Agreement, the RFP and the CONTRACTOR's bid proposal, this Agreement shall govern, then the RFP, and then the bid proposal.

**SIGNATURE PAGE FOLLOWS**

**IN WITNESS WHEREOF**, the parties have caused these presents to be executed and attested to by their duly authorized officers or representatives and their official seals to be affixed hereon, the day and year first above written.

**CITY:**


CITY OF PEMBROKE PINES, FLORIDA

ATTEST:

DocuSigned by:  
  
E858EEE04EEF4F3...  
MARLENE D. GRAHAM, CITY CLERK  
November 17, 2021

BY:   
MAYOR FRANK C. ORTIS

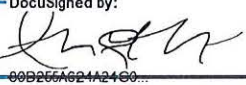
APPROVED AS TO FORM:

DocuSigned by:  
  
833DB27BB2774A7...  
Print Name: Jacob Horowitz  
OFFICE OF THE CITY ATTORNEY

DocuSigned by:  
BY:   
47B966ECFDAD4AC...  
CHARLES F. DODGE, CITY MANAGER

**CONTRACTOR:**

EASTERN WASTE SYSTEMS, INC.

DocuSigned by:  
  
Signed By: 00B255A624A2480...  
Print Name: Angelo Marzano  
Title: President Director