

VILLAGE OF NEW HAVEN SOLID WASTE MANAGEMENT SERVICES CONTRACT

This contract (the "Contract") made and entered into this 30th of September, 2019 by and between the Village of New Haven, a Michigan municipal corporation, whose offices are located at 57775 Main Street, New Haven, MI 48048, hereinafter referred to as the "Village" and GFL Environmental USA Inc., a Delaware corporation, duly registered in the State of Michigan, with its principal place of business located at 26999 Central Park Blvd., Suite 200, Southfield MI, 48076, hereinafter referred to as the "Contractor".

RECITALS

WHEREAS, the Village issued a request for proposal dated April 15, 2019 for the provision of solid waste, yard waste and recycling collection, transportation and disposal services to single family homes in the Village, as well as certain other solid waste management services (collectively, the "Services") for the period beginning October 1, 2019 and ending September 31, 2024, as amended and supplemented by Addendum No. 1 and 2 (collectively, the "RFP").

WHEREAS, pursuant to the RFP, the Contractor submitted a proposal dated June 21, 2019 to the Village to provide the Services (the "Proposal"), which has been accepted by the Village.

NOW, THEREFORE, in consideration of the mutual promises and agreements herein set forth, the Village and the Contractor agree as follows:

1. **Contractor Responsibilities and Compensation.**

(a) The Contractor shall, during the term of this Contract or any extension thereof, provide the Services in accordance with Contract Documents. The Contractor shall perform all other terms, conditions, requirements, and services as set forth in the Contract Documents and those services which are incidental thereto for the compensation set forth in the Contract Documents.

(b) A complete list of single family unit stops will be provided by the Village to the Contractor prior to the commencement date of the Term. The Village will advise the Contractor of any changes to the number of single-family households to which Services are to be provided annually.

(c) The Contractor and the Village acknowledge that the market for recyclables is currently in a state of flux and that as a result some materials, such as glass, which have historically be included as recyclable materials, may not be recyclable. Accordingly, the Village agrees that materials which are included in commingled recyclables collection, but for which the Contractor determines in good faith that there is no market, may be dealt with by the Contractor as solid waste. In addition, the Village agrees to meet with the Contractor periodically to review the state of recyclables market and the recycling services

to be provided by the Contractor under this Contract.

2. **Contract Documents.** The RFP and the Proposal submitted by the Contractor, including all attachments and appendices thereto, (collectively with this Contract, the "Contract Documents") are incorporated herein by reference and shall become a part of this Contract and shall be binding upon the parties hereto. If there is any variance between the Contract and any of the other documents, the Contract itself will be the controlling document.

3. **Term of Contract.** The initial term of this Contract shall be for a period of five (5) years, commencing on October 1, 2019 and ending on September 31, 2024 (the "Term"). Upon the mutual agreement of the Contractor and the Village, the Term may be extended at a rate to be mutually agreed upon by the parties hereto.

4. **Payment Terms.**

(a) The Contractor shall submit an invoice to the Village on or before the 1st day of each month for the Services to be performed during the month for which the invoice is submitted. Payment by the Village shall be due and payable within 30 days of the invoice date. The Village shall be solely responsible for all billing and collection of residents of single family units that receive the Services.

(b) The rates for household waste collection as stated in the Proposal and incorporated herein by reference pursuant to Paragraph 2 of the Contract, are specifically restated here and shall be as follows:

Year One:	\$15.60/unit per month
Year Two:	\$16.08/unit per month
Year Three:	\$16.57/unit per month
Year Four:	\$17.08/unit per month
Year Five:	\$17.60/unit per month

Comingled recyclable and yard waste collection are included in the above rates at no extra charge.

(c) The rates for 20-yard roll-off special waste, 30-yard roll-off, and recycling bin costs are listed in the Proposal and incorporated herein by reference pursuant to Paragraph 2 of the Contract.

5. **Permits.** The Contractor agrees to assume complete responsibility for securing any and all permits, licenses, privileges, or rights of any nature whatsoever necessary for the collection and disposal of materials under this Contract which are or might be required. The Contractor further agrees to abide by any and all rules and regulations that are imposed by any authorized agency or unit of government, and save and hold harmless the Village from any violation therefrom.

6. **Vehicles.** All vehicles and equipment utilized by the Contractor in the performance of the services under this Contract shall be kept in a safe and good operating order and in a clean, presentable condition.
7. **Rewards for Recycling.** The Contractor and the Village agree that the Village has opted out of the Rewards for Recycling program in consideration for a thirty-five cent (\$0.35) monthly rate reduction per unit for household waste collection as reflected in the rates included in Paragraph 4(b) of the Contract.
8. **Assignability.** The Contractor shall not assign nor subcontract this Contract or any part thereof to any person or firm unless such assignment or subcontract is first approved in writing by the Village Council, which consent shall not be unreasonably withheld or conditioned.
9. **Indemnification.** The Contractor shall be liable for any injury or damage occurring as a result of any act or omission of Contractor, any employee, agent, subcontractor or representative of the Contractor in the performance of the Services. The Contractor hereby agrees to protect, indemnify, and save harmless the Village, its officials, officers, agents, servants, and employees (collectively the "Indemnified Parties") from and against any and all claims, demands, suits, losses and settlement including actual attorney fees incurred and all costs in connection therewith for any damages that may be asserted, claims or recovered against the Indemnified Parties by reason or personal injury and/or property damage as a result of or in any way connected with any negligent, tortious, or intentional act, error, or omission on the part of the Contractor or others whose services are engaged by the Contractor or anyone directly or indirectly employed or controlled by either of them in the course of the performance of the Services provided for in the Contract, including claims under worker's compensation laws of the State of Michigan.

The Contractor agrees that it is its responsibility and not the responsibility of the Village to safeguard its property or the property and materials that any employees, consultants, or subcontractors use or have in their possession while performing the Services under this Contract.

10. **Performance Bond.** The Contractor shall provide a Performance Bond in an amount of Fifty-Five Thousand Dollars (\$55,000.00) for the Term of the Contract and any extension thereof, in favor of the Village.
11. **Insurance Requirement.** The Contractor shall obtain and maintain throughout the Term, insurance with limits that are no less than set out in the Certificate of Insurance submitted to the Village with the Contractor's Proposal, which insurance shall name the Village as an additional insured. The Contractor will provide the Village with a Certificate of Insurance to confirm its compliance with the provisions of this Section 11 annually.

12. **Termination and Default by Contractor.** The Village may terminate this Contract prior to its expiration date upon prior written notice of the occurrence of a default, which is not cured by the Contractor within thirty (30) days of the date of notice or as hereinafter provided. Each of the following events shall constitute a default:
- A. The failure by the Contractor to fulfill any of its obligations hereunder in a timely and proper manner in accordance with the Contract Documents.
 - B. The failure of the Contractor to perform any material covenants, agreements, terms or obligations set forth in the Contract Documents.
 - C. The Contractor ceases to conduct business in the normal course by reason of insolvency, receivership or by or in bankruptcy, whether voluntary or involuntary.

The Village shall provide written notice to the Contractor by certified mail, return receipt requested, specifying the default. If the default specified by the Village is not capable of cure within thirty (30) days of the date of notice, if the Contractor promptly undertakes reasonable actions to cure the failure and diligently pursues same to completion to the reasonable satisfaction of the Village, there shall be no default, unless the Contractor defaults in its performance on a repeated basis.

- 12A. **Service Level Default by Contractor.** Notwithstanding any other provisions in the Contract Documents, the Contract, and in particular Paragraph 12 of the Contract, the Village may, in its sole discretion and specifically without regard to the curative measures contained in Paragraph 12, terminate the Contract at the next regular or special New Haven Board of Trustees meeting if the Village receives 12 credible and factually supported, verified complaints of nonservice from Village residents served by the Contractor on any single date of service. For the purposes of this section, a "complaint of nonservice" is defined as any complaint regarding Services that is not remedied to the reasonable satisfaction of the Village and the homeowner before 12:00 p.m. (noon) on the day following the scheduled date of service.
- 12B. **Waste Container Size.** The use of 96, 95, 65, 64, 32, and 18-gallon trash carts/bins in serviceable condition, shall not, alone, be an excuse for nonservice by Contractor.
13. **Failure to Perform Beyond Control of the Contractor.** Notwithstanding any other provision in the Contract Documents to the contrary, the Contractor shall not be in default or otherwise liable for any failure to perform any of its obligations under this Contract, if such failure is caused by forces beyond the control of Contractor including but not limited to war, civil disasters or by any force majeure or act of God. Provided, however, that whenever the Contractor seeks to implement the protection of this section, it must promptly notify the Village in writing of the force majeure event, which notice shall specify:

- A. The force majeure event;
- B. Contractor's efforts to resolve the force majeure event as soon as reasonably possible; and,
- C. Contractor's estimate of when the force majeure event will be resolved.

Contractor shall promptly begin and diligently pursue to completion all reasonable actions or activities to eliminate the force majeure event so as to resume performance under this Contract as soon as reasonably possible.

Notwithstanding efforts by Contractor, if the force majeure event impacts the health, safety and welfare of Village residents, the Village shall have the right to undertake whatever actions it deems appropriate to resolve the force majeure event.

Strikes, labor disputes, work stoppages or "slowdowns" or the like shall not provide, in any manner, an acceptable or excusable basis for delay, partial performance, or non-performance by the Contractor of the Services under the Contract. In the event of the occurrence of such strikes, labor disputes, work stoppages, "slowdowns" or the like, the Contractor shall remain obligated and liable to the Village for the complete and proper performance of the Services in accordance with the terms of the Contract.

14. **Termination and Default by Village.** The Contractor may terminate this Contract prior to its expiration date upon prior written notice of the occurrence of a default, which is not cured by the Village within thirty (30) days of the date of notice or as hereinafter provided. Each of the following events shall constitute a default:

- A. The failure by the Village to fulfill any of its obligations hereunder in a timely and proper manner in accordance with the Contract Documents.
- B. The failure of the Village to perform any material covenants, agreements, terms or obligations set forth in the Contract Documents.
- C. The failure of the Village to pay the Contractor in accordance with the Contract Documents within thirty (30) days following receipt of a monthly invoice from the Contractor.

The Contractor shall provide written notice to the Village by certified mail, return receipt requested specifying the default. If the default specified by the Contractor is not capable of cure within thirty (30) days of the date of notice, if the Village promptly undertakes reasonable actions to cure the failure and diligently pursues same to completion to the reasonable satisfaction of the Contractor, there shall be no default, unless the Village defaults in its performance on a repeated basis.

15. **Modification.** The terms of this Contract may only be modified, changed or altered upon the mutual written agreement of the Contractor and the Village. No such amendment shall be effective and binding unless it expressly makes

reference to this Contract, is in writing, has been approved by the Village Council, and is signed by the Contractor and the duly authorized representative(s) of the Village.

16. **Non-Discrimination.** The Contractor shall not discriminate against any person, employee, or applicant for employment with respect to hire, tenure, terms, conditions, or privileges of employment because of religion, race, color, national origin, age, sex, height, weight, marital status, handicap or other classification that is prohibited from discrimination by law.
17. **Waiver.** No failure on the part of either party hereto to insist upon the strict performance of any covenant, term, or condition of this Contract or to exercise any right, term, or remedy consequent upon a breach thereof, shall constitute a waiver of any such breach. No waiver of any breach shall affect or alter this Contract, but each and every covenant, term, and condition of this Contract shall continue in full force and effect with respect to any other then existing or subsequent breach thereof.
18. **Entire Agreement.** The Contract Documents, including any exhibits attached thereto, contain the entire agreement between the parties and all prior negotiations and agreements are merged herein.
19. **Compliance With Laws.** The Contractor, its employees and agents, shall carry on its business and operations under this Contract in compliance with all applicable federal, state, county or local laws, statutes, rules, regulations or ordinances including all requirements of the Wage and Hour Act, and all other statutory provisions both State and Federal, regarding hours, rates, etc..
20. **Governing Law.** This Contract is made in and shall be governed by the laws of the State of Michigan.
21. **Independent Contractor Relationship.** The Contractor is and shall perform this Contract as an independent contractor with complete control over and responsibility for its employees, agents, subcontractors and operations, and for payment of all compensation, benefits, insurance and taxes for such personnel and operations. No employee, agent or representative of the Contractor shall represent, act or be considered as an agent, representative or employee of the Village.
22. **Notices.** Any notices to be given hereunder shall be in writing and delivered by certified mail, return receipt requested as follows:

To the Village: Village of New Haven
57775 Main Street
New Haven MI, 48048
Attention: President Chris Dilbert

To the
Contractor:

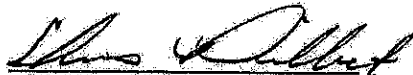
GFL Environmental USA Inc.
26999 Central Park Blvd., Suite 200
Southfield MI, 48076
Attention: Mr. Lou Berardicurti

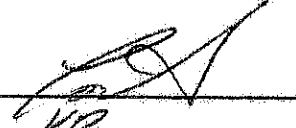
23. **Execution.** This Contract may be executed in one or more counterparts (including counterparts exchanged as by pdf copies), and all such counterparts taken together will be deemed to constitute one and the same instrument and be treated as an original for all purposes.

IN WITNESS WHEREOF, this Contract has been duly executed and shall become effective on the date of the last signature stated below.

VILLAGE OF NEW HAVEN

GFL ENVIRONMENTAL USA INC.

By: 
Title: PRESIDENT
Dated: 9-20-19

By: 
Title: VP
Dated: Sept 30, 2019