

STATE OF NORTH CAROLINA)
)
WAKE COUNTY)

YARD WASTE SERVICE AGREEMENT

THIS YARD WASTE SERVICE AGREEMENT (this "Agreement"), is made this the 28th Day of March, 2022_ by and between GREENWAY WASTE SOLUTIONS of APEX, LLC a North Carolina limited liability company (the "Company")} and THE TOWN OF APEX, a North Carolina municipal corporation located in Wake County, North Carolina (the "Town") (collectively, the "Parties").

WITNESSETH:

WHEREAS, the Company owns and operates a construction and debris landfill in western Wake County, North Carolina, which is located within the Town's extraterritorial jurisdiction (the "Landfill"); and

WHEREAS, the Landfill is the closest such facility to the Town; and

WHEREAS, the Town currently offers and provides regularly-scheduled curbside collection of various yard wastes, including grass clippings, leaves, wood chips and other organic debris (collectively, the "Yard Wastes"); and

WHEREAS, the current and projected volume of the Yard Wastes collected by the Town has placed and will continue to place significant demands and responsibilities on the Town, and has exceeded and will continue to exceed the Town's capacity for disposing of the Yard Wastes; and

WHEREAS, in order to provide for the continued outstanding and efficient provision of waste collection and disposal services to the citizens of the Town, the Parties have agreed to the following terms to provide for disposal of the Yard Wastes.

NOW, THEREFORE, in consideration of the mutual benefits to the Parties and the citizens of the Town, and in consideration of the promises contained herein, the receipt and sufficiency of which are hereby acknowledged, the Parties agree as follows:

1. The initial term of this Agreement shall be five (5) years from the date of execution hereof (the "Initial Term"). Provided, however, that the Parties may renew this Agreement for successive renewal terms of five (5) years by mutual written agreement prior to expiration of the Initial Term or then-current renewal term.
2. The Company authorizes the Town and its designated agents to deposit, dump, or otherwise dispose of (up to) 50 truckloads of yard waste per month without charge to the Town and its designated agents. Provided, however, that the Town may only deposit, dump, or otherwise dispose of such Yard Wastes that originate from real property located within the Town's municipal corporate limits and extraterritorial jurisdiction, including extensions thereto

during the Initial Term or any renewal term of this Agreement. A “truckload” is defined as the historical average load weight of 6,500 pounds.

3. The Landfill shall obtain and maintain all necessary permits, certifications, authorizations and other governmental approvals to permit the Town and its designated agents to deposit, dump or otherwise dispose of the above referenced quantities of Yard Wastes at the Landfill and otherwise enjoy all rights granted to the Town by this Agreement, including but not limited to a recycling permit from the North Carolina Department of Environment and Natural Resources (the "Permit"). Provided, however, that nothing herein shall obligate the Town to dispose of any Yard Wastes or any other materials at the Landfill.
4. The Company shall weigh the Yard Wastes each time the Town or its designated agents deposit, dump or otherwise dispose of Yard Wastes at the Landfill pursuant to this Agreement, and shall provide the Town (by and through the Town's employee or designated agent responsible for depositing, dumping or otherwise disposing of the Yard Wastes at the Landfill with a weight ticket summarizing the type and weight of the Yard Wastes deposited, dumped or otherwise disposed of at the Landfill on each such occasion.
5. The Company may recycle the Yard Wastes and offer and provide such recycled materials (e.g., compost, mulch, etc.) for pick-up by the Town's citizens and property owners at the Landfill for a reasonable fee on a minimum of two (2) days each month during the Initial Term and any renewal term of this Agreement. The Company authorizes the Town to advertise, publicize or otherwise notify the Town's citizens and property owners of the availability of such recycled materials at the Landfill (including but not limited to using the Company's and the Landfill's names, addresses, marks and other identifying information), and authorizes the Town to invite its citizens to visit the Landfill for the purpose of obtaining such recycled materials for a reasonable fee on such days. The Company shall notify the Town of the days on which such recycled materials will be available for pick-up at the Landfill at least thirty (30) days in advance so that the Town may advertise, publicize or otherwise notify the Town's citizens and property owners of the applicable dates. The Company shall properly dispose of any unclaimed recycled Yard Wastes in accordance with all applicable Federal, State and local laws, statutes, ordinances, rules, regulations, policies and specifications, including but not limited to the provisions of the Permit.
6. In consideration of the promises and covenants in this Agreement, the Town shall provide municipal water and sewer services to the existing structure at the Landfill during the term of this Agreement at the Town's then-prevailing in-town rates, rents, fees or other charges for such services (other than capital reimbursement fees), and subject to the Town's then-prevailing utilities ordinances, policies, rules, regulations and specification as amended hereafter by the Town. Provided, however, that the Town's obligation to provide such municipal services shall automatically terminate immediately upon (i) the expiration or termination of this Agreement for any reason, or (ii) the expiration or termination of the Permit. The Company shall install, construct and maintain, at its sole cost, all necessary utilities infrastructure and appurtenant facilities on its property in accordance with the Town's ordinances, policies, rules, regulations and specifications.

7. To the maximum extent permitted by law, the Company and its successors and assigns agree to and shall indemnify and hold the Town, its officials (elected and appointed), commissioners, council members, employees, managers, insurers, attorneys, agents, representatives, successors and assigns, jointly and severally, harmless from and against any and all threatened and actual claims, suits, demands, causes of action, actions, judgments, damages, liability, losses, penalties, fines, assessments, violations, notices of violations, costs, fees and expenses (including, without limitation, attorneys' fees and expenses) arising out of, or relating (or alleged to arise out of or relate) in any way to this Agreement, including but not limited to any claims, suits, demands, causes of action, actions, judgments, damages, liability, losses, penalties, fines, assessments, violations, notices of violations, costs, fees and expenses (including, without limitation, attorneys' fees and expenses) for alleged negligence, gross negligence, personal injury, bodily harm, property damage, or any other form of damages arising out of or relating (or alleged to arise out of or relate) in any way to the Company's alleged actions or omissions. The obligations in this Paragraph 7 shall survive the expiration or termination of this Agreement for any reason.
8. The company will maintain and show proof of commercial general liability insurance, and commercial automobile liability insurance in minimum amounts of \$1,000,000 each coverage; and workers compensation and employee liability coverage in the minimum amount of \$500,000. Likewise the Town of Apex agrees to maintain and show proof of commercial general liability insurance, and commercial automobile liability insurance in minimum amounts of \$1,000,000 each coverage, and workers compensation and employee liability coverage in the minimum amount of \$500,000.
9. The terms and provisions contained herein, together with the attachments hereto, constitute the entire agreement and understanding of the Parties, and shall supersede all previous communications, statements, negotiations, representations, promises, understandings, contracts or agreements, oral or written, with respect to the subject matter hereof. This Agreement may be modified or amended only by a written instrument duly executed by both Parties.
10. Upon the default by either party of any term or condition in this Agreement (and if such default is not cured within sixty (60) days after receipt of written notice thereof), this Agreement may be terminated immediately by the non-defaulting party by mailing or otherwise providing written notice thereof to the defaulting party. In addition, the Town may terminate this Agreement upon six (6) months prior written notice to the Company. Provided, however, that the provisions of Paragraphs 7-8 and 11-18, inclusive, shall survive the expiration or termination of this Agreement for any reason.
11. This Agreement shall remain in full force and effect until modified or terminated as herein provided.
12. This Agreement and all documents referred to herein shall be governed by and construed and interpreted in accordance with the laws of the State of North Carolina.
13. All communications and notices hereunder shall be in writing and shall be (i) delivered by hand, (ii) sent prepaid by overnight delivery, or (iii) sent by the United States Postal Service,

postage prepaid, certified mail, return receipt requested, to the addresses designated below, or to such other address(es) as either party hereto may hereafter designate in writing from time to time:

To the Company:

Greenway Waste Solutions of Apex, LLC
19109 W. Catawba Ave., Ste. 110
Cornelius, North Carolina 28031-5613

To the Town:

Town of Apex
ATTN.: Director of Public Works
Post Office Box 250
Apex, North Carolina 27502

14. The waiver by either of the Parties of any breach or violation of any terms or provisions of this Agreement by any other party hereto shall not operate as a waiver of any other breach or violation.
15. The provisions of this Agreement are hereby deemed by the Parties to be severable, and the invalidity or unenforceability of any one or more of the provisions of this Agreement shall not affect the validity and enforceability of the remaining provisions hereof.
16. The relationship between the Town and the Company is solely that of contracting parties, and nothing in this Agreement shall constitute the Company as the agent, employee or legal representative of the Town, or establish any fiduciary relationship of any kind, for any purpose whatsoever; nor shall the Company hold itself out as such. The Company shall have no authority to bind or commit the Town in any manner or for any purpose but rather shall act and conduct itself in all respects as an independent entity. This Agreement creates no relationship of agency, joint venturers, partners or associates between the Parties, and all parties hereto agree that they are acting as principals.
17. The rights, duties, and obligations of the Parties under this Agreement shall inure to the benefit of and shall be binding upon the Parties and their respective permitted successors and assigns. Neither this Agreement nor the respective rights, duties, obligations and responsibilities of the Company under this Agreement may be assigned or transferred, in whole or in part, including without limitation by operation of law or by merger of the Company, by the Company to any other person, firm or organization (including any sub-agents thereof) without the prior written consent of the Town.
18. Nothing in this Agreement shall create a contractual relationship with or create a benefit or cause of action in favor of any third party against a party hereto, and no third party shall be entitled to rely upon or enforce this Agreement or to be a third-party beneficiary thereof.

19. The rights and remedies stated in this Agreement are not exclusive. The Parties, in the event of a breach of this Agreement or any other dispute, are entitled to pursue any of the remedies provided in this Agreement or any other remedies available under North Carolina law. The Parties expressly acknowledge that the remedy of specific performance shall be an appropriate remedy to enforce the provisions of this Agreement. The Parties also acknowledge that any material breach of this Agreement will result in immediate and irreparable injury to the non-breaching party, and therefore the non-breaching party shall be entitled, without limitation of remedy, to an injunction or other equitable relief restraining the breaching Party from any continuing violation of this Agreement.

20. Pursuant to Section 3-2 of the Town of Apex Code of Ordinances, Company hereby warrants and agrees that Company will not discriminate against a protected class in employment, subcontracting practices, or the solicitation or hiring of vendors, suppliers, or commercial customers in connection with this Agreement. For the purposes of this Agreement "protected class" includes age, race, religious belief or non-belief, ethnicity, color, national origin, creed, sex, sexual orientation, gender identity, marital status, natural hair style, genetic information, pregnancy, familial status, disability, veteran or military status, or disabled veteran status.

IN WITNESS WHEREOF, the undersigned have caused this Agreement to be executed by the Company by and through its Manager, and attested by its Corporate Secretary. The Town has caused this Agreement to be executed in its name by the Town Manager and attested by the Town Clerk, all authorized by the Town's Council effective the day and year first above written.

Greenway Waste Solutions of Apex, LLC

By: 
Mike Griffin, Manager/Member

Attest:
By:  3/28/22
Print Name: John Brown, COO

Town of Apex

By: _____
Print Name: _____

Attest:
By: _____
Print Name: _____