

**CITY OF NORTH MIAMI
FRANCHISE AGREEMENT FOR SOLID WASTE
& RECYCLING COLLECTION AND DISPOSAL SERVICES**

THIS AGREEMENT (“Agreement”) is made and entered into on 10/13/2020 by and between:

THE CITY OF NORTH MIAMI, a municipal corporation of the State of Florida, having its principal office at 776 NE 125th Street, North Miami, FL 33161, hereinafter referred to as "CITY",

and

WASTE PRO OF FLORIDA, INC., a profit corporation authorized to do business in the State of Florida, with a business address of 2101 W SR 434, 3RD FLOOR, LONGWOOD, FL, hereinafter referred to as "CONTRACTOR".

RECITALS

WHEREAS, on July 14, 2020, the CITY adopted Resolution No. 2020-R-78 approving the selection of CONTRACTOR as the provider of sanitation services for the City of North Miami; and

WHEREAS, the CITY desires to enter into an agreement with CONTRACTOR to provide sanitation services as set forth in Request for Proposals #22-18-19 - Sanitation Services, attached as Exhibit “A”; and

WHEREAS, CONTRACTOR represents that it has the required degree of specialized expertise, qualifications and experience, and holds all necessary licenses to practice and perform the services herein contemplated.

NOW THEREFORE, in consideration of the mutual terms and conditions set forth herein and other good and valuable consideration, the Parties hereto agree as follows:

ARTICLE 1 - PREAMBLE

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

1.2 On May 6, 2019, the CITY advertised its *Request for Proposals #22-18-19 – Sanitation Services* establishing the CITY's desire to hire a firm to provide Solid Waste and Recycling Collection and Disposal Services as more particularly described in Exhibit "A" attached hereto and by this reference made a part hereof, for the said bid entitled:

RFP# 22-18-19 – SANITATION SERVICES

1.3 On July 14, 2020, pursuant to the adoption of Resolution No. 2020-R-78, the CITY awarded the bid to CONTRACTOR and authorized the proper CITY officials to negotiate and enter into an agreement with CONTRACTOR to render the services more particularly described herein below.

1.4 Negotiations pertaining to the services to be performed by the CONTRACTOR were undertaken and this Agreement incorporates the results of such negotiation.

ARTICLE 2 - CONTRACT DOCUMENTS

2.1 The following documents, collectively referred to as the "Contract Documents", are incorporated into and made part of this Agreement:

- 2.1.1 ***Request for Proposals #22-18-19 – Sanitation Services*** and all addendums issued pursuant to, including all conditions therein, attached hereto as “Exhibit A”;
- 2.1.2 Resolution No. 2020-R-78 attached as “Exhibit B”;
- 2.1.3 Chapter 9 of the City’s Code of Ordinances attached as “Exhibit C”;
- 2.1.4 CONTRACTOR’s response to the RFP, (“Bid”), attached hereto as “Exhibit D”;
- 2.1.5 Rate Schedule attached as “Exhibit E”;
- 2.1.6 Manual of Operational Procedures attached as “Exhibit F”;
- 2.1.7 Community Outreach Proposal attached as “Exhibit G”
- 2.1.8 Any additional documents which are required to be submitted in the provision of Services.

2.2 These contract documents form the Agreement, and all are as fully a part of the Agreement as if attached to this Agreement or repeated therein. In the event that there is a conflict between documents, the following order of priority shall take precedence:

- A. This agreement;
- B. Request for Proposal #22-18-19 and all addendums issued pursuant to;
- C. Chapter 9 of the City’s Code of Ordinances;
- D. Contractor’s bid response to the RFP;
- E. Manual of Operational Procedures;

ARTICLE 3 - SERVICES AND RESPONSIBILITIES

3.1 CONTRACTOR hereby agrees to perform the Solid Waste and Recycling Collection and Disposal Services, as more particularly described in Exhibit "A" attached hereto and by this reference made a part hereof, in accordance with the Scope of Services outlined in the

specifications, "RFP #22-18-19," attached hereto and made a part hereof as Exhibit "A" and CONTRACTOR's response thereto, attached hereto and made a part hereof as Composite Exhibit "B". CONTRACTOR agrees to do everything required by this Agreement, the Sealed Bid Package, Addenda to this Agreement, and Commission award complete with proposal form.

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

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

3.4 CONTRACTOR shall schedule regular meetings with the CITY representatives at least once a month to discuss issues related to the Solid Waste Collection and Disposal Services, as more specifically described in Exhibit "A".

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

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

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

3.8 CONTRACTOR shall provide the CITY with One Hundred Twenty Thousand and 00/100 Dollars (\$120,000.00) annually during each year of this Agreement, including any extension or renewal periods in order to fund a Assistant Director of Sanitation position at the CITY. The Contract Compliance Manager shall be selected and employed by the CITY in the CITY's sole discretion. The annual compensation of the Contract Compliance Manager position shall be payable on the anniversary date of this Agreement every year for so long as the Agreement is in force and effect. Contract Compliance Manager shall not be considered an employee or representative of CONTRACTOR.

3.9 CONTRACTOR shall provide the CITY with one (1) 2020 or newer Ford F150 Truck to be used by the CITY's Code Compliance Department.

3.10 CONTRACTOR shall provide five (5) new trucks, within six (6) months of contract execution, to be used for both garbage and recycling pick-ups within the CITY pursuant to the terms of this Agreement. All CONTRACTOR trucks shall include specific lettering clearly indicating that the trucks are to be used for residential pick-up within the City of North Miami. All trucks shall be equipped with a GPS tracking system, and the CITY shall have access to all GPS tracking data for trucks used pursuant to this Agreement.

3.11 CONTRACTOR will integrate the TRAC EZ software on to the CITY's website upon contract execution to ensure the ability of residents to submit complaints and trash and recycling requests including cart replacement and missed pick-ups in a quick and efficient manner. The TRAC EZ system is designed to develop a "real time" tracking and reporting mechanism for the collection of bulk trash and/or oversize piles and providing email responses and notices to the requestor and City administration once the work has been completed as well as the ability to upload pictures to verify that the work has been completed in a satisfactory manner.

3.12 CONTRACTOR shall be responsible for the billing of payments for Commercial Services and Multi-family service units of five (5) or more and paying the twenty percent (20%) Franchise Fee to the CITY Monthly. The CITY shall be responsible for the billing and collecting payments from single family residents and multi-family units 4 or less.

3.13 CONTRACTOR will [implement the necessary measures to avoid or clean up any spillage during the course of their duties](#) including, but not limited to, the following:

- Ensuring that during transport all materials are properly contained, covered or enclosed to avoid spillage or blowing off materials.
- Ensuring that their employees are properly trained and supervised regarding the need for immediate cleanup of any spillage. To this end, Waste Pro will provide the City with a copy of their "Manual of Operational Procedures" to be followed by their employees in their performance of their duties under this contract.
- Failure to satisfactorily resolve the issue of spillage may result in the imposition of administrative penalties by the City.
- Ensure that the field work performed by Waste Pro under this contract is properly supervised by a qualified "Field Supervisor" who is multi-lingual and fluent at the very least in English and Creole.

ARTICLE 4 - FRANCHISE

4.1 FRANCHISE - For a period of seven (7) years commencing on November 1, 2020 (the "Effective Date"), and for any renewal terms, the CITY hereby grants CONTRACTOR the exclusive franchise and the sole obligation to operate and maintain a comprehensive garbage, trash and other refuse collection including roll-off and removal system and service as well as recycling collection systems for residential customers in and for CITY of North Miami and operate and maintain a comprehensive garbage, trash and other refuse collection including roll-off and removal system and service for commercial customers in and for CITY of North Miami as specified in RFP# 22-18-19, Sanitation Services, which is attached hereto as Exhibit "A", and incorporated herein by reference. CONTRACTOR is authorized by CITY to enter in and upon private property,

in, upon over and across the present and future streets, alleys, bridges, easements and other public places of the City of North Miami for the purposes of collecting the garbage, trash, recyclables, and other refuse of the residents, inhabitants, businesses and other entities existing within the municipal corporate limits of the City of North Miami, Miami-Dade County, Florida, or as directed in conformance with the Charter and Ordinances of the City of North Miami and other applicable law.

4.2 TERM OF FRANCHISE - The term of this Contract/Franchise for Solid Waste & Recycling Collection and Disposal Services (the "Term") shall be for seven (7) consecutive years, commencing on November 1, 2020 at 12:00 AM through October 31, 2027 at 11:59 PM. The Term may be extended for up to three (3) additional one (1) year terms, subject to the execution of a written amendment to this Agreement signed by both parties.

ARTICLE 5 – COMMUNITY BENEFITS

5.1 The CONTRACTOR shall provide the CITY with Three Hundred Fifty-Two Thousand and 00/100 Dollars (\$352,000.00) annually during each year of this Agreement, including any extension or renewal periods in order to fund the CITY's Clean City Task Force, Clean Team. The annual compensation shall be payable upon execution of this agreement and thereafter on the anniversary date of this Agreement for so long as the Agreement is in force and effect.

5.2 The CONTRACTOR shall provide the CITY with Fifty Thousand and 00/100 Dollars (\$50,000.00) annually during each year of this Agreement, including any extension or renewal periods to be used toward the CITY's Emergency Utilities Fund and the NOMI Food Pantry. The annual compensation shall be payable on the anniversary date of this Agreement every year for so long as the Agreement is in force and effect.

5.3 The CONTRACTOR shall provide the CITY with Ten Thousand and 00/100 Dollars (\$10,000.00) annually during each year of this Agreement, including any extension or renewal periods to be used toward swale beautification. The annual compensation shall be payable on the anniversary date of this Agreement every year for so long as the Agreement is in force and effect.

5.4 The CONTRACTOR shall provide two (2) scholarships in the amount of One Thousand Two-Hundred Fifty and 00/100 Dollars (\$1,250.00) annually to residents of North Miami graduating high school. Additionally, CONTRACTOR will help fund the North Miami Educational Foundation to defray the cost of North Miami students attending the Sheridan Technical Vocational Education Program.

5.5 CONTRACTOR will provide local employment opportunity through various CITY events and job fairs.

5.6 CONTRACTOR commits to enhance its community outreach and education efforts to include but not limited to, new flyers for residential customers, new container labels, and enhanced social media outreach. At minimum, CONTRACTOR shall:

1. Notices. Each year during the term of the Contact, the CONTRACTOR shall publish and distribute a notice to the Residential Service Units regarding the Collection Service programs. The notice shall contain a minimum, definitions of the materials to be collected,

procedures for setting out the materials and maps of the Service Area indicating the days when Collection Services will be provided. Additionally, CONTRACTOR has committed to notifying their commercial customers of the new rate changes to take effect upon final execution of this Agreement and to provide the CITY with copies of these notices and commercial collection service agreements.

2. Collection Program Magnet. Each year during the term of the Contract, the CONTRACTOR shall produce and distribute a magnet to the Residential Service Units, which describes the day and date of the month on which Bulk Waste Collection Service will be provided. The design of the magnet shall be approved by the CITY prior to production.

3. Public Awareness Program. The CONTRACTOR agrees to cooperate in complying with requests of up to forty (40) hours per year from the CITY to supply a recycling truck and driver at public outreach events, provided that notice of at least five (5) Work Days is given. It is understood and agreed that there shall be no charge to the CITY by the CONTRACTOR for compliance with any requests to provide a demonstration Collection truck and driver in response to the CITY's request.

5.7 CONTRACTOR will develop a community outreach program which shall consist of a combination of different approaches to bolster public understanding, awareness and efficiency of the various components of the City's sanitation services including, but not limited to, the following:

- Local radio outreach, particularly in Creole and Spanish programming.
- Educational videos prepared in multi-language.
- Coordination with the City's Public Information Office.
- Dissemination of educational materials for citywide distribution to residential and commercial customers while also ensuring Covid-19 safety for "boots on the ground" personnel.
- Coordination of E-Waste events to reinforce the importance of recycling and education regarding recycling items for residential and commercial customers.
- Waste Pro has agreed to allocate approximately Thirty Thousand Dollars (\$30,000) annually towards their community outreach program to be carried out under the term of this contract.

5.8 CONTRACTOR will continue to participate and sponsor various CITY events.

ARTICLE 6 - COMPLIANCE WITH LAWS

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

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

ARTICLE 7 - INSURANCE

7.1 CONTRACTOR agrees to, in the performance of work and services under this Agreement, comply with all federal, state, and local laws and regulations now in effect, or hereinafter enacted during the term of this Agreement that are applicable to CONTRACTOR, its employees, agents, or subcontractors, if any, with respect to the work and services described herein.

7.2 CONTRACTOR shall obtain at CONTRACTOR's expense all necessary insurance in such form and amount as specified in the original proposal document or as required by the CITY's Risk Manager before beginning work under this Agreement including, but not limited to, Workers' Compensation, Commercial General Liability, and all other insurance as required by the CITY. CONTRACTOR shall maintain such insurance in full force and effect during the life of this Agreement. CONTRACTOR's insurance shall be CONTRACTOR shall provide to the CITY's Risk Manager certificates of all insurances required under this section prior to beginning any work under this Agreement. The CONTRACTOR will ensure that all subcontractors comply with the above guidelines and will retain all necessary insurance in force throughout the term of this Agreement.

7.3 The following are required types and minimum limits of insurance coverage, which the CONTRACTOR agrees to maintain during the term of this contract:

7.3.1 **COMPREHENSIVE GENERAL LIABILITY INSURANCE** written on an occurrence basis including, but not limited to: coverage for bodily injury and property damage, personal & advertising injury, products & completed operations, and contractual liability. Coverage must be written on an occurrence basis, with limits of liability no less than: \$2,000,000 per occurrence and not less than \$3,000,000 in the aggregate to cover at least the following hazards:

1. premises and operations; 2. products and completed operations; 3. independent contractors; 4. contractual liability; and 5. contractual liability covering the indemnities contained in the Agreement to the extent such indemnity is covered by the required Commercial General Liability insurance;

Products & Completed Operations Coverage shall be maintained for two (2) years after the final payment under this contract. The City of North Miami must be shown as an additional insured with respect to this coverage.

7.3.2 **WORKERS' COMPENSATION AND EMPLOYERS LIABILITY INSURANCE** covering all employees, and/or volunteers of the Contractor engaged in the performance of the scope of work associated with this Agreement. In the case any work is sublet, the Contractor shall require the Subcontractors similarly to provide Workers Compensation Insurance for all the latter's employees unless such employees are covered

by the protection afforded by the Contractor. Coverage for the Contractor and his Subcontractors shall be in accordance with applicable state and/or federal laws that may apply to Workers' Compensation Insurance with limits of liability no less than: \$1,000,000 in respect of any work or operations Property, or in connection with the Agreement;

7.3.3 COMPREHENSIVE AUTO LIABILITY INSURANCE covering all owned, non-owned and hired vehicles used in connection with the performance of work under this Agreement, with a combined single limit of liability for bodily injury and property damage no less than: One Million Dollars (\$1,000,000.) for each occurrence for personal injury, death and property damage; and

7.4. ENVIRONMENTAL/POLLUTION LIABILITY, with a limit of liability no less than 5,000,000 per occurrence and \$5,000,000 in the aggregate with a deductible of not more than \$25,000. This coverage shall be maintained for a period of no less than two (2) years after final payment of the contract.

7.5. UMBRELLA/EXCESS LIABILITY with a limit of no less than \$5,000,000 per occurrence and \$5,000,000 in the aggregate on terms consistent with the commercial general liability and commercial automobile liability insurance required above.

7.4 All insurance provided for shall be obtained under valid and enforceable policies (collectively, the "Policies" or in the singular, the "Policy"), and shall be subject to the reasonable approval of CITY as to amounts and deductibles not specified above, insurance companies, loss payees and insureds. The Policies shall be issued by financially sound and responsible insurance companies authorized to do business in the State of Florida and having a claims paying ability rating of "A" or better by at least two rating agencies, one of which must be AM Best or S&P or such other ratings approved by CITY. With the exception of workers' compensation/employer's liability, the Policies described in this Attachment shall designate CITY and its successors and assigns as an additional insured and/or loss payee as deemed appropriate by CITY. Proof of such insurance and certified copies of certificates of insurance evidencing coverage of all Policies to CITY must be provided to the CITY prior to the provision of any Services by the CONTRACTOR. CONTRACTOR shall deliver certified copies of certificates of insurance for all renewal Policies to CITY prior to expiration.

7.5 Any blanket insurance Policy shall provide the same protection as would a separate Policy insuring only the Property in compliance with the provisions. All Policies provided for or contemplated by shall name CONTRACTOR as the insured and CITY as the additional insured or loss payee, as its interests may appear, and in the case of property damage. To the extent available on a commercially reasonable basis, all Policies provided for in this Attachment shall contain clauses or endorsements to the effect that: No act or negligence of CONTRACTOR or anyone acting for CONTRACTOR, or failure to comply with the provisions of any Policy, which might otherwise result in a forfeiture of the insurance or any part thereof, shall in any way affect the validity or enforceability of the insurance insofar as CITY is concerned; The Policies shall not be canceled or non-renewed without at least thirty (30) days' prior written notice to CITY; CITY shall not be liable for any insurance premiums thereon or subject to any assessments thereunder.

7.6 In the event that adequate coverage cannot be secured with an approved company satisfactory to the CITY and maintained during the terms of the mortgage, the CITY shall have the right to hold the CONTRACTOR in material breach of the Agreement and thereby be entitled to its rights and remedies therein.

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

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

7.9 CONTRACTOR shall not commence work under this contract until they have obtained all insurance required under this section and have supplied the CITY with evidence of such coverage in the form of an insurance certificate and endorsement.

7.10 CONTRACTOR shall indemnify and hold the CITY harmless for any damages resulting from failure of the CONTRACTOR to take out and maintain such insurance. CONTRACTOR's General Liability Insurance policies shall be endorsed to add the CITY as an additional insured. CONTRACTOR shall be responsible for payment of all deductibles and self-insurance retentions on CONTRACTOR's Liability Insurance policies.

ARTICLE 8 - INDEMNIFICATION

8.1 CONTRACTOR shall defend, indemnify and hold harmless the CITY, its officers and employees from and against any and all claims, costs, losses and damages including, but not limited to reasonable attorney's fees, caused by the negligent acts or omissions of the Contractor, its officers, directors, agents, partners, subcontractors, employees and managers in the performance of the Services under this Agreement.

8.2 The CONTRACTOR shall be fully responsible to CITY for all acts and omissions of the Contractor, its employees, subcontractors, suppliers, or other persons directly or indirectly employed by its subcontractors or suppliers, and any other persons or organizations performing or furnishing supplies under a direct or indirect agreement with CONTRACTOR. Nothing in the Contract Documents shall create any contractual relationship between CITY and any such subcontractor, supplier or other person or organization, nor shall it create any obligation on the part of CITY to pay or to cause the payment of any money due any subcontractor, supplier, employee or agent except as may otherwise be required by law.

8.3 Nothing contained in this Agreement is any way intended to be a waiver of the limitation placed upon the CITY's liability as set forth in Chapter 768, Florida Statutes. Additionally, the CITY does not waive sovereign immunity, and no claim or award against the CITY shall include attorney's fees, investigative costs or pre-judgment interest.

ARTICLE 9 - RECORDKEEPING, REPORTING, AUDIT AND INSPECTION RIGHTS

9.1 Access and Audits: The CONTRACTOR shall maintain within Miami-Dade County, adequate records of the solid waste collection and/or Recovered Materials services during the fiscal year and for three (3) years following the end of each fiscal year of the Contract and shall provide copies of such records, upon written request from the City within five (5) business days. The CITY shall have the right to review all records, including recording and recordkeeping requirements, maintained by the Contractor during normal business hours upon twenty-four (24) hours' notice.

9.2 The CONTRACTOR shall provide the CITY with a review of the Revenue and Expense Financial Statement representing the financial results of the CONTRACTOR with respect to operations provided pursuant to the franchise granted pursuant to this agreement. The review must be performed in accordance with Statements on Standards for Attestation Engagements and Related Interpretations promulgated by the American Institute of Certified Public Accountants. The annual review shall be delivered to the CITY within one hundred and twenty (120) days of the twelve (12) month period ending the CONTRACTOR's fiscal year. The audit can be limited to the entity actually providing services and must be specific to the business operations covered under this agreement with the City of North Miami. In addition, a certified annual financial statement ("Annual Report") of CONTRACTOR, shall be furnished to CITY within six (6) months of the close of CONTRACTOR's fiscal year, and its parent company, if applicable, for each fiscal year, on an annual basis throughout the term of this contract or any extension thereof.

9.3 A certified annual financial statement of CONTRACTOR shall be furnished to CITY within six (6) months of the close of CONTRACTOR's fiscal year on an annual basis throughout the term of this Agreement or any extension thereof and must be specific to the business operations covered under this agreement with the City of North Miami.

9.4 No rate adjustments of any type will be granted to the CONTRACTOR unless all required audits and cost statements have been filed in a timely manner.

9.5 As required herein, the CONTRACTOR shall create, maintain, and make available records as defined in, and required by, all applicable local, state, and federal laws, rules and regulations, and shall provide copies of such records, upon written request from the City within five (5) business days of any reports as are reasonably necessary to:

(i) Document collection of materials, source of materials, time delivered to Designated Facility, and other information as requested by the Contract Administrator. For Residential Service Units the report shall indicate monthly residential material collected in tons by material type (e.g., Solid Waste, Yard Waste, Recyclable / Recovered Materials, Bulk Waste, etc.). For Commercial Service Units the report shall include cubic yards of material collected and tons of material disposed. For CITY facilities, the report shall include cubic yards of material collected and tonnage of material disposed by material type (e.g. Solid Waste, Recovered Materials).

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

(iii) For Commercial Service Units document customer accounts including the name of business, contact name and phone number, address, type of Collection Services, frequency for each Collection Service, and number and size of Bins, Carts, Dumpsters, Compactors, and Roll-offs for each customer.

(iv) Document overflowing Containers, special pickup requests, and other additional services provided. (v) Document customer contact or complaints.

(vi) For residential curbside recycling / recovery, CONTRACTOR shall establish a method approved by the CITY to estimate and report set-out rates.

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

(viii) CONTRACTOR r agrees to maintain separate records in a form sufficient to identify gross receipts from the City of North Miami from gross receipts for other municipalities, operations.

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

9.6 Reporting Requirements

(i) The CONTRACTOR shall submit monthly reports by the 15th of the following month in an electronic format approved by the Assistant Director of Sanitation summarizing the records the CONTRACTOR is required to create, maintain, and make available to the CITY pursuant to this Agreement.

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

9.7 Inspection Rights - The CONTRACTOR shall consent to inspection of loads by the CITY.

9.8 Interpretation of Performance and Administrative Charges

The Assistant Director of Santitation shall decide any and all questions which may arise concerning the quality and acceptability of the work and services provided by the CONTRACTOR, the interpretation of the provisions of the Agreement, and the acceptable fulfillment of CONTRACTOR's duties under the Agreement. The CONTRACTOR shall have the right to appeal any decisions or findings of the Contract Administrator to the City Council, whose findings and conclusions shall be final and binding.

ARTICLE 10 - ASSIGNMENT OF CONTRACT

This Contract/Franchise or any portion thereof, shall not, under any circumstances, be sublet or assigned without the prior written approval of the CITY. CONTRACTOR shall not sell or otherwise dispose of any assets during the term of this Contract/Franchise which sale or disposition

will in any way affect the ability of CONTRACTOR to perform its obligations under this Contract/Franchise, without the express consent of City Council by action taken in a formal meeting of said body. For the purposes of this Contract/Franchise, a stock sale of CONTRACTOR's stock in excess of fifty-one (51%) shall constitute a non-permitted assignment and subject CONTRACTOR to the default provisions of this Contract.

ARTICLE 11 - NON-DISCRIMINATION & EQUAL OPPORTUNITY EMPLOYMENT

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

ARTICLE 12 - INDEPENDENT CONTRACTOR

This Agreement does not create an employee/employer relationship between the parties. It is the intent of the parties that the CONTRACTOR is an independent contractor under this Agreement and not the CITY's employee for all purposes, including but not limited to, the application of the Fair Labor Standards Act minimum wage and overtime payments, Federal Insurance Contribution Act, the Social Security Act, the Federal Unemployment Tax Act, the provisions of the Internal Revenue Code, the State Workers' Compensation Act, and the State unemployment insurance law. The CONTRACTOR shall retain sole and absolute discretion in the judgment of the manner and means of carrying out CONTRACTOR's activities and responsibilities hereunder provided, further that administrative procedures applicable to services rendered under this Agreement shall be those of CONTRACTOR, which policies of CONTRACTOR shall not conflict with CITY, State, or Federal laws, rules or regulations relating to the use of CONTRACTOR's Funds provided for herein. The CONTRACTOR agrees that it is a separate and independent enterprise from the CITY, that it has full opportunity to find other business, that it has made its own investment in its business, and that it will utilize a high level of skill necessary to perform the work. This Agreement shall not be construed as creating any joint employment relationship between the CONTRACTOR and the CITY and the CITY will not be liable for any obligation incurred by CONTRACTOR, including but not limited to unpaid minimum wages and/or overtime premiums. ARTICLE 11 UNCONTROLLABLE FORCES

12.1 Neither CITY nor CONTRACTOR shall be considered to be in default of this Agreement if delays in or failure of performance shall be due to Uncontrollable Forces, the effect of which, by

the exercise of reasonable diligence, the non-performing party could not avoid. The term "Uncontrollable Forces" shall mean any event which results in the prevention or delay of performance by a party of its obligations under this Agreement and which is beyond the reasonable control of the nonperforming party. It includes, but is not limited to fire, flood, earthquakes, storms, lightning, epidemic, war, riot, civil disturbance, sabotage, and governmental actions.

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

ARTICLE 13 - WITHHOLDING OF PAYMENTS

13.1 In addition to express provisions elsewhere contained in this Agreement, the CITY may, after providing ten (10) days advance notice to CONTRACTOR, withhold from any payment otherwise due CONTRACTOR such amount as determined necessary to protect the CITY's interest, or, if it so elects, may withhold all or a portion or any monthly payment or refund payment on account of:

- (i) Unsatisfactory work not caused by conditions beyond the CONTRACTOR's control;
- (ii) Defective work that has not been corrected;
- (iii) The CONTRACTOR's failure to carry out instructions or orders of the CITY, or its representative in accordance with the terms and conditions of this Agreement;
- (iv) Execution of work not in accordance with the Agreement;
- (iv) Use of any subcontractors without the CITY's prior written approval;
- (v) Unsafe working conditions allowed to persist by the CONTRACTOR;
- (vi) Failure of the CONTRACTOR to provide routes, schedules, data, or reports requested by the CITY.

If the foregoing problems are corrected as determined by the City, payment shall be made to the CONTRACTOR for the amounts withheld, but the CITY shall not be liable to the CONTRACTOR for interest on any delayed payment. The CITY's right to withhold payments under this section will be reasonable in light of the nature of the claim, amount of available insurance and performance bond pursuant to this Agreement.

ARTICLE 14 - LIQUIDATED DAMAGES

CONTRACTOR agrees, in addition to any other remedies available to the CITY, that the CITY may withhold payment from CONTRACTOR in the amounts specified below as liquidated damages for failure of CONTRACTOR fulfilling its obligations:

14.1 Complaints: All complaints received by the Contract Administrator, or his designee, and reported to the CONTRACTOR shall be promptly resolved. Complaints shall not include customer informational requests or Recycling Container requests. A complaint not resolved by 3:00 p.m. on the next Business Day, unless otherwise provided in this Agreement, shall count as two (2) complaints. In the event complaints received from curbside customers exceed the following annual or monthly allowable total(s), the Contract Administrator shall levy as liquidated damages the amount of \$200.00 per incident to reimburse the CITY for the cost of receiving, logging, investigating, and following up on the complaint: A \$200.00 per incident fee will be assessed to the CONTRACTOR for monthly complaints that exceed twenty (25) monthly or two hundred (200) annually.

<u>Complaint Type</u>	<u>Annual</u>	<u>Monthly</u>
Garbage, Trash, and Damage	200	25
Recycling	200	25

14.2. Additional Charges: The Contract Administrator may, without regard to the total of customer complaints, also levy liquidated damages at the rate of \$200.00 per day per incident for any other infraction of this Agreement to reimburse the CITY for the cost of receiving, logging, investigating and following up on the complaint and or failure to perform, and additional costs that cannot be reasonably quantified. Such infractions include but are not limited to:

1. Failure to provide clean, safe, sanitary equipment;
2. Failure to maintain office hours as required;
3. Failure to provide documents and reports in a timely and accurate manner;
4. Failure to repair or replace and/or deliver a Container, Compactor, Recycling Container, Garbage Can, or mailbox within the required time period;
5. Failure to clean spillage;
6. Failure to cover and or secure materials on collection vehicles;
7. Collection employees out of uniform;
8. Name and phone number, and if applicable, size not displayed on Collection vehicles or Containers;
9. Failure to provide schedule and route maps;
10. Using an improper truck for the specific service provided;
11. Failure to submit a disclosure notice to either a customer or the Contract Administrator;
12. Failure to report recycling activity monthly (on or before the 10th day of the following month), in the format determined by the CITY, for the purpose of tracking and verifying citywide recycling activity;

13. Failure to respond to customer calls, including all residential and commercial customers, in a timely and appropriate manner;
14. Failure to place a contamination sticker in Recycling Containers, as required;
15. Failure to repair damage to property resulting from CONTRACTOR's (including agents, employees or subcontractors) equipment failure or negligence within five (5) Business Days;
16. Failure to return calls to the CITY in a timely manner; and
17. Failure to provide a supervisor on routes to direct operations in safe and satisfactory manner.

14.3 Major Prohibitions: The following constitute serious violations of this Agreement that have negative impacts on the CITY, the costs of which are not reasonably quantifiable, and are subject to liquidated damages and potentially loss of Franchise.

1. Changing routes, including the starting point of a route without approval from the City or notification to the CITY and the customers are prohibited and will result in liquidated damages of \$500.00 per incident to reimburse the CITY for the costs of managing the service disruption, including the cost of receiving, logging, investigating and following up on customer complaints, communicating with the CONTRACTOR and coordinating the return to normal service. Additionally, the CONTRACTOR shall be required to return to the previous route(s) and schedule and properly notify customers in accordance with the requirements of this Agreement at no cost to the CITY.

2. Billing commercial customers service charges unauthorized by this Agreement, such as special fuel surcharges, handling charges or billing charges, is prohibited and will result in the assessment of liquidated damages in the amount of \$500 per incident to compensate the CITY for the cost of receiving, logging, investigating and following up on customer complaints, communicating with the CONTRACTOR and the customer, and coordinating the reimbursement to the customer for all non-approved charges. CONTRACTOR shall also be required to reimburse the customer for all non-approved charges paid by the customer.

3. Failure to complete a route or community on the regular scheduled pickup day shall result in the assessment of liquidated damages in the amount of \$1,000.00 for each route/community per day not completed to reimburse the CITY for the value of services not rendered, costs of managing the service disruption, including the cost of receiving, logging, investigating and following up on customer complaints, communicating with the CONTRACTOR and coordinating the return to normal service. Each missed route/community shall be completed by 10:00 a.m. of the next Business Day following regular scheduled collection day. Failure to collect missed routes/communities by 10:00 a.m. the next Business Day as required will result in an additional \$1,000.00 assessment for each route/community not completed.

ARTICLE 15 - TERMINATION

15.1 Default by CONTRACTOR. In addition to all other remedies available to the CITY, this Agreement shall be subject to cancellation by the CITY for cause, should the CONTRACTOR neglect or fail to perform or observe any of the terms, provisions, conditions, or requirements

herein contained, if such neglect or failure shall continue for a period of thirty (30) days after receipt by CONTRACTOR of written notice of such neglect or failure. The CITY shall be the sole judge of nonperformance.

15.2 City Termination

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

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

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

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

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

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

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

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

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

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

i. CONTRACTOR fails to pay its debts when they become due;

ii. CONTRACTOR has filed for relief or reorganization and bankruptcy or insolvency;

iii. CONTRACTOR makes an assignment for benefit of its creditors in lieu of taking advantage of any available bankruptcy or insolvency law; CONTRACTOR shall consent to the appointment of a custodian, receiver, trustee or other officer with similar powers with respect to any substantial part of its property; or if CONTRACTOR is adjudicated insolvent or shall take corporate action for the purpose of any of the foregoing.

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

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

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

ARTICLE 16 - OPERATIONS DURING DISPUTE

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

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

16.3. Notwithstanding the other provisions in this Section, CITY reserves the right to terminate this Agreement at any time whenever the service provided by CONTRACTOR fails to meet reasonable standards of the trade, after CITY provides written notice to CONTRACTOR pursuant to the terms of this Agreement. Upon termination, CITY may call the performance bond and apply

the cash and surety bond for the cost of service in excess of that charged to CITY by the firm engaged for the balance of the Agreement period.

ARTICLE 17 - PERFORMANCE AND PAYMENT BONDS

17.1 The CONTRACTOR is required to furnish to the CITY a Performance Bond and Payment Bond, each in the amount of One Hundred percent (100%) of the total awarded annual amount of the Contract ("Bonds"). Such Bonds may be in the following form: 1) a Cashier's Check, made payable to the City of North Miami; 2) Bonds written by a surety company authorized to do business in the State of Florida, in accordance with Section 255.05, Florida Statutes (2019); or 3) an Irrevocable Letter of Credit. If the latter is chosen, it must be written on a bank located in Miami-Dade County, be in the amount of the Agreement and should clearly and expressly state that it cannot be revoked until express written approval has been given by the City Manager. The City Manager, to draw on same, would merely have to give written notice to the bank with a copy to the CONTRACTOR.

17.2 The Performance Bond shall secure and guarantee CONTRACTOR's faithful performance of this Agreement, including but not limited to CONTRACTOR's obligation to correct defects after final payment has been made as required by the Contract Documents. The Payment Bond shall secure and guarantee payment of all Subcontractors performing labor on the Project under this Agreement and furnishing supplies, materials or services in connection herewith. These Bonds shall be in effect through the duration of the Agreement plus the warranty period as required by the Contract Documents.

17.3 Each Bond shall be written by a corporate surety, having a resident agent in the State of Florida and having been in business with a record of successful continuous operation for at least five (5) years. The Bonds required hereunder shall be executed by a responsible surety licensed in the State of Florida, and have at least the following minimum qualification in accordance with the latest edition of A.M. Best's Insurance Guide, published by Alfred M. Best Company, Inc., Ambest Road, Oldwick, New Jersey 08858: B+ to A+. The CONTRACTOR shall require the attorney in fact who executes the required Bonds on behalf of the surety to affix thereto a certified and current copy of this power of attorney indicating the monetary limit of such power.

17.4 If the surety on any Bond furnished by CONTRACTOR is declared bankrupt or becomes insolvent or its right to do business is terminated in the State of Florida or it ceases to meet the requirements of other applicable laws or regulations, CONTRACTOR shall within three (3) Days substitute another Bond and surety, both of which must be acceptable to City Manager. If CONTRACTOR fails to make such substitution, City Manager may procure such required Bonds on behalf of CONTRACTOR at CONTRACTOR's expense.

17.5 The CITY may, in the CITY's sole discretion, inform surety of the progress of the Work, any defects in the Work, or any defaults of CONTRACTOR under the Contract Documents and obtain consents as necessary to protect the CITY's rights, interest, privileges and benefits under and pursuant to any Bond issued in connection with the Project.

17.6 CONTRACTOR shall indemnify and hold harmless the CITY and any agents, employees, representative from and against any claims, expenses, losses, costs, including reasonable attorneys' fees, as a result of any failure of CONTRACTOR to procure the Bonds required herein.

ARTICLE 18 - MISCELLANEOUS

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

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

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

18.4 This Agreement shall be construed and enforced according to the laws of the State of Florida. Venue in any proceedings between the Parties shall be in Miami-Dade County, Florida.

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

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

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

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

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

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

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

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

18.13 Budget Constraints. In the event the CITY is required to reduce contract costs due to budgetary constraints, all services specified in this document may be subject to a permanent or temporary reduction in budget. In such an event, the total cost for the affected service shall be reduced as required. The CONTRACTOR shall also be provided with a minimum 30-day notice prior to any such reduction in budget. In the event of a budget reduction, the CONTRACTOR and CITY will enter into good faith negotiations to reduce the level of service provided commensurately. If the parties fail to reach agreement on a reduction in service level this contract may be terminated in accordance with the CITY's contract termination requirements contained in Section 12 herein.

18.14 Unauthorized Aliens. The employment of unauthorized aliens by any CONTRACTOR is considered a violation of Section 274A(e) of the Immigration and Nationality Act. If the CONTRACTOR knowingly employs unauthorized aliens, such violation shall be cause for unilateral cancellation of any contract resulting from this solicitation. If the CITY or CONTRACTOR become aware of the employment of any unauthorized aliens by a sub-CONTRACTOR, CONTRACTOR shall immediately terminate their subcontract agreement with that subcontractor. CONTRACTOR's failure to immediately terminate a subcontract pursuant to this section, may result in the CITY's unilateral cancellation of this Agreement.

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

18.16 No Contingent Fees. CONTRACTOR warrants that it has not employed or retained any company or person, other than a bona fide employee, subcontractor, lobbyist, or consultant working solely for CONTRACTOR to solicit or secure this agreement, and that it has not paid or agreed to pay any person, company, corporation, individual or firm, other than a bona fide employee, subcontractor, lobbyist, or consultant working solely for CONTRACTOR any fee, commission, percentage, gift, or other consideration contingent upon or resulting from the award or making of this Contract/Franchise. For the breach or violation of this provision, CITY shall have the right to terminate the Contract/Franchise without liability at its discretion, to deduct from the contract price, or otherwise recover the full amount of such fee, commission, percentage, gift or consideration.

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

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

18.19. Records. CONTRACTOR shall keep books and records and require any and all subcontractors to keep books and records as may be necessary in order to record complete and correct entries as to services provided and fees charged pursuant to this contract/franchise. Upon providing reasonable notice, such books and records will be available at all reasonable times for examination and audit by CITY and its representatives, and shall be kept for a period of ten (10) years after the completion of all work to be performed pursuant to this Agreement. Incomplete or incorrect entries in such books and records may be grounds for disallowance by CITY of any fees or expenses based upon such entries.

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

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

To Contractor: Waste Pro of Florida, Inc.
Malenie Velez, Registered Agent
2101 W SR 434, 3rd Floor
Longwood, FL 32779

With a copy to: Waste Pro of Florida, Inc.
Attn: Russell Mackie
17203 Pines Boulevard
Pembroke Pines, FL 33029

To City: City of North Miami
Attn: City Manager

776 N.E. 125th Street
North Miami, Florida 33161

With a copy to: City Attorney
City of North Miami
776 N.E. 125th Street
North Miami, Florida 33161

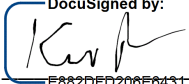
18.22. Severability. If any provision of this Agreement or application thereof to any person or situation shall to any extent, be held invalid or unenforceable, the remainder of this Agreement, and the application of such provisions to persons or situations other than those as to which it shall have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

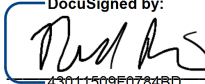
18.23. Entire Agreement and Conflicts: This Agreement is intended by the parties hereto to be final expression of this Agreement, and it constitutes the full and entire understanding between the parties with respect to the subject hereof, notwithstanding any representations, statements, or agreements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

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

ATTEST: Waste Pro of Florida, Inc., a Florida for-profit corporation:

Corporate Secretary or Witness: **"Contractor"**

By:  DocuSigned by: E882DFD208E6431...

By:  DocuSigned by: 43011509F0784BD...

Print Name: Kenneth Rivera

Print Name: Russell Mackie

Title: Division Manager

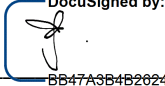
Title: Regional Vice President

Date: 10/2/2020

Date: 10/2/2020

ATTEST:

City of North Miami, a Florida municipal corporation: "City"

By:  _____
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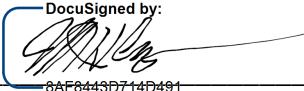
Vanessa Joseph, Esq.
City Clerk

By:  _____
E6514CC216694D9...

Theresa Therilus, Esq.
City Manager

APPROVED AS TO FORM AND

Legal sufficiency:

By:  _____
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Jeff P. H. Cazeau
City Attorney