

EXCLUSIVE FRANCHISE AGREEMENT FOR THE COLLECTION, HAULING, AND DISPOSAL OF MUNICIPAL SOLID WASTE AND CONSTRUCTION AND DEMOLITION WASTE IN THE CITY OF GLEN ROSE, TEXAS.

**SECTION 1 (of 38)
DEFINED TERMS**

The following terms, as used herein, will be defined as follows:

Bulky Item - Any item not measuring in excess of either forty-eight (48) inches in length or fifty (50) pounds in weight, including, but not limited to, refrigerators, stoves, washing machines, water tanks, chairs, couches, and other similar household items. Tires, batteries, motor oil, Hazardous Waste, dead animals, and auto parts are excluded.

Bundles - Items not measuring in excess of either forty-eight (48) inches in length or fifty (50) pounds in weight and which are securely fastened together, including, but not limited to, brush, newspapers, and tree trimmings.

Business Day - Any day that is not a Saturday, a Sunday, or Holiday as defined in this Agreement.

Cart - A container with ninety-five (95) gallons of capacity. Also known as a Poly Cart.

City - City of Glen Rose, Texas.

Commercial Unit - Any facility that generates and accumulates Municipal Solid Waste or Construction and Demolition Waste during, or as a result of, its business, including, but not limited to, restaurants, stores, warehouses, and manufacturers.

Commercial Hand Collect Unit - A small Commercial Unit which generates no more than two (2) cubic yards of waste per week and does not opt to have a dumpster. An exception to the two (2) cubic yard weekly limit is made for small Commercial Units where there is no space for setting or collecting waste from a dumpster.

Construction and Demolition Waste - Solid Waste resulting from construction or demolition activities or that is directly or indirectly the by-product of such activities, including, but not limited to, cartons, concrete, excelsior, gypsum board, metal, paper, plastic, rubber, and wood products. Construction and Demolition Waste does not include Hazardous Waste, Municipal Solid Waste or Bulky Items.

Container - Any receptacle, including, but not limited to, Dumpsters, Roll-Offs, and Carts, provided to the City by the Service Provider and utilized by a Commercial, Roll-Off, or Residential Unit for collecting Municipal Solid Waste or Construction and Demolition Waste.

Containers are designed to hold between ninety-five (95) gallons and forty (40) cubic yards of Solid Waste.

Dumpster - A type of metal movable waste container with a lid, ranging in size from two (2) to eight (8) cubic yards, designed to be lifted and emptied by a garbage truck.

Franchise Agreement - Contract between the City and the Service Provider regarding rights and obligations concerning the collecting, hauling, and disposing of Municipal Solid Waste and Construction and Demolition Waste originating within the City's corporate limits.

Gross receipts – all income from the service provider's business under this contract within the City of Glen Rose.

Hazardous Waste - Waste identified or listed as a hazardous waste by the administrator of the United States Environmental Protection Agency (EPA) under the federal Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act of 1976, as amended, or so classified by any federal or State of Texas statute, rule, order, or regulation.

Handicapped Residential Unit - Any residential dwelling that is inhabited by persons, all of whom are physically handicapped to the extent that they are unable to place Municipal Solid Waste at the curbside, that generates and accumulates Municipal Solid Waste. The identities of the members of a Handicapped Residential Unit shall be certified by the City Administrator and agreed to by the Service Provider.

Holidays - The following days:

New Year's Day (January 1st)

Memorial Day (Last Monday of May)

Independence Day (July 4th)

Labor Day (First Monday of September)

Thanksgiving Day (Fourth Thursday of November)

Christmas Day (December 25th)

Landfill - Any facility or area of land receiving Municipal Solid Waste or Construction and Demolition Waste and operating under the regulation and authority of the Texas Commission on Environmental Quality ("TCEQ") within the State of Texas, or the appropriate governing agency for landfills located outside the State of Texas.

Multi-Family Residential Unit - Any residential dwelling that is designed for and inhabited by multiple family units that generates and accumulates Municipal Solid Waste.

Municipal Solid Waste - Solid Waste resulting from or incidental to municipal, community, commercial, institutional, or recreational activities, or manufacturing, mining, or agricultural

operations. Municipal Solid Waste does not include Construction and Demolition Waste or Hazardous Waste.

Residential Unit - Any residential dwelling that is either a Single-Family Residential Unit or a Multi-Family Residential Unit.

Roll-Off - A container with twenty (20) cubic yards to forty (40) cubic yards of capacity.

Roll-Off Unit - Any operator generating large volumes of Municipal Solid Waste or Construction and Demolition Waste and requiring Roll-Off service.

Service Provider – The proponent to whom this Contract is awarded.

Single-Family Residential Unit - Any residential dwelling that is designed for and inhabited by a single person or family unit that generates and accumulates Municipal Solid Waste.

Solid Waste - As defined by the EPA under 40 C.F.R. § 261.2(a)(1), or by the State of Texas under the Solid Waste Disposal Act § 361.003(34) whether such waste is mixed with or constitutes Recyclable Materials.

White Good - Any item not measuring in excess of either three (3) cubic feet in size or fifty (50) pounds in weight that is manufactured primarily from metal, including, but not limited to, a bath tub, heater, hot water heater, refrigerator, sink, washer, or dryer.

SECTION 2 (of 38) **EXCLUSIVE FRANCHISE GRANT**

The City hereby grants to the Service Provider, in accordance with the City's ordinances and regulations governing the collection, hauling, and disposal of Municipal Solid Waste and Construction and Demolition Waste, to the extent allowed by law, the exclusive franchise, license and privilege to collect, haul, and dispose of Municipal Solid Waste and Construction and Demolition Waste over, upon, along, and across the City's present and future streets, alleys, bridges, and public properties; provided, however, the exclusive franchise grant contained herein shall not apply to Construction and Demolition Waste originating on a single-family residential property, when the owner personally collects, hauls, and disposes of said waste. In order to maintain the exclusive franchise in favor of the Service Provider contained herein, the City shall take any and all appropriate legal action against any company, customer, or third party infringing upon the exclusive rights of the Service Provider. In the event that the City fails to pursue appropriate legal action in order to remedy an infringement on the Service Provider's exclusive franchise rights, the Service Provider may retain a subrogation right from the City against any and all violations of the exclusive franchise grant described herein.

SECTION 3 (of 38)
OPERATIONS

- A. Scope of Operations.** It is expressly understood and agreed that the Service Provider shall collect, haul, and dispose of all Municipal Solid Waste and Construction and Demolition Waste (as provided herein) (i) generated and accumulated by Commercial, Roll-Off, and Residential Units, and (ii) placed within Containers by those Commercial, Roll-Off, and Residential Units receiving the services of the Service Provider, all within the City's corporate limits, including any territories annexed by the City during the term of this Agreement, (the "Services").
- B. Nature of Operations.** The City hereby grants to the Service Provider, in accordance with the City's ordinances and regulations governing the collection, hauling, and disposal of Municipal Solid Waste and Construction and Demolition Waste, the title to all Municipal Solid Waste and Construction and Demolition Waste collected, hauled, and recycled or disposed of by the Service Provider over, upon, along, and across the City's present and future streets, alleys, bridges, and public properties. All title to and liability for materials excluded from this Agreement shall remain with the generator of such materials. Title to and liability for materials excluded from this Agreement that were not generated by the City shall not be assigned to the City.
- C. Scheduling.** The City prefers to have a truck scheduled to be in Glen Rose to collect Municipal Solid Waste on every Business Day. Where Commercial and Multi-Family Residential Units (and Single-Family Residential Units if the twice a week collection alternate is selected) require collection on more than one day a week, unless instructed otherwise by the customer, the Service Provider shall create a schedule to divide the intervals between collections as evenly as possible. The scheduling identified under this Section shall not be changed except to accommodate holidays or unless said change is agreed to in writing at least fourteen (14) days in advance of the change by both the City and the Service Provider. Should scheduling be disrupted due to equipment failure, manpower shortages, Landfill issues, or other reasons not covered under Section 30 of this Agreement, under no circumstances shall the Service Provider delay collection more than twenty-four (24) hours. Failure to adhere to agreed-upon scheduling requirements for reasons other than those covered under Section 30 of this Agreement shall be considered grounds for termination of this Agreement as provided in Section 29 of this Agreement.
- D. Routes.** The Service Provider shall establish collection routes for each day that collections are made within the City and shall provide the City a map of said routes no later than sixty (60) days prior to this Agreement's Effective Date. Once the City has reviewed and approved the routes, the Service Provider shall mail a copy of the applicable route map to every customer within the City. The Service Provider shall strictly adhere to the established routes unless a

change is agreed to in writing at least fourteen (14) days in advance of the change by both the City and the Service Provider.

E. Reports.

1. Daily Reports. If operations are going smoothly and good communications are being provided as outlined under Subsection F, daily reports will not be required. Should the City determine that daily reports are necessary those reports must be submitted by 10:00 a.m. on the following Business Day.
 - (a) Daily Call Log – A listing of the calls received by date and time, type of call (missed collection, complaint, inquiry), and the resolution.
 - (b) Unacceptable Set-out Log – A listing of unacceptable set-outs by address with a description of the reason for the determination.
2. Monthly Reports. Monthly reports are to be submitted by the 15th day of the month and shall include:
 - (a) A report on the pounds of waste collected in the previous month under this Agreement; and,
 - (b) The Franchise Fee Report required under Section 16.E of this Agreement.

F. Communications. Each Business Day, the Service Provider’s driver or manager shall check in with City staff prior to the departure of the Service Provider’s truck from the City or at 4:45 p.m., whichever comes earlier. Quarterly, the Service Provider’s management shall confer with the City to evaluate performance under this Agreement.

**SECTION 4 (of 38)
CART COLLECTIONS**

A. Single-Family Residential Units. The Service Provider shall collect Municipal Solid Waste once per week (unless the City chooses to go with the twice per week alternate) from Single-Family Residential Units provided that (i) such Municipal Solid Waste is placed in Carts provided by the Service Provider, and (ii) such Carts are placed on the street or within two (2) feet of the curbside or right of way adjacent to the Single-Family Residential Unit no later than 7:00 a.m. on the scheduled collection day. Except as provided for herein, the Service Provider shall only be responsible for collecting, hauling, and disposing of (i) Municipal Solid Waste placed inside the Carts. Municipal Solid Waste in excess of the Carts, will not be collected by the Service Provider. However, such excess or misplaced Municipal Solid Waste may be collected on occasion and within reason due to Holidays or other extraordinary circumstances as determined by the Service Provider at its sole discretion. If the excess or misplaced Municipal Solid Waste continues, the City shall require the Single-Family Residential Unit to utilize an additional Cart so that the excess or misplaced Municipal Solid Waste will be regularly contained. The Service Provider shall be compensated for these additional Services as provided for in Subsection 10.A of this Agreement. White Goods

containing refrigerants will not be collected by the Service Provider unless such White Goods have been certified in writing by a professional technician to have had all such refrigerants removed.

B. Commercial Hand Collect Units. The Service Provider shall collect Municipal Solid Waste from Commercial Hand Collect Units provided that (i) such Municipal Solid Waste is placed in Carts provided by the Service Provider and (ii) such Carts are placed on the street or within two (2) feet of the curbside or right of way adjacent to the Commercial Hand Collect Unit no later than 6:00 a.m. on the scheduled collection day. The Service Provider shall only be responsible for collecting, hauling, and disposing of Municipal Solid Waste placed inside the Carts provided by the Service Provider. Municipal Solid Waste in excess of the Carts' limits, or placed outside or adjacent to the Carts, will not be collected by the Service Provider. If the excess or misplaced Municipal Solid Waste continues, the City shall require the Commercial Hand Collect Unit to utilize an additional Cart so that the excess or misplaced Municipal Solid Waste will be regularly contained. The Service Provider shall be compensated for these additional Services as provided for in Section 10.B. of this Agreement.

C. Handicapped Residential Units. Notwithstanding anything to the contrary contained herein, the Service Provider agrees to assist Handicapped Residential Units with house-side collection of their Carts. The Service Provider shall not be responsible for any other modifications and/or accommodations required by the Americans with Disabilities Act or any other applicable law or regulation in connection with the services provided hereunder to Handicapped Residential Units.

SECTION 5 (of 38)

DUMPSTER COLLECTIONS

The Service Provider shall collect Municipal Solid Waste from dumpsters located at Commercial and Multi-Family Residential Units at intervals as provided for in Section 10 of this Agreement. Containers equipped with locks must be unlocked by 6:00 a.m. on the day(s) of collection. The Service Provider shall only be responsible for collecting, hauling, and disposing of Municipal Solid Waste placed inside the Containers provided by the Service Provider. However, the Service Provider shall be obligated to offer and provide sufficient service to Commercial and Multi-Family Residential Units, and to increase or decrease, as necessary, the frequency of collection and the size or number of Containers so that Commercial or Multi-Family Units' Municipal Solid Waste will be regularly contained. The Service Provider shall be compensated for these additional Services as provided for in Section 10.0 of this Agreement. The parties acknowledge and agree that the Service Provider shall not be responsible for damage to any private pavement or accompanying sub-surface of any route reasonably necessary to perform the Services under this Agreement and that the Commercial or Multi-Family Residential Unit assumes all liabilities for damage to pavement or road surfaces.

SECTION 6 (of 38)
ROLL-OFF SERVICES

Upon request, the Service Provider shall provide Roll-Off services to customers within the corporate boundaries of the City. Once a customer has completed the Service Provider's application for Roll-Off service and paid the required deposit, the Service Provider shall deliver a Roll-Off unit to the customer within two (2) business days. When a customer requests a haul or the removal of a Roll-Off before 12:00 p.m. on any business day, the Service Provider shall make said haul or removal by the end of the next business day. An extra day of response time shall be allowed for requests received on or after 12:00 p.m. It is the customer's responsibility to ensure that there is adequate space for the placement of a Roll-Off and that said space is accessible to the Service Provider's truck, whether for initial delivery, a haul, or removal of said Roll-Off.

SECTION 7 (of 38)
SPECIAL COLLECTIONS AND SERVICES

(The blanks in this Section are to be filled in with the rates and fees provided in the Service Provider's proposal.)

A. Municipal Locations. The Service Provider will provide, at no cost to the City, Containers for and the collection of collect Municipal Solid Waste at the following municipal locations within the City:

1. One (1) 2-yard Container at the Wastewater Treatment Plant with once a week collection;
2. Two (2) Carts at City Hall with once a week collection;
3. One (1) 4-yard Container at the Somervell County Fire Hall with once a week collection;
4. Two (2) 8-yard Containers at the Public Works Yard with twice a week collection; and,
5. One (1) 3-yard Container at the Animal Control Facility with once a week collection.

Whether from the above listed 3-yard Container or from another Container provided at no cost to the City, once a week, the Service Provider shall collect dead animals at the Animal Control Facility at no charge to the City.

B. Convenience Station. The Service Provider shall provide, at no cost to the City, a 30 yard Roll-Off with four hauls during the year for the collection of non-putrescent Municipal Solid Waste at the City's Convenience Station. During each year, the City shall have the option to obtain no more than six (6) additional hauls for City events at a rate of **\$350.00/haul plus \$37.00/ton.**

C. Wastewater Treatment Plant. The Service Provider shall be responsible for processing the paperwork necessary to dispose of the sludge from the City's Wastewater Treatment Plant.

On an as-needed basis, the Service Provider shall haul a twenty (20) yard sludge box from the City's Wastewater Treatment plant at a rate of \$375.00/haul plus \$40.34/ton.

D. Special Events. With thirty (30) days advance notice, the Service Provider shall provide up to thirty (30) carts each year (with one [1] collection for each), at no cost to the City, for use at special events hosted by the City or the Convention and Visitors Bureau. The Service Provider will receive recognition as a sponsor of any event where these carts are used.

E. Disaster Relief Services. Upon request by the City, the Service Provider may provide special collection, hauling, and disposal services due to damage or destruction resulting from a flood, tornado, hurricane, pandemic, or other similar disaster. For the services provided under this Subsection, the Service Provider shall charge the City (i) an amount equal to the rates and fees allowed under the Federal Emergency Management Agency's grant for the disaster relief services provided to the City under this Subsection or (ii) a rate mutually agreed upon by the City and the Service Provider. Nothing contained herein shall be construed as to limit the City's ability to Contract with additional vendors to provide the disaster relief services contained in this Subsection.

F. Access to the Frontier Transfer Station in Somervell County.

1. Once-a-year. Once during the year, at a cost of \$0.25/month every single-family residential unit serviced under this contract will be allowed to dispose of up to four (4) cubic yards of waste, subject to the exclusions noted in Section 12 of this Agreement. The maximum amount that will be accepted from the whole customer base under this provision over the course of any calendar year is thirty (30) tons.

2. Twice-a-year. Twice during the year, at a cost of \$0.50/month every single-family residential unit serviced under this contract will be allowed to dispose of up to four (4) cubic yards of waste, subject to the exclusions noted in Section 12 of this Agreement. The maximum amount that will be accepted from the whole customer base under this provision over the course of any calendar year is sixty (60) tons.

**SECTION 8 (of 38)
BULKY ITEMS AND BUNDLES**

Quarterly, the Service Provider shall provide curbside collection services at no additional charge to the City for no more than a total of three (3) cubic yards (the equivalent of about six (6) poly carts) of Bulky Items or Bundles of brush or combination thereof per customer address, subject to the exclusions listed in Section 12 of this Agreement. Each Bulky Item or Bundle may not exceed forty-eight (48) inches in length or fifty (50) pounds in weight. Additional Bulky Items and Bundles may be disposed of by utilizing the Service Provider's Roll-Off Services at the cost provided for in Section 10 of this Agreement. White Goods containing refrigerants will not be collected by the Service Provider as part of this Agreement unless such White Goods have been

certified in writing by a professional technician to have had all such refrigerants removed. **The City shall provide the Service Provider a list of addresses where bulky item collections are to be made prior to each quarterly collection date.**

SECTION 9 (of 38) EQUIPMENT

The Service Provider shall be responsible for purchase, distribution, storage, ongoing repair, replacement, warranty issues, and other requirements related to all the Containers required to deliver the services outlined in this Agreement. Notwithstanding anything to the contrary contained herein, it is expressly understood and agreed that all equipment, including, but not limited to, Containers, provided by the Service Provider in connection with the Services, shall at all times remain the property of the Service Provider.

A. Carts. Carts must be either injection molded with high density polyethylene (HDPE) or rotational molded with linear medium density polyethylene (MDPE), contain UV stabilized resin, have a ten-year warranty, comply with ANSI Standards Z245.30 and Z245.60 (shall be both Type B and Type G compliant), be equipped with a metal lift bar (replaceable if damaged), and be uniform in appearance.

B. Dumpsters and Roll-Offs. All dumpsters shall have lids that fully close. Dumpsters and Roll-Offs must be painted a uniform color and bear the name of the Service Provider.

The Service Provider must have all of the equipment needed to provide the services described in this Agreement in place prior to January 1, 2023. Failure to acquire or deploy the equipment needed to provide the services described in this Agreement shall be deemed a breach of Agreement. When service is requested for new accounts or additional service or replacement Containers are requested for existing accounts, the Service Provider shall deliver the required Containers to the service address no later than three (3) days after receiving notification from the City.

SECTION 10 (of 38) RATES AND FEES

Subject to adjustment, as provided in Section 11 of this Agreement, the rates and fees to be charged and received by the Service Provider are as follows (*the blanks in this Section are to be filled in with the rates and fees provided in the Service Provider's proposal*):

A. Once a Week Single-Family Residential Unit Services. For the Services provided to Single-Family Residential Units under Section 4.A. hereof, the Service Provider shall charge (i) \$9.41 per month for each Single-Family Residential Unit utilizing one Cart and (ii) \$7.35 per

month for each additional Cart utilized by such Single-Family Residential Unit. These rates apply to all Single-Family Residential Units that are located within the City's corporate limits.

B. Commercial and Multi-Family Residential Unit Services. For the Services provided to Commercial and Multi-Family Residential Units under Sections 4.B and 5 of this Agreement, the Service Provider shall charge per month for each Container utilized the following rates:

NUMBER OF COLLECTIONS PER WEEK

Container Type	One	Two	Three	Four	Five	Extra Dump/Cart
Cart	\$21.00	\$37.49	\$54.97	\$73.29	NA	\$12.60 (Cart)
2yd Dumpster	\$47.74	\$79.47	\$122.76	\$163.67	\$204.59	\$25.20 (DUMP)
3yd Dumpster	\$66.83	\$100.11	\$173.90	\$231.87	\$289.84	\$31.50 (DUMP)
4yd Dumpster	\$77.29	\$127.30	\$190.95	\$254.60	\$318.26	\$37.80 (DUMP)
6yd Dumpster	\$109.12	\$196.41	\$286.43	\$381.91	\$477.38	\$50.40 (DUMP)
8yd Dumpster	\$127.30	\$236.42	\$343.72	\$509.21	\$636.51	\$67.20 (DUMP)

Monthly surcharge to equip a container with a locking device: \$12.60

Monthly surcharge to equip a container with casters: \$12.60

The foregoing rates apply to all Commercial and Multi-Family Residential Units that are located within the City's corporate limits and billed by the City for water and/or sewer services.

C. Roll-Off Services. The Service Provider shall negotiate Agreements with each customer on an individual basis regarding the Roll-Off Services to be provided. The Roll-Off Services provided under Section 6 of this Agreement shall be billed directly to the customer and will be collected by the Service Provider at the rates provided below. The Service Provider shall be responsible for all applicable sales tax collections and remittances associated with Roll-Off billings. The Roll-Offs provided pursuant to this Subsection must be located within the City's corporate limits in accordance with City ordinances and policies. In addition to the flat rate quoted below, all Roll-Offs, except the municipal sludge units, shall be assessed a "delivery" fee of \$157.50, a daily rental rate of \$6.00, a relocate/blocked access fee: \$131.25, and a fee of \$40.34/ton for loads exceeding four (4) tons. No Roll-Off shall be hauled if waste protrudes over the top sides of the unit.

Twenty (20) Yard Roll-Off Haul:	\$580.65 includes 4 tons
Thirty (30) Yard Roll-Off Haul:	\$580.65 includes 4 tons
Forty (40) Yard Roll-Off Haul:	\$580.65 includes 4 tons

D. Alternate Twice a Week Single-Family Residential Unit Services in Lieu of the Once a Week Service Listed in Item A of this Section. For alternate twice a week, in lieu of once a week, Services provided to Single-Family Residential Units under Section 4.A. hereof, the Service Provider shall charge (i) \$12.88 per month for each Single-Family Residential Unit utilizing one Cart and (ii) \$9.00 per month for each additional Cart utilized by such Single-Family Residential Unit. These rates apply to all Single-Family Residential Units that are located within the City's corporate limits.

The City shall pay the Service Provider within thirty (30) days of receiving the Service Provider's monthly invoice.

**SECTION 11 (of 38)
RATE ADJUSTMENT**

A. Operating Cost Adjustment. In May of each year, except the first year *(so, the first opportunity to petition for a CPI increase starts one [1] year and [5] months after the Agreement's effective date)*, of this Agreement, the Service Provider upon petitioning the City, shall be entitled to rate and price adjustments on the basis of Standard CPI rate increases equal to the increases in the Water, Sewer, and Trash Collection Services expenditure category of CPI-U (non-seasonally adjusted, rolling 12-month average) published by the U.S. Bureau of Labor Statistics (see www.bls.gov/cpi/ for more information). These rate increases will go into effect in October, the first month of the City's fiscal year, 5 months after a petition is submitted.

B. Landfill Cost Adjustment. The parties acknowledge that the Municipal Solid Waste and Construction and Demolition Waste covered by this Agreement will be disposed of by the Service Provider at the following Landfill(s) chosen by the Service Provider insert the name of the landfill(s) identified in the Service Provider's proposal (the "Initial Landfill(s)"). In the event that the Service Provider is unable to use the Initial Landfill(s) due to reasons out of its control, the Service Provider (i) shall have the right, after consulting with and receiving approval from the City, to dispose of the Municipal Solid Waste and Construction and Demolition Waste covered by this Agreement at another Landfill, and (ii) shall have the right, beginning on any anniversary date of this Agreement and upon giving prior notice to the City, to increase the Initial Rates by an amount equal to the sum of (x) the amount, if any, that the disposal fees charged to the Service Provider at such other Landfill exceed those previously charged to the Service Provider at the Initial Landfill(s), and (y) the amount, if any, that the transportation costs incurred by the Service Provider in connection with transporting the Municipal Solid Waste and Construction and Demolition Waste to such

other Landfill exceed those that would have been incurred by the Service Provider if such Municipal Solid Waste and Construction and Demolition Waste was transported to the Initial Landfill(s).

C. Governmental Fees. The parties acknowledge that the rates herein include all applicable fees, taxes, or similar assessments incurred under federal, state, and local laws, rules, and ordinances (excluding sales taxes and taxes imposed on income) (the "Fees"). The parties acknowledge and understand that the Fees may vary from time to time, and, in the event any of such Fees are increased or additional Fees are imposed subsequent to the effective date of this Agreement, the parties agree that the rates herein shall be immediately increased by the amount of any such increase in Fees or additional Fees. The Service Provider shall promptly provide the City with documents and records in reasonable form and sufficient detail that show the increase in or imposition of any new Fees, which results in an adjustment to the rates pursuant to this Subsection.

SECTION 12 (of 38) EXCLUSIONS

This Agreement shall not cover the collection, hauling, or disposal of any Hazardous Waste, animal or human, dead animals, auto parts, or used tires from any Container provided by the Service Provider located at any Commercial, Roll-Off, or Residential Unit; provided, however, that the Service Provider and the owner or occupant of a Commercial or Single-Family Residential Unit may negotiate an Agreement on an individual basis regarding the collection, hauling, or disposal of Construction and Demolition Waste, auto parts, or used tires by utilizing the Service Provider's Roll-Off Services. The aforementioned exclusion shall not apply to dead animals disposed of at the City's Animal Control Shelter.

SECTION 13 (of 38) TERM OF AGREEMENT

The term of this Agreement shall be for a period of five (5) years, commencing on January 1, 2023 and concluding on December 31, 2027. At the expiration of the term of this Agreement, the Agreement will be extended for five (5) successive periods of one (1) year; provided, that neither party provides the other party with written notice of intent to terminate this Agreement at least one hundred-twenty (120) days prior to the expiration date of this Agreement or one hundred-twenty (120) days prior to any of the then applicable individual one-year extension periods. If either party provides such notice, this Agreement will cease to be renewed and will terminate at the end of either this five (5) year Agreement, or at the end of the subsequent one (1) year extension periods, as applicable.

SECTION 14 (of 38)
ASSIGNMENT

This Agreement shall not be assignable or otherwise transferable by the Service Provider without the prior written consent of the City; provided, however, that the Service Provider may assign this Agreement to any direct or indirect affiliate or subsidiary of the Service Provider or to any person or entity succeeding to all or substantially all of the Service Provider's assets (whether by operation of law, merger, consolidation or otherwise) without the City's consent. The City shall be informed of such assignment, and be provided an opportunity to meet and review the scope of services with the new service provider.

SECTION 15 (of 38)
EXCLUSIVE FRANCHISE ENFORCEMENT

During the term of this Agreement and any extension thereof, the City agrees to adopt and maintain ordinances and revise existing ordinances so as to enable the Service Provider to provide the Services set forth herein. The City shall make reasonable efforts to prevent any other solid waste collection company from conducting business in violation of the exclusive franchise granted herein. If the Service Provider experiences recurring problems of damage or destruction to or theft of the Containers provided by the Service Provider pursuant to this Agreement, the Service Provider may, prior to replacing or repairing such Containers, require security deposits from the Commercial, Roll-Off, or Residential Units utilizing such Containers. To the maximum extent allowed by applicable law, the City also hereby grants to the Service Provider the right of ingress and egress from and upon the property of Commercial, Roll-Off, and Residential Units for the purposes of rendering the Services contemplated hereby.

SECTION 16 (of 38)
PROCESSING, BILLING, AND FEES

A. Monthly Statement. Monthly, just prior to the twenty fifth (25th) day of the month, the City shall bill and, subsequently, collect the rates and fees charged under Subsections 10.A and B hereof, along with any City-approved mark-up to cover the costs of billing and customer service, related to the trash collection, hauling, and disposal services provided under this Agreement, from all Commercial and Residential Units possessing active water meters within the City's corporate limits, as well as from all other Commercial and Residential Units requiring the collection, hauling, and disposal of Municipal Solid Waste within the City's corporate limits (the "Monthly Statement"). Immediately after processing its Monthly Statement, the City shall provide the Service Provider with a report indicating the service type, size, location, and rate for Commercial and Multi-Family Units, as well as the number and rate of Single-Family Residential Units which have been billed for that month. This report, along with notifications received from the City during the course of the month as service to Commercial or Residential Units is altered, shall provide the basis for the Service

Provider's monthly billing to the City. Nothing herein shall prohibit the City from collecting sums in addition to those sums called for herein.

B. Taxes. In addition to the amounts billed and collected by the City under Subsection 16.A of this Agreement, the City shall also be responsible for paying any and all sales, use, and service taxes assessed or payable in connection with the Services, except for Roll-Off Services.

C. Bad Debt; Unpaid Rates/Fees. The City agrees that payments owed to the Service Provider pursuant to this Agreement shall be based solely on the Services rendered by the Service Provider. The Service Provider shall not be held responsible for the collection of "bad debt" billed by and owed to the City for the Services, nor shall the Service Provider be penalized for Services rendered that remain unpaid by any Commercial, or Residential Unit.

D. Billings for Roll-Off Services. Notwithstanding the above, the Service Provider shall bill and collect directly from customers for services performed and sales and use taxes due with respect to Roll-Off Containers pursuant to Subsection 10.C of this Agreement. The City shall have no obligation for unpaid rates or fees associated with those services.

E. Franchise Fee. For the right and privilege of using the City's public rights-of-way to provide exclusive services per the Agreement, the Service Provider, on the first day of each month during the term of the Agreement, shall pay the City a franchise fee equal to five percent (5%) of gross receipts resulting from the operation of the services within the City and will email a report to the City detailing the franchise fee calculation. The City may increase or decrease the franchise fee with ninety (90) calendar day's written notice. Should the City exercise its option to change the franchise fee, the rates listed in Section 10 of this Agreement shall be adjusted to include any direct increase or decrease in cost to the Service Provider.

SECTION 17 (of 38)

SPILLAGE

The successful Proposer shall exercise care to prevent spilling, leaks, and littering. The successful Proposer shall ensure all materials hauled are contained, tied, or enclosed to prevent spilling, leaking, and littering. The successful Proposer shall immediately pick-up and clean-up all spills, leaks (including hydraulic fluid leaks), and litter resulting from successful Proposer's vehicles, or by successful Proposer's employees or subcontractor while performing services under this Agreement. Each vehicle shall be equipped with the proper tools to adequately clean up any spillage.

It is understood and agreed that the Service Provider shall not be required to clean-up, collect, or dispose of any loose or spilled Municipal Solid Waste or Construction and Demolition Waste not caused by the Service Provider's rendering of the Services, or be required to collect and dispose

of any excess Municipal Solid Waste or Construction and Demolition Waste placed outside of the Containers by any Commercial, Roll-Off, or Residential Unit. The Service Provider shall report the location of such conditions to the City so that the City can issue proper notice to the owner or occupant of the Commercial, Roll-Off, or Residential Unit instructing the owner or occupant to properly contain such Municipal Solid Waste or Construction and Demolition Waste. Should excess Municipal Solid Waste or Construction and Demolition Waste continue to be placed outside of the Containers, the City shall require the Commercial, Roll-Off, or Residential Unit to increase the frequency of collection of such Municipal Solid Waste or Construction and Demolition Waste, or require the Commercial, Roll-Off, or Residential Unit to utilize a Container with sufficient capacity so that the excess Municipal Solid Waste or Construction and Demolition Waste will be regularly contained. The Service Provider shall be compensated for these additional Services as provided for in Section 10 of this Agreement, and shall be entitled to receive an extra collection charge for each additional Container requiring an extra collection.

SECTION 18 (of 38)
NON-COLLECTION NOTICE AND FOLLOW-UP

A. Notice from the Service Provider. It is specifically understood and agreed that where the owner or occupant of a Commercial, Roll-Off, or Residential Unit fails to timely place a Container as directed in Sections 4 and 5 of this Agreement, fails to unlock a container or is otherwise in violation of the City's ordinances and regulations, the Service Provider's reasonable rules adopted hereunder, or the provisions of this Agreement relating to the nature, volume, or weight of Municipal Solid Waste or Construction and Demolition Waste to be removed, the Service Provider may refrain from collecting all or a portion of such Municipal Solid Waste or Construction and Demolition Waste and shall notify the City within eight (8) hours thereafter of the reason for such non-collection. The Service Provider shall also provide written notice to the Commercial, Roll-Off, or Residential Unit of the reason for such non-collection, unless such non-collection is the result of the Commercial, Roll-Off, or Residential Unit's failure to timely place the Containers, Bulky Items, or Bundles out for collection. Such written notice shall be attached to the Container or the uncollected Municipal Solid Waste, shall indicate the nature of the violation and shall indicate the correction required in order that such Municipal Solid Waste or Construction and Demolition Waste may be collected.

B. Notice from a Commercial, Roll-Off, or Residential Unit. When the City is notified by an owner or occupant of a Commercial, Roll-Off, or Residential Unit that Municipal Solid Waste or Construction and Demolition Waste has not been removed from such Commercial, Roll-Off, or Residential Unit and where no notice of non-collection or a change in collection schedule has been received by the City from the Service Provider, or the Service Provider has failed to collect Municipal Solid Waste or Construction and Demolition Waste from the Commercial, Roll-Off, or Residential Unit without cause, as supported by notice as described herein, then the Service Provider shall use all reasonable efforts to collect such Municipal

Solid Waste or Construction and Demolition Waste on the day a collection order is issued by the City; provided, however, that if the Service Provider fails to make such collection on the same day that a collection order is issued by the City, the Service Provider shall make such collection no later than 12:00 p.m. on the following Business Day, and there shall be no charge to the Service Provider for any such original non-collection or late collection so long as the Service Provider makes such collection within such time.

C. Disputed Cause of Non-Collection. Where the cause for non-collection is disputed, no hard evidence exists supporting the position held by either party to the dispute, and the customer involved in the dispute has not been a party to another dispute over non-collection within the past six months, the benefit of the doubt shall be extended to the customer and the matter shall be resolved as set forth in Subsection 18.B of this Agreement.

SECTION 19 (of 38) HOURS OF SERVICE

For all the Services provided hereunder, the Service Provider's hours of service shall be between 7:00 a.m. to 7:00 p.m. (except non-single-family collections may commence at 6:00 a.m.), Monday through Friday. If someone residing on or immediately next to a site subject to being collected earlier than 7:00 a.m. complains about the noise associated with that collection, the Service Provider must begin adhering to a 7:00 a.m. starting schedule for that location. The Service Provider will not be required to provide service on weekends or Holidays except during natural disasters or emergencies, and may, at its sole discretion, observe Holidays during the term of this Agreement; provided, however, that the Service Provider shall provide such services on the immediately following Business Day. The Service Provider shall inform the City in writing of all observed Holidays, or changes in Holidays, and waste collection make-up days by January 1st of each year of service.

SECTION 20 (of 38) CUSTOMER SERVICE

The City agrees to field all inquiries and complaints from Commercial and Residential Units relating to the collection, hauling and disposal of Municipal Solid Waste, unless such complaints are related to the Service Provider's Roll-Off Services. The Service Provider and the City agree to cooperate with each other in the response to any such inquiries and the resolution of any such complaints. In order to assist the City in its obligations under this Section, the Service Provider agrees to provide City Hall with a primary contact and toll free telephone number, as well as Service Request Forms, if required, for customer service issues such as changes in service, container repair requests, and missed collections. When City staff reach out to the Service Provider's primary contact regarding customer service issues, said contact shall respond to the City within two (2) hours. The Service Provider shall give each request and/or complaint prompt and courteous attention within twenty-four (24) hours, excluding weekends and holidays. If the

Service Provider is unable to resolve a complaint within twenty-four (24) hours, the Service Provider shall notify City and provide documentation to the City's satisfaction explaining the reasons the complaint cannot be satisfied within twenty-four (24) hours. The outcome of an unresolved complaint will be at the discretion of the City Administrator or her/his designee.

SECTION 21 (of 38)
COMPLIANCE WITH APPLICABLE LAWS

The Service Provider shall comply with all applicable federal and state laws regarding the collection, hauling, and disposal of Municipal Solid Waste and Construction and Demolition Waste, including existing and future laws that may be enacted, as well as any regulations reasonably passed by the City that are not in derogation of this Agreement. Nothing in this Agreement shall be construed in any manner to abridge the City's right to pass or enforce necessary police and health regulations for the reasonable protection of its inhabitants. The City shall have the right to make reasonable inspections of the Service Provider in order to insure compliance with this Section.

SECTION 22 (of 38)
VEHICLE MAINTENANCE AND SPECIFICATIONS

Vehicles used by the Service Provider for the collection, hauling, and disposal of Municipal Solid Waste and Construction and Demolition Waste shall be protected at all times while in transit to prevent the blowing or scattering of said waste onto the City's public streets, or properties adjacent thereto. The Service Provider shall collect any Municipal Solid Waste and/or Construction and Demolition Waste that falls from one of the Service Provider's collection vehicles onto the City's public streets or properties adjacent thereto.

All vehicles shall be kept in a clean and sanitary condition and in good operating order. Collection vehicles shall be painted in the Service Provider's color or colors and shall be clearly marked in a contrasting color with the Service Provider's name and a unique vehicle identification number in characters not less than six (6) inches in height on each side and on the rear of each vehicle. Collection vehicles of sufficient size, number, and mechanical capabilities shall be provided to perform the services specified in this Agreement. All collection vehicles shall be equipped with two-way communication devices so that the successful Service Provider's staff and driver may communicate during the route collection.

SECTION 23 (of 38)
DUE CARE

The Service Provider shall exercise due care and caution in providing the Services so that the City's public and private property, including streets and parking areas, will be protected and preserved.

SECTION 24 (of 38)
PERSONNEL AND PERFORMANCE STANDARDS

The Service Provider shall not deny employment to any person on the basis of race, creed, or religion, or other federally protected category and shall ensure that all federal and state laws pertaining to salaries, wages, and operating requirements are met or exceeded. The Service Provider, its agents, servants, and employees shall perform the Services in a courteous, competent, and professional manner. During the term of this Agreement and any extension thereof, the Service Provider shall be responsible for the actions of its agents, servants, and employees while such agents, servants, and employees are acting within the scope of their employment or agency.

SECTION 25 (of 38)
PERFORMANCE BOND

Upon the execution of this Agreement, the Service Provider shall make, execute, and deliver to the City a good and sufficient performance bond in a form approved by the City to secure the full, complete, and faithful performance of the terms and conditions of this Agreement during its first year. The Surety shall be a surety company duly authorized to do business in the State of Texas, having an “A” or better rating by A.M. Best or Standard and Poors, included on the list of surety companies approved by the Treasurer of the United States of America, and acceptable to the City. The Service Provider shall pay all premiums chargeable for the Performance Bond. The performance bond shall be valid and non-cancelable for a period of one year. The performance bond must be equal to the estimated amount of the initial twelve (12) calendar months of fees to be paid to Service Provider by City and customers as estimated by the City.

SECTION 26 (of 38)
INSURANCE COVERAGE

During the term of the Agreement, the Service Provider shall maintain in full force, at its expense, insurance coverage with minimum limits as follows:

Workers’ Compensation

Coverage A	Statutory limits
Coverage B - Employers Liability	\$1,000,000 per Employee per Disease
	\$1,000,000 per Employee per Accident
	\$1,000,000 by Disease aggregate

Automobile Liability

Bodily Injury/Property Damage	\$3,000,000
Combined – Single Limit	Coverage is to apply to all owned, non-owned, hired

Pollution Liability Endorsement	and leased vehicles (including trailers). For property damage, bodily injury and clean up MCS-90 endorsement for pollution liability coverage
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Commercial General Liability

Bodily Injury/Property Damage	\$5,000,000 each occurrence
Combined – Single Limit	\$5,000,000 general aggregate

All such insurance policies will be primary and written on forms acceptable to the City without the right of contribution from any other insurance coverage maintained by the City. All policies required herein shall be written by insurance carriers with a rating of A.M. Bests of at least “A-” or “Excellent” and a financial size category of at least VII. Prior to the execution of the Agreement, the Service Provider shall furnish the City with an original certificate of insurance and a copy of the amendatory endorsements, including, but not limited to, the additional insured endorsement, evidencing that such coverages are in effect. Such certificate: (i) will also provide for thirty (30) days prior written notice of cancellation to the City; (ii) shall show the City as an additional insured on all policies other than Worker’s Compensation; and, (iii) shall contain waivers of subrogation in favor of the City (excluding Worker’s Compensation policy) except with respect to the sole negligence or willful misconduct of the City.

In addition, the following requirements apply:

- The Commercial General Liability policy must include Contractual Liability coverage specifically covering the Service Provider’s Indemnification of the City herein.
- Coverage must be provided for Products/Completed Operations.
- The policy shall also contain a cross Liability/Severability of Interests provision assuring that the acts of one insured do not affect the applicability of coverage to another insured.
- The cancellation clause on the Service Provider’s insurance certificate must conform to the endorsement. Any conflict between the endorsement and the certification is a breach of the Agreement and can result in retraction by the City of the award of the Agreement to the Service Provider or termination of the Agreement.
- The Service Provider shall file proof of insurance meeting the requirements as set forth herein with the City. The Service Provider shall be solely responsible for assuring that all proofs of insurance filed with the City are current. Failure of the Service Provider to fully comply with the requirements set forth herein regarding insurance is a breach of the Contract and the City may terminate the Agreement with the Service Provider.
- No changes are to be made to these specifications without the City’s prior written approval.
- The City’s approval of the insurance shall not relieve or limit the liability of the Successful

Proponent for any damages arising from the Service Provider's performance or nonperformance of Services provided herein.

- All policies required herein, unless specific approval is given by the City, are to be written on an occurrence basis and the insurers shall agree to waive all right of subrogation against the City.
- Each policy shall apply separately to each insured against whom claim is made and suit is brought, except with respect to the limits of the insurer's liability.

To the extent permitted by law, any or all of the insurance coverage required by this Section may be provided under a plan(s) of self-insurance, including coverage provided by the Service Provider's parent corporation. The City Attorney must review and approve all plans for self-insurance.

SECTION 27 (of 38) INDEMNITY

The Service Provider shall indemnify the City against any claims, actions, or suits, including court costs and reasonable attorneys' fees, to the extent caused by the Service Provider's negligent or willful misconduct in providing the services required by this Agreement. Upon obtaining knowledge of any matter giving rise to possible indemnification, the City shall notify the service provider immediately. The Service Provider shall have the right to defend or contest any such claim or demand in the name of the City. The City shall provide such cooperation in connection therewith as the Service Provider may reasonably request and shall make available to the Service Provider or its representatives all records and other materials reasonably required in such defense. So long as the Service Provider is contesting or defending any such claim or demand in good faith, no amount related to the claim shall be deemed to be due from either City or service provider hereunder unless the City has been required by order of any court to pay any sum arising from the subject matter of the suit. However, the Service Provider shall not be liable for any legal proceedings, claims, demands, damages, costs, expenses, and attorneys' fees caused by a willful or negligent act or omission of the City, its agents, directors, employees, officers, and servants.

SECTION 28 (of 38) ADMINISTRATIVE CHARGES

The Service Provider understands that if it does not timely perform its obligations pursuant to the terms of this Agreement or violates any provision of this Agreement, City will suffer damages which are difficult to determine and adequately specify. The Service Provider agrees, in addition to any other remedies available to City, that City may withhold payment from the Service Provider in the amounts specified below as administrative charges for failure of the Service Provider to fulfill its obligations. The following acts or omissions shall be considered a breach of

this Contract and City may require payment by the Service Provider of the charges set forth for each act:

- A. Failure to complete all collections between 6:00 a.m. and 7:00 p.m.: One thousand dollars (\$1,000) per route.
- B. Missed collection: Fifty Dollars (\$50) per missed collection in excess of two (2) missed collections per day. A missed collection occurs when a customer reports a missed collection, the address was not reported by the Service Provider as an unacceptable set-out, and the Service Provider cannot provide data demonstrating collection vehicle traveled on street and collections occurred on street.
- C. Missed Residential Unit block: Five Hundred Dollars (\$500) per incident the Service Provider failing to pick up material on a block containing Residential Units. A missed residential unit block is where three (3) Residential Units on one side of a street between cross streets, or an entire cul-de-sac report a missed collection. A missed Residential Unit block occurs when the addresses reporting missed collections were not reported by the Service Provider as unacceptable set-outs and the Service Provider cannot provide data demonstrating collection vehicle traveled on street and collections occurred on block.
- D. Failure to correct a missed collection as specified in the Agreement: Twenty Five Dollars (\$25) per occurrence per day.
- E. Failure to clean up spill as specified in the Agreement: Two Hundred Dollars (\$200) per incident per day.
- F. Failure to provide collection at the same customer two (2) or more times within a thirty-day (30) period: Fifty Dollars (\$50) per occurrence over one (1) occurrence.
- G. Failure to distribute unacceptable set-out notice in accordance with the Agreement: Twenty Dollars (\$20) per occurrence.
- H. Failure to submit an accurate report in the specified format, as required by the Agreement: Two Hundred Dollars (\$200) per report per calendar day.
- I. Failure to submit an accurate accounting (i.e. invoice, quarterly and annual reports): Non-payment until an accurate monthly accounting is submitted.
- J. Failure to respond to any customer complaint in accordance with the Agreement: One Hundred Dollars (\$100) per incident per calendar day.

K. Failure to be prepared to perform services on or after the commencement date: Three Thousand Dollars (\$3,000) per calendar day.

L. Failure to deliver, haul, or remove a Roll-Off in accordance with the requirements of Section 6 of this Agreement: (\$50) per calendar day.

City may impose administrative charges when the City's designated representative determines that performance consistent with the provisions of this Agreement has not occurred. The City's designated representative shall notify the Service Provider in writing or electronically of each act or omission under the terms of this Agreement reported to or discovered by City or its designee. It shall be the duty of the Service Provider to take whatever steps or action may be necessary to remedy the cause of the complaint.

City may deduct the full amount of any such charges from any payment due to the Service Provider. The remedy available to City under this paragraph shall be in addition to all other remedies which City may have under law, at equity, or pursuant to the terms of this Agreement. The Service Provider's obligations to make payments for such charges under this Section occurring prior to the expiration or termination of this Agreement shall survive termination or expiration of this Agreement.

SECTION 29 (of 38) TERMINATION

Either party may provide the other with written notice of a material breach of this Contract by the other party and the breaching party shall have sixty (30) days from the date on which it receives such notice in which to cure such breach. In the event that such breach is not cured on a timely basis, the non-breaching party shall have the right to terminate this Agreement upon ten (10) days prior written notice. Upon the effective date of termination as contained in the notice, the Service Provider shall immediately discontinue all Services in connection with this Agreement. At such time, the City shall pay the Service Provider only for charges and fees in which Services performed on or before such termination date.

In the event of a termination due to a breach of this Contract by the Service Provider, the City may exercise its rights under the Service Provider's performance bond and procure the services of another waste services provider to complete the work covered under this Agreement for the remainder of the time period covered by the initial term of the Agreement or extension thereof.

If the City determines, and notifies the Service Provider, that such default poses an immediate threat to the health or safety of any person or to any property interest, and if the Service Provider has not cured such default within twenty-four (24) hours after receipt of such notice, the City

shall have the right to perform or cause to be performed all or part of the work necessary to cure such default. In the event that the City performs such work, or caused it to be performed, the Service Provider shall compensate the City for the cost thereof. The City shall have the right to deduct any such compensation due to the City from any sums otherwise due and owing to the Service Provider.

The City may withhold all or part of any sums which would otherwise be due to the Service Provider, but that relate to such default, either until such time as such default is cured or if such default cannot be cured, forever.

In the event that the Service Provider shall fail to perform any of the material provisions of the Agreement, the City shall promptly notify the Service Provider of its noncompliance, stating with particularity the facts relating thereto and the period of time the Service Provider has to comply. Thereafter, if the event or condition is not corrected or otherwise made to comply with the terms of the Agreement within the period of time specified by the City, the same is a violation of the Agreement, subject to the non-compliance penalty set forth in the Agreement. This remedy is hereby expressly made cumulative of other remedies available to the City, at law or in equity, for the breach of this Contract.

SECTION 30 (of 38)
FORCE MAJEURE

The performance of this Agreement may be suspended and the obligations hereunder excused in the event and during the period that such performance is prevented by a cause or causes beyond reasonable control of such party. The performance of this Agreement will be suspended and the obligations hereunder excused only until the condition preventing performance is remedied. Such conditions shall include, but not be limited to, acts of God, acts of war, accident, explosion, fire, flood, riot, sabotage, acts of terrorists, unusually severe weather, lack of adequate fuel, or judicial or governmental laws or regulations.

SECTION 31 (of 38)
GOVERNING LAW

This Agreement shall be governed in all respects, including as to validity, interpretation, and effect, by the internal laws of the State of Texas, without giving effect to the conflict of laws rules thereof. The parties hereby irrevocably submit to the jurisdiction of the courts of the State of Texas and the Federal courts of the United States located in the State of Texas, solely in respect of the interpretation and enforcement of the provisions of this Agreement, and hereby waive, and agree not to assert, as a defense in any action, suit or proceeding for the interpretation or enforcement hereof, that it is not subject thereto or that such action, suit or proceeding may not be brought or is not maintainable in said courts or that the venue thereof may not be appropriate or that this Agreement may be enforced in or by said courts, and the parties hereto

irrevocably agree that all claims with respect to such action or proceeding shall be heard and determined in a Court in Somervell County. The parties hereby consent to and grant any such court jurisdiction over the person of such parties and over the subject matter of any such dispute and agree that mailing of process or other papers in connection with any such action or proceeding to the addresses of the parties listed below, or in such other manner as may be permitted by law, shall be valid and sufficient service thereof.

**SECTION 32 (of 38)
NOTICES**

Any notices required or permitted to be delivered hereunder shall be in writing and shall be deposited in the United States mail, postage prepaid, certified mail, return receipt requested, addressed to the respective party at the address set forth below:

If to the City: City of Glen Rose
 P.O. Box 533
 Glen Rose, TX, 76457

If to the Service Provider: *Contact information of successful proponent to be inserted.*

**SECTION 33 (of 38)
ATTORNEYS' FEES**

The prevailing party in any dispute between the parties arising out of the interpretation, application, or enforcement of any provision hereof shall be entitled to recover all of its reasonable attorneys' fees and costs whether suit be filed or not including without limitation costs and attorneys' fees related to or arising out of any trial or appellate proceedings.

**SECTION 34 (of 38)
RECORDS**

City and Service Provider agree to maintain at their respective places of business adequate records relating to the performance of their respective duties under this Agreement. Such records shall be made available at any time during reasonable business hours for inspection by the other party, at the inspecting party's expense, and upon reasonable advance notice; provided, however, only records directly relating to proper performance of this Agreement and necessary to substantiate invoicing must be disclosed to the other party.

**SECTION 35 (of 38)
ACKNOWLEDGMENT**

The parties acknowledge that the failure of the Service Provider to collect, haul, and dispose of Municipal Solid Waste and Construction and Demolition Waste in the City might damage the

City in a way that could not be adequately compensated by monetary damages. The parties therefore agree that a breach or threatened breach of the Service Provider's obligations hereunder may appropriately be restrained by an injunctive order, granted by a court of appropriate jurisdiction.

SECTION 36 (of 38)
CUMULATIVE REMEDIES

Pursuit of the remedies described in Section 31 of this Agreement shall not preclude pursuit of any other remedies provided in this Agreement or any other remedies provided by law, nor shall pursuit of any remedy provided in this Agreement constitute a waiver of any amount or performance due from the Service Provider under this Agreement or of any damages accruing by reason of the violation of its term, provisions, and covenants. No waiver of any violations shall be deemed or construed to constitute a waiver of any other violation or other breach of any of the terms, provisions, and covenants contained in this Agreement, and forbearance to enforce one or more of the remedies as provided on an event of default shall not be deemed or construed to constitute a waiver of such default or of any other remedy provided for in this Agreement.

SECTION 37 (of 38)
SAVINGS PROVISION

In the event that any term or provision of this Agreement shall be determined by a court of competent jurisdiction to be invalid or unenforceable, this Agreement shall, to the extent reasonably possible, remain in force as to the balance of its terms and provisions as if such invalid term or provision were not a part hereof.

SECTION 38 (of 38)
ACCEPTANCE

The City chooses to go with _____-a-week Single Family Residential Service.

The City chooses to go with _____ -a-year Single Family Residential Service Unit access to the Frontier Transfer Station.

Passed and approved by the City of Glen Rose Council at a time and place in complete conformity with the open meeting laws of the State of Texas and all other applicable laws this the 10th day of May, 2022.

FRONTIER TEXAS VENTURES I, LLC
DBA FRONTIER WASTE SOLUTIONS

CITY OF GLEN ROSE

By: _____
John Gustafson, President/CEO

By: _____
Julia Douglas, Mayor

THE STATE OF TEXAS }
COUNTY OF _____ }

This instrument was acknowledged before me on the _____ day of _____,
2022, by John Gustafson, Chief Executive Officer, Frontier Texas Ventures I, LLC.

Notary Public, State of Texas

THE STATE OF TEXAS }
COUNTY OF SOMERVELL }

This instrument was acknowledged before me on the _____ day of _____,
2022, by Julia Douglas, Mayor of the City of Glen Rose, Texas.

Notary Public, State of Texas