

BE IT REMEMBERED that a Special Meeting of the City Council of Jackson, Mississippi, was called by a majority of the City Council Members and notices having been placed by the Clerk of Council at 12:25 p.m. on Friday, September 24, 2021, in the Clerk of Council's Office, electronic notifications to all Council Members, on the City's website and on the public bulletin board in City Hall, relative to: (1) Order confirming the Mayor's appointment of Rickey Jones to the Jackson Municipal Airport Authority Board. (2) Order confirming the Mayor's appointment of Attorney Onetta S. Whitley to the Civil Service Commission. (3) Order confirming the Mayor's appointment of Toya Martin as Director of the Department of Human Resources, City of Jackson, Mississippi. (4) Order confirming the Mayor's appointment of Dr. Adriane Dorsey-Kidd as Director of the Department of Human and Cultural Services, City of Jackson, Mississippi. (5) Order confirming the Mayor's appointment of Ison Harris, Jr. as Director of the Department of Parks and Recreation, City of Jackson, Mississippi. (6) Order confirming the Mayor's appointment of Angela Harris as Municipal Clerk, City of Jackson, Mississippi. (7) Order confirming the Mayor's appointment of Willie Owens as Fire Chief, City of Jackson, Mississippi. (8) Order confirming the Mayor's appointment of James Davis as Chief of Police, City of Jackson, Mississippi. (9) Proclamation of local emergency for Jackson, Mississippi by Jackson City Council. (10) Order of the Jackson City Council approving contract for emergency garbage collection services for Jackson, Mississippi. (11) Order of the Jackson City Council approving contract for emergency garbage collection services for Jackson, Mississippi. (12) Order of the Jackson City Council authorizing Bradley Arant to take certain action on behalf of the Jackson City Council. The meeting was convened in the Council Chambers located at 219 S. President Street at 9:00 a.m. on Monday, September 27, 2021, being the fourth Monday of said month, when and where the following things were had and done to wit:

Present: Council Members: Virgi Lindsay, Council President, Ward 7; Angelique Lee, Council Vice President, Ward 2; Ashby Foote, Ward 1; Kenneth I. Stokes, Ward 3; Brian C. Grizzell, Ward 4; Vernon Hartley, Ward 5 and Aaron Banks, Ward 6. Directors: Dr. Safiya Omari, Chief of Staff; Constance White, Chief Deputy Clerk of the Council; and Monica Allen, Interim City Attorney.

Absent: None.

The meeting was called to order by **President Virgi Lindsay**.

President Lindsay requested that agenda items 9, 10, 11 and 12 be moved forward on the agenda. Hearing no objections, the Clerk read the following:

PROCLAMATION OF LOCAL EMERGENCY FOR JACKSON, MISSISSIPPI BY JACKSON CITY COUNCIL.

V E T O

WHEREAS, the City of Jackson's current contract with Waste Management of Mississippi, Inc. for solid waste collection and hauling services is set to expire on September 30, 2021; and

WHEREAS, the City Council and the Mayor must provide for the collection and disposal of garbage and rubbish; and

WHEREAS, failure to provide for the collection and disposal of garbage and rubbish likely will result in substantial injury or harm to the population or substantial damage to or loss of property, including deleterious contaminants flowing into the City's municipal separate storm sewer system, a risk of disease and unsanitary conditions contrary to the public health; and

WHEREAS, the City, the City Council and the Mayor, among others, will also be subject to a civil penalty of not more than Twenty-five Thousand Dollars (\$25,000.00) for each violation of their obligation to provide for the collection and disposal of garbage and rubbish; and

WHEREAS, on March 25, 2021, the City requested proposals for solid waste collection and hauling services, with various options for the duration of the contract, the frequency of pickup, and other options; and

WHEREAS, in response to that request, on May 11, 2021, the City received proposals from: (1) Waste Management of Mississippi, Inc.; (2) FCC Environmental Services, LLC; and (3) Richard's Disposal; and

WHEREAS, on August 9, 2021, the Mayor recommended that the City enter into a contract with FCC to provide solid waste collection and hauling services. The City Council voted not to approve the proposed "Order Authorizing the Mayor to Execute the Contract and Related Documents with FCC Environmental Services, LLC. . ."; and

WHEREAS, on August 19, 2021, the City Council voted a second time not to approve the proposed "Order Authorizing the Mayor to Execute the Contract and Related Documents with FCC Environmental Services, LLC. . ."; and

WHEREAS, on September 17, 2021, Mayor Chokwe A. Lumumba issued Mayoral Proclamation on Local Emergency, City of Jackson, declaring a local emergency and stating the City's intention "to contract for the collection of residential solid waste beginning on October 1, 2021 continuing until such time as a new contract is legally procured,"; and

WHEREAS, on or about September 17, 2021, members of the City Council learned that Mayor Lumumba was negotiating a contract with National Waste United, LLC, an entity not then organized or identified in the records of the Secretary of State of Mississippi, for the collection of residential solid waste for an initial period of six (6) months, under which the City would agree to pay \$15.00 per residential unit per month and "a mobilization fee of \$750,000.00 within 30 days, exclusive of and in addition to all other compensation," and National Waste United, LLC would provide a performance bond of \$625,958.00; and

WHEREAS, on September 22, 2021, Waste Management of Mississippi, Inc. delivered correspondence to the Mayor and City Council, stating that Waste Management is "willing to provide services to the City during the month of October at the same rates as those specified in our existing contract which expires on September 30", under which the City would continue to pay \$10.56 per residential unit per month and continue to provide its performance bond of \$1,000,000.00; and

WHEREAS, approximately 53,869 residential units would be served by either proposal; and

WHEREAS, recognizing that sufficient time existed for the Mayor to investigate competitive proposals for those temporary services, on September 22, 2021, the City Council voted to disapprove the need for continuing the local emergency the Mayor declared on September 17, 2021; and

WHEREAS, following the City Council's vote and at that September 22, 2021 meeting, the Mayor stated, "I want to make it clear to the residents of Jackson that it is on the Council to determine how trash is picked up,"; and

WHEREAS, consistent with that statement by the Mayor on September 22, 2021, the Mayor has since that date made no effort to work with the City Council to ensure solid waste collection and hauling services will continue uninterrupted for the citizens of the City of Jackson, Mississippi; and

WHEREAS, the Mayor has abdicated his responsibility as a part of the City's governing authority to participate in providing for the collection and disposal of garbage and rubbish; and

WHEREAS, the Mayor or the City Council may proclaim a local emergency pursuant to Mississippi Code § 33-15-17(d); and

WHEREAS, § 33-15-5(g) defines a local emergency as "the duly proclaimed existence of conditions of disaster or extreme peril to the safety of person and property within the territorial limits of a ... municipality caused by ... man-made conditions, which conditions are likely to be beyond the control of the services, personnel, equipment and facilities of the political subdivision

and require the combined forces of other subdivisions or of the state to combat(,)” and that such conditions now exist with only a few days remaining before October 1, 2021 without even temporary arrangements in place for the collection of residential solid waste from and after that date; and

WHEREAS, Mississippi Code § 33-15-17(b) authorizes each municipality “to exercise the powers vested under this section in the light of the exigencies of the extreme emergency situation without regard to time-consuming procedures and formalities prescribed by law pertaining to the performance of public work, entering into contracts. . .”; and

WHEREAS, only a few days now remain until the current garbage collection contract expires, and the City Council is aware of two pending proposals for temporary garbage collection, neither of which was submitted in response to a formal request for proposals.

NOW, THEREFORE, the City Council of Jackson, Mississippi, in accordance with the authority vested in it by Mississippi Code § 33-15-17(d), does hereby proclaim that a local emergency does now exist for the City of Jackson, Mississippi and that it is in the public interest and for the general welfare of the City of Jackson to provide emergency services for the collection and disposal of garbage and rubbish until such time as a formal request for proposals for the collection and disposal of garbage and rubbish is issued and a contract executed in accordance with that request, or until this emergency proclamation is otherwise terminated in accordance with law; and

IT IS FURTHER ORDERED that all agencies and departments of the City of Jackson shall render all possible assistance and discharge their emergency responsibilities and provide full cooperation with this proclamation of local emergency. Such assistance and cooperation shall be carried out only to the extent possible, and consistent with any additional orders related to the imminent failure of garbage collection issued subsequent to this Proclamation; and

IT IS FURTHER ORDERED that this Proclamation shall be 1) promptly filed with the City Clerk, 2) distributed to the news media and other organizations calculated to bring its contents to the attention of the general public, and 3) distributed to others as necessary to ensure proper implementation of this Proclamation; and

IT IS FURTHER ORDERED that this Proclamation is effective immediately.

WITNESS MY HAND, on this 27th day of September, 2021, at 9: 00 a.m.

President Lindsay moved adoption; **Council Member Foote** seconded.

President Lindsay recognized **Roy Campbell, Representative of Bradley Arant Boult Cummings**, who provided a brief overview of said item.

After a thorough discussion, **President Lindsay** called for a vote on said item:

Yeas – Banks, Foote, Hartley and Lindsay.
Nays – Grizzell and Lee.
Absent – Stokes.

V E T O

ORDER OF THE JACKSON CITY COUNCIL APPROVING CONTRACT FOR EMERGENCY GARBAGE COLLECTION SERVICES FOR JACKSON, MISSISSIPPI.

WHEREAS, the City of Jackson’s current contract with Waste Management of Mississippi, Inc. for solid waste collection and hauling services is set to expire on September 30, 2021; and

WHEREAS, on March 25, 2021, the City requested proposals for solid waste collection and hauling services, with various options for the duration of the contract, the frequency of pickup, and other options; and

Mayor's Veto and Objection
to the Proclamation of Local Emergency for Jackson, Mississippi
by Jackson City Council

In a Special Meeting of the City Council of Jackson Mississippi the City Council declared and approved with a vote of 4- 2 a local emergency due to the impending expiration of the solid waste collection and hauling services contract with Waste Management of Mississippi, Inc. on September 30, 2021. The proclamation also falsely claims that the Mayor abdicated his responsibility as a part of the City's governing authority to participate in providing for the collection and disposal of garbage and rubbish. Further, the City Council also erroneously asserted within the proclamation that the Mayor or City Council may proclaim a local emergency pursuant to Mississippi Code § 33-15-17(d). Subsequent legal proceedings have made it clear that the declaration of a local emergency is a function of the executive branch of government, not the legislative branch. Accordingly, the proclamation violates the separation of powers as stated in the Mississippi Constitution Article I, Section 2.

Therefore, I, Chokwe A. Lumumba, Mayor of the City of Jackson Mississippi, do hereby veto the Proclamation of Local Emergency for Jackson, Mississippi by Jackson City Council on 5th of April, 2022.



Chokwe A. Lumumba, Mayor

4/5/2022

Date

**SPECIAL MEETING OF THE CITY COUNCIL
MONDAY, SEPTEMBER 27, 2021 9:00 A.M.**

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WHEREAS, in response to that request for proposals several proposals were received but, to date, none have been accepted; and

WHEREAS, on September 27, 2021, the City Council of Jackson adopted a Proclamation of Local Emergency relative to the absence of any arrangements to provide for solid waste collection and hauling services for the City beginning October 1, 2021, and finding that the Mayor, as a part of the City's governing authority, has abdicated his responsibility to participate in providing for the collection and disposal of garbage and rubbish; and

WHEREAS, the City has received two proposals for the emergency collection and disposal of garbage and rubbish beginning October 1, 2021, as follows: from National Waste United, LLC, under which the City would agree to pay for six months \$15.00 per residential unit per month, and "a mobilization fee of \$750,000.00 within 30 days, exclusive of and in addition to all other compensation," with a performance bond of \$625,958.00; the other from the existing vendor for garbage collection, Waste Management of Mississippi, Inc., to continue to provide its same services to the City during the month of October on the same terms and conditions as exist under its current contract, including the existing rates of \$10.56 per residential unit per month, with a performance bond of \$1,000,000.00; and

WHEREAS, approximately 53,869 residential units would be served by either proposal.

NOW, THEREFORE, the City Council of Jackson, Mississippi, in accordance with the authority vested in it by its Proclamation of Local Emergency and Mississippi Code § 33-15-17(b), does hereby approve the proposal of **Waste Management of Mississippi, Inc.** for the emergency collection and disposal of garbage and rubbish beginning October 1, 2021;

FURTHER, IT IS ORDERED that, upon entry of a judgment by a court of competent jurisdiction declaring that this action by the City Council of Jackson is lawful and authorized, the President of the City Council is designated and authorized on behalf of the City Council to execute the proposal of Waste Management of Mississippi, Inc. for the emergency collection and disposal of garbage and rubbish beginning October 1, 2021, in substantially the form attached hereto as Exhibit A.

WITNESS MY HAND, on this 27th day of September, 2021.

**EXHIBIT
A**

Contract for Waste Collection Services

Waste Management of Mississippi, Inc. and the City of Jackson, Mississippi agree to enter into this contract for the provision of solid waste collection services from October 1, 2021 through October 31, 2021. The parties agree to adhere to the terms and conditions of the October 1, 2015 contract between the parties which expires on September 30, 2021, which is attached hereto as Exhibit A. Waste Management of Mississippi, Inc. will provide services at the existing rate of \$0.56 per household. The City of Jackson is authorized to enter into this contract and agrees to pay for the services at this rate on or before November 15, 2021.

Agreed this the ____ of ____, 2021

Armenia Farmer, Area VP

Waste Management of Mississippi, Inc.

City of Jackson, Mississippi

AGREEMENT
FOR SOLID WASTE AND RECYCLING SERVICES
BETWEEN THE CITY OF JACKSON, MISSISSIPPI
AND
WASTE MANAGEMENT OF MISSISSIPPI, INC.

This Agreement made and entered into on this the 5th day of October, 2015, by and between the City of Jackson, Mississippi, hereinafter referred to as the "City" and Waste Management of Mississippi, Inc., a Mississippi corporation, hereinafter referred to as "Contractor".

WITNESSETH

WHEREAS, the City is desirous of securing solid waste collection and recycling services from Contractor; and

WHEREAS, Contractor desires to provide solid waste collection and recycling services to the City;

NOW, THEREFORE, it is hereby agreed as follows:

1. DEFINITIONS:

- 1.1 **APPROVED GARBAGE CONTAINER** - Approved Garbage Container shall mean a Bag (so long as it and its contents do not exceed sixty (60) pounds) or a metal or plastic can of not less than ten gallons nor more than 30 gallon capacity, fitted with a closely fitting cover. In the event the City exercises its option to change to a Collection Service Option under Section 10.4 that includes Garbage Carts, then Approved Garbage Container shall mean Garbage Cart. For the avoidance of doubt, in the event that the City selects a Collection Service Option that includes Garbage Carts, then Bags and metal or plastic cans shall no longer be deemed Approved Garbage Containers, except with respect to the containment of Yard Debris.
- 1.2 **APPROVED RECYCLING CONTAINER** - A Recycling Bin or, if the City exercises its option to change to a Collection Service Option under Section 10.4 that includes Recycling Carts, then a Recycling Cart. For the avoidance of doubt, in the event that the City selects a Collection Service Option that includes Recycling Carts, then Recycling Bins shall no longer be deemed Approved Recycling Containers.
- 1.3 **BAG** - A plastic sack designed to store and enclose Garbage with sufficient wall strength to maintain physical integrity when lifted by its top.
- 1.4 **BULK WASTE** - Stoves, refrigerators, water tanks, washing machines, furniture, mattresses, and other waste materials, other than Construction and Demolition Debris and Hazardous Waste, or volumes that preclude or

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- complicate their handling by normal solid waste collection, processing, or disposal methods.
- 1.5 **COLLECTION** - The act of removing solid waste (or materials that have been separated for the purpose of recycling) from a Residential Unit.
- 1.6 **COMMERCIAL SOLID WASTE** - All types of solid waste generated by stores, offices, restaurants, warehouses, and other non-manufacturing activities, excluding residential and industrial waste.
- 1.7 **CONSTRUCTION AND DEMOLITION WASTE** - Solid waste resulting from construction, remodeling, repair, or demolition operations on buildings, or other structures, including inert debris, land-clearing debris, or used asphalt, asphalt mixed with dirt, sand, gravel, rock, concrete, or similar material.
- 1.8 **GARBAGE** - All putrescible and non-putrescible waste generated from normal (non-storm related) household and office maintenance, including animal offal and carcasses of less than ten (10) pounds in weight except those slaughtered for human consumption; every accumulation of waste that results from the preparation, processing, consumption, dealing in, handling, packing, canning, storage, transportation, decay or decomposition of meats, fish, fowl, birds, fruits, grains or vegetable matter, including, but by no way of limitation, used tin cans and other food containers; and all putrescible or decomposable waste or vegetable matter which is likely to attract flies or rodent, but excluding sewage, human waste, and animal waste.
- 1.9 **GARBAGE CART** - A roll out cart receptacle with two wheels and a properly designed axle and fittings, and a top lid that is to remain closed except when loading material, with a body consisting of approximately sixty-four (64) or ninety-six (96) gallons in capacity, constructed of heavy duty plastic and having the strength to store Garbage and equipped with proper attachments for hydraulic loading into Contractor's collection vehicle by the hydraulic lifts affixed to such vehicle body.
- 1.10 **HAZARDOUS WASTE** - Any chemical, compound, mixture, substance or article which is designated by the United States Environmental Protection Agency or appropriate agency of the State to be "hazardous" as that term is defined by or pursuant to Federal or State law or regulations.
- 1.11 **MATERIALS PROCESSING FACILITY** - A facility that receives and processes Recyclable Materials.
- 1.12 **PERSON** - Any individual, corporation, association, partnership, unit of government, state agency, federal agency, or other legal entity.

- 1.13 **RECYCLABLE MATERIALS** - Newspapers and inserts, high-density polyethylene ("HDPE") and polyethylene terephthalate ("PET") plastic containers, aluminum, bimetal, and ferrous beverage and food cans, all of which have been separated from Garbage and other waste and placed in a separate container at the point of Collection. Additional materials may be added to the definition of Recyclable Materials upon mutual agreement of the parties. Glass materials are specifically excluded from the definition of Recyclable Materials.
- 1.14 **RECYCLING BIN** - An eighteen (18) gallon capacity recycling bin sufficient for containing single stream Recyclable Material.
- 1.15 **RECYCLING CART** - A roll out cart receptacle with two wheels and a properly designed axle and fittings, and a top lid that is to remain closed except when loading material, with a body consisting of approximately sixty-four (64) gallons in capacity, constructed of heavy duty plastic and having the strength to store normal Recyclable Materials and equipped with proper attachments for hydraulic loading into Contractor's collection vehicle by the hydraulic lifts affixed to such vehicle body. Each Recycling Cart must contain a yellow lid or a label specifically identifying the Recycling Cart as a recycling container.
- 1.16 **REPLACEMENT GARBAGE CART**—A Garbage Cart that is provided for the purpose of replacing a damaged or faulty Garbage Cart.
- 1.17 **REPLACEMENT RECYCLING CART** - A Recycling Cart that is provided for the purpose of replacing a damaged or faulty Recycling Cart.
- 1.18 **RESIDENTIAL UNIT** - A free standing structure, including but not limited to a house or trailer, within the Service Area constructed for use as a residence. Each unit of an apartment or condominium dwelling consisting of four (4) or less living units, whether single or multi-level construction, shall be treated as a Residential Unit.
- 1.19 **SERVICE AREA** - The area within the city limits of the City of Jackson, Mississippi, including any annexed areas.
- 1.20 **SERVICE COLLECTION OPTION** - Service Collection Option shall mean any of the "Collection Services" and "Recyclables Collection Services" options set forth on Contractor's Fee Proposal attached hereto as Exhibit C.
- 1.21 **SOLID WASTE DISPOSAL SITE** - A facility at which municipal solid waste can be disposed, including a landfill and transfer station.
- 1.22 **YARD DEBRIS** - Any and all vegetative matter, including grass, weeds, leaves, tree and shrubbery pruning, and other similar materials, resulting from private landscaping or regular yard maintenance. Yard Debris shall not include limbs which are greater than five (5) feet in length or four (4) inches in diameter. Yard

Debris also shall not include debris from commercial/professional landscaping or excessive debris caused by storms or other inclement weather.

2. **TERM**

The term of this Agreement shall begin October 1, 2015, (the "Commencement Date") and continue through September 30, 2020 (the "Initial Term"), provided however, that the Agreement may be extended for an additional period of one (1) year upon the mutual agreement of the parties expressed in writing before the end of the Initial Term.

3. **SERVICES**

3.1 **General Services.** Contractor agrees, in accordance with the terms and conditions of this Agreement, to furnish all services and equipment necessary for the collection and transportation of Garbage, Yard Debris, Bulk Waste and/or Recyclable Materials from Residential Units located within the Service Area to the Solid Waste Disposal Sites or Materials Processing Facilities designated in Section 14.1.

3.2 **Garbage.** Contractor shall collect Garbage from the curbside of all Residential Units located within the Service Area at a frequency of two (2) times per week; provided, however, that in the event that the City exercises its option under Section 10.4 to change to Collection Service Options, then the frequency of collection for the selected collection service shall be as set forth on the Fee Proposal attached hereto as Exhibit C. Contractor shall provide to the City a report setting forth the total tonnage of Garbage collected each month.

3.3 **Bulk Waste.** Contractor shall collect up to two (2) items of Bulk Waste from the curbside of each Residential Unit located within the Service Area at a frequency of one (1) time per week.

3.4 **Yard Debris.** Contractor agrees to collect all containerized Yard Debris and up to two (2) cubic yards of uncontainerized Yard Debris, excluding leaves and yard clippings, from the curbside of each Residential Unit located within the Service Area at a frequency of one (1) time per week. Contractor shall not be responsible for the collection of leaves and grass clippings that are not containerized, nor shall Contractor be responsible for collecting more than two (2) cubic yards of uncontainerized Yard Debris from any Residential Unit on the designated collection day for such Residential Unit. Should Contractor suspect that a Residential Unit has placed more than two (2) cubic yards of uncontainerized Yard Debris, Contractor shall notify the City, within twenty four (24) hours, of the location of such Residential Unit. Contractor and the City shall make a mutual determination of whether a Residential Unit has placed more than two (2) cubic yards of uncontainerized Yard Debris for collection. Should the parties determine that a Residential Unit placed more than two (2) cubic yards of uncontainerized Yard Debris for collection, Contractor shall not be required to collect any of the uncontainerized Yard Debris from such Residential Unit. The City shall then collect such Yard Debris in accordance with the Jackson Code of Ordinances of the City.

3.5 Recyclable Materials. Contractor shall collect Recyclable Materials from the curbside of each Residential Unit located within the Service Area at a frequency of one (1) time every other week; provided, however, that in the event that the City exercises its option under Section 10.4 to change Collection Service Options, then the frequency of collection for the selected recyclables collection service shall be as set forth on the Fee Proposal attached hereto as Exhibit C. Recyclable Materials shall be placed in an Approved Recycling Container. Recyclables shall be collected on the same day of the week in which Garbage is collected in accordance with Section 3.2 herein. In the event that a customer commingles non-Recyclable Materials with Recyclable Materials, Contractor will leave all materials in the container along with instructional material educating the customer about the Recyclable Materials accepted in the City's recycling program and how to prepare these materials for Collection.

Contractor will provide public education materials about recycling and services on a not less than quarterly basis. The educational materials will include, but not be limited to, acceptable Recyclable Materials, collection schedules, and specifications for accepting Yard Debris and Recyclable Materials set out at the curb.

Contractor shall ensure that the Recyclable Materials collected, so long as they are marketable, are recycled for reuse and shall prevent such material from being deposited in any landfill. Should the market for a Recyclable Material covered by the terms of this Agreement collapse and render the product worthless (i.e., local recycling processors will not accept the material without charge), the collection of such Recyclable Material shall be suspended until the markets improve unless the City is willing to reimburse Contractor for marketing the materials at a negative value.

Contractor shall maintain records on the weight of Recyclable Materials collected. Contractor shall provide to the City a report setting forth the total tonnage of Recyclable Materials collected each month.

3.6 Municipal Buildings and Facilities. At no additional charge to the City, Contractor shall collect solid waste and Recyclable Materials from municipal buildings and facilities in accordance with the City Facilities Collection Schedule set forth on Exhibit A, which shall identify (i) the municipal buildings and facilities to which collection services will be provided; (ii) the frequency of collection; and (iii) the number and size of containers to be provided to each municipal building and facility for collection of solid waste and Recyclable Materials.

3.7 Monthly Roll Off Services. At no additional charge to the City, one day each month, Contractor shall deliver one (1) thirty (30) cubic yard roll off container to each of the seven (7) wards of the City for the collection of solid waste and Bulk Waste from the residents of the City. The City shall designate the date and specific location where each roll off container is to be delivered. Each roll off container shall be available to the City and residents of the City between the hours of 7 A.M. and 5 P.M. on the date selected by the City, after which Contractor will transport any waste collected to Little Dixie Landfill,

located at 1716 N. County Line Road, Ridgeland, MS, or such other Solid Waste Disposal Site as the parties may mutually agree. The City shall be responsible for providing personnel at each location to monitor the delivery of solid waste and Bulk Waste. The City is responsible for paying the disposal charges, as well as charges for any additional services requested by the City, related to the monthly roll off services.

3.8 **Storm Debris.** Contractor shall not be responsible for the collection or disposal of any increased volume of waste resulting from a flood, hurricane or similar or different acts of God over which Contractor has no control. In the event of such a flood, hurricane or other act of God, Contractor and the City shall negotiate the payment to be made to Contractor for additional services, if Contractor and City agree that the increased volume is to be handled by Contractor. Further, if the City and Contractor reach such an agreement, the City shall grant Contractor variances in routes and schedules as deemed necessary by Contractor.

3.9 **Discontinuance of Services.** Contractor shall discontinue collection service at any location set forth in a written notice sent to Contractor by the City. Upon further notification by the City, Contractor shall resume collection on the next regularly scheduled collection day.

4. HOUSE COUNT

4.1 **Initial House Count:** Immediately after the Commencement Date, Contractor, with participation from the City, shall begin the process of determining the total number of Residential Units receiving services under this Agreement (the "Initial House Count"). The parties agree that the Initial House Count will be completed as soon as practicable after the Commencement Date, but in no event later than 120 days after the Commencement Date. Each party agrees that it will work diligently to complete the Initial House Count in a timely manner and will refrain from engaging in any tactic that would unreasonably delay the completion of the Initial House Count.

4.2 **Additional House Counts:** Beginning on the second anniversary of the Commencement Date, each party shall have the right to request an additional house count (an "Additional House Count"), which shall be conducted jointly; provided, however, an Additional House Count is not to be conducted more frequently than once during each 12-month period of the Agreement term.

5. NEWLY DEVELOPED AND ANNEXED AREAS

If additional territory is annexed into the City subsequent to the execution of this Agreement, the City shall provide written notice to Contractor of the addition of the annexed areas after the expiration of any existing agreement involving a governmental entity under which the Residential Units within the annexed area are receiving Garbage collection services. Contractor will, within thirty (30) days of receipt of such notification

from the City, provide the same frequency and quality of service to the annexed areas required by this Agreement. As new homes are constructed and occupied in the City, Contractor shall, after proper notification by the City, provide solid waste services as required by the Contract on the next scheduled day of collection following notification. The compensation payable to Contractor shall be adjusted based on the Residential Unit costs for services provided under this Section 5. Contractor will assist the City with any issues associated with the billing of Residential Units located in newly developed or annexed areas.

6. POINT OF CONTACT

All communications between Contractor and the City shall be directed by Contractor to the Solid Waste Manager or the designee of the Public Works Director.

7. CONTAINERS

7.1 **Approved Garbage Containers.** Contractor is not responsible for providing Approved Garbage Containers to Residential Units; provided, however, that in the event that the City exercises its option under Section 10.4 to select a Collection Service Option that calls for the collection of Garbage from a Garbage Cart, then Contractor shall be responsible for providing Garbage Carts to each Residential Unit receiving services under this Agreement.

7.2 **Recycling Bins and Carts.** Contractor will provide the City with up to 2000 Recycling Bins each contract year at no cost to the City, which the City will deliver to new and existing Residential Units receiving services under this Agreement. Contractor shall have no further obligation to provide Recycling Bins to the City or Residential Units. In the event that the City exercises its option under Section 10.4 to select a Collection Service Option that calls for the collection of Recyclable Materials from a Recycling Cart, then Contractor shall be responsible for providing Recycling Carts to each Residential Unit receiving services under this Agreement.

7.3 **Replacement Carts.** Should the City exercise its option under Section 10.4 to select a Collection Service Option that calls for collection from Garbage or Recycling Carts, Contractor will provide, at its own expense, (i) up to a number of Replacement Garbage Carts that is equal to 2% of the number of new Garbage Carts previously delivered to Residential Units; and (ii) up to a number of Replacement Recycling Carts that is equal to 2% of the number of new Recycling Carts previously delivered to Residential Units (the "Replacement Cart Amount"). The Contractor may charge the City \$65.00 for each Replacement Garbage Cart and Replacement Recycling Cart that it provides in excess of the Replacement Cart Amount.

7.5 **Required Use.** Contractor is not responsible for collecting Garbage from Residential Units that is not contained within an Approved Garbage Container. Contractor is not responsible for collecting Recyclable Materials from Residential Units that are not contained within an Approved Recycling Container.

8. EXTRAORDINARY WASTE MATERIALS

Contractor shall not be responsible for the collection of Hazardous Wastes, body wastes, animal waste, abandoned vehicles, vehicle parts, Construction and Demolition Waste, Commercial Solid Waste, large equipment (other than "Bulk Waste"), or dead animals over ten (10) pounds under the terms of this Agreement.

9. OFFICE AND TELEPHONE CONTACT

Contractor shall maintain an office and service facilities through which it may be contacted without charge by telephone. The office shall be equipped with sufficient telephones and shall have responsible personnel in charge from 8:00 a.m. until 5:00 p.m., Monday through Friday.

10. COMPENSATION

10.1 **Compensation for Collection and Hauling Services.** As compensation for the collection and hauling of Garbage, Bulk Waste, and Yard Debris, the City shall pay to Contractor the sum of Nine and 27/100 Dollars (\$9.27) per Residential Unit per month. Such monthly compensation does not include the cost of disposal charged by the Solid Waste Disposal Sites. In the event that the City exercises its option to change garbage collection services under Section 10.4, then the City shall pay Contractor the rate applicable to the City's selected Service Collection Option as set forth on the Fee Proposal attached hereto as Exhibit C, subject to adjustments provided in Sections 10.5 and 10.6.

10.2 **Compensation for Recycling Services.** As compensation for the recycling services described in Section 3.5 above, the City shall pay to Contractor the sum of One and 68/100 Dollars (\$1.68) for each Residential Unit per month. In the event that the City exercises its option to change recycling services under Section 10.4, then the City shall pay Contractor at the rate applicable to the City's selected Service Collection Option as set forth on the Fee Proposal attached hereto as Exhibit C, subject to adjustments provided in Sections 10.5 and 10.6.

10.3 **Pricing Adjustment for House Count.** During the first 120 days of the contract, the total number of Residential Units for which Contractor shall be compensated in accordance with Sections 10.1 and 10.2 is 45,000. Thereafter, Contractor shall be compensated for providing services to the number of Residential Units determined by the Initial House Count to be receiving services under this Agreement. The compensation payable to Contractor shall be adjusted to reflect the results of any Additional House Count conducted pursuant to Section 4.2. Notwithstanding the foregoing, if additional Residential Units are added to the Service Area as a result of annexation by the City, Contractor's compensation shall be adjusted immediately upon commencement of service to the annexed areas, without the necessity of an Additional House Count.

10.4 Election of Change in Services. Beginning on October 1, 2016 and ending November 30, 2016 (the "Option Period"), the City shall have the option to change the services provided hereunder to a different Collection Service Option. The City may exercise such option by providing written notice to Contractor before the expiration of the Option Period. Contractor will be allowed a reasonable period of time to make changes in services to those selected by the City. Without limiting the foregoing, in the event that the City selects a Collection Service Option that requires collection from Garbage Carts or Recycling Carts, Contractor agrees that it will order carts from its cart supplier within thirty (30) days following receipt of the City's notice required under this Section 10.4 and will deliver such carts to the Residential Units within a reasonable period of time after receipt of the carts from the supplier. In the month following delivery of Garbage Carts or Recycling Carts, Contractor will bill the applicable rate set forth on the Fee Schedule attached as Exhibit C for the number of Residential Units to whom carts were delivered. Any Garbage Carts or Recycling Carts provided as a result of the City's election to change services shall remain the property of Contractor.

10.5 Inflationary Adjustments. The Compensation payable by the City to the Company under Sections 10.1 and 10.2 shall be adjusted annually by the same percentage as the Consumer Price Index for All Urban Consumers, Garbage and Trash Collection, (1983=100), Not Seasonally Adjusted, (published by the Bureau of Labor Statistics, U.S. Department of Labor) ("C.P.I.") shall have increased or decreased during the preceding twelve months. In the event the U.S. Department of Labor, Bureau of Labor Statistics ceases to publish the C.P.I., the parties hereto agree to substitute another equally authoritative measure of change in the purchasing power of the U.S. dollar as may be then available so as to carry out the intent of this provision. The initial rate adjustment shall take effect on the first anniversary date of the Commencement Date, and rate adjustments for succeeding contract years shall take effect on the successive anniversary dates of the Commencement Date during each succeeding year throughout the term hereof. Monthly payments due by the City to the Company shall be adjusted to compensate for such annual rate increases.

10.6 Adjustments for Increased Costs. Contractor shall be entitled to an increase in its compensation rates to offset any increased costs associated with longer haul distance should the City designate a Solid Waste Disposal Site or Materials Processing Facility other than the Solid Waste Disposal Sites and Materials Processing Facilities specifically designated in Section 14.1.

10.7 Taxes and Surcharges. In the event that Contractor becomes liable for or is required to pay any governmental tax or surcharge in connection with the services provided for under the terms of this Agreement, such tax or surcharge shall be the responsibility of the City and shall be payable to Contractor in addition to Contractor's normal monthly compensation.

10.8 Submission and Payment of Bills. City will pay according to Mississippi law within 45 days of the receipt of Contractor's invoices for services rendered under this

Agreement unless the amount of the invoice is disputed. In the event the amount of the invoice is disputed, City will pay the undisputed amount within 45 days.

11. PERFORMANCE BOND:

Within five (5) days of receipt of a fully executed Agreement by Contractor, Contractor shall furnish and provide a performance bond in the amount of One Million Dollars (\$1,000,000.00) to secure Contractor's performance of this Agreement. The bond shall remain in full force and effect for the duration of the Agreement and shall be valid and irrevocable for the duration of the Agreement.

The bond shall serve as security for the faithful performance of this Agreement and shall not be released until expiration of this Agreement. A duly authorized surety company, licensed and doing business in Mississippi and countersigned by a resident agent, shall issue the surety on such bond. The performance bond shall be procured at Contractor's expense. The City reserves the right to review the bond and require Contractor to provide a substitute bond, at Contractor's expense, in such form as the City may reasonably require. The City further reserves the right to require Contractor, at Contractor's expense, to provide an updated bond based upon the value of the contract and the services performed. The bonds must specifically refer to this Agreement and shall bind the surety to all the terms and conditions of this Agreement.

12. HOURS AND DAYS OF OPERATION

Residential route collection shall not begin prior to 7:00 a.m. each day or continue after 9:00 p.m. Exceptions to collection hours shall be effected only upon the mutual agreement of the City and Contractor, or when Contractor reasonably determines an exception is necessary in order to complete collection on an existing collection route due to unusual circumstances. Contractor will not be responsible for providing service on the following holidays:

New Year's Day	Dr. Martin Luther King's Birthday
Thanksgiving Day	Independence Day
Christmas Day	

Contractor is not required to provide a make-up day to collect solid waste or Recyclable Materials from Residential Units affected by the cancellation of services on the foregoing holidays. Without limiting the foregoing, Contractor shall be responsible for publicizing (and the expense of publishing) any changes in collection schedules due to holiday observance. Proper publicizing will include the placement of advertisements or public service announcements serving the affected area.

13. INDEMNITY

Contractor shall indemnify and save harmless the City, its officers, agents, servants, and employees, from and against any and all suits, actions, legal proceedings, claims, demands, damages, costs, expenses, and attorney's fees to the extent resulting from a willful or negligent act or omission of Contractor, its officers, agents, servants, and employees in the performance of this Agreement; provided, however, that Contractor shall not be liable for any suits, actions, legal proceedings, claims, demands, damages, costs, expenses and attorneys' fees arising out of the award of this Agreement or for a willful or negligent act or omission of the City, its officers, agents, servants and employees.

14. DISPOSAL

14.1 Designated Disposal Sites and Processing Facilities. All Garbage, Bulk Waste, and Yard Debris collected by Contractor shall be delivered by Contractor to the Little Dixie Landfill, located at 1716 N. County Line Road, Ridgeland, MS. All Recyclable Materials shall be delivered to the Jackson Transfer Station located at 1462 Country Club Drive, Jackson, MS, where it will then be transferred onto a trailer and delivered to Advance Disposal Sumrall Recycling, located at 1386 Highway 42, Sumrall, MS. Garbage, Bulk Waste, Yard Debris, and Recyclable Materials may be delivered to such other Solid Waste Disposal Sites or Materials Processing Facilities as the parties may mutually agree, and, in such event, Contractor's compensation shall be subject to adjustments as addressed in Section 10.5 above.

14.2 Disposal Charges. The City shall be responsible for all disposal charges applicable to the disposal of all waste collected at the Solid Waste Disposal Sites designated in Section 14.1.

15. INSURANCE

During the Term of this Contract, Contractor shall maintain in full force and effect the following minimum insurance:

<u>Coverage</u>	<u>Limits of Liability</u>
Workmen's Compensation	Statutory
Employer's Liability	\$ 500,000.00
Bodily Injury Liability	\$ 1,000,000.00 each occurrence
except Automobile	\$ 2,000,000.00 aggregate
Property Damage Liability	\$ 1,000,000.00 each occurrence
except automobile	\$ 1,000,000.00 aggregate
Automobile Bodily Injury Liability	\$ 1,000,000.00 each person
Liability	\$ 2,000,000.00 each occurrence
Automobile Property Damage Liability	\$ 1,000,000.00 each occurrence
Excess Umbrella Liability	\$ 5,000,000.00 each occurrence

Contractor shall provide proof of existence of said policies to the City prior to the Commencement Date of the Agreement. The City shall be included as an additional insured on the comprehensive general liability and automobile liability policies.

16. LOCATION OF COLLECTION

Approved Garbage Containers and Recycling Bins shall be placed in a location that is readily accessible to Contractor and its equipment, not to exceed five (5) feet from the curb or edge of the traveled portion of road or street. The City will aid Contractor in resolving problems relating to the location of Approved Garbage Containers and Approved Recycling Containers.

17. SERVICE INQUIRIES

All complaints shall be made directly to Contractor. Contractor shall give all complaints prompt and courteous attention. In the case of an alleged missed schedule collection, Contractor shall investigate and if such allegations are verified, shall arrange for collection within twenty-four (24) hours of the time the complaint was received.

Contractor shall maintain forms or a log indicating the time a complaint or request is received, the nature of the complaint or request, and the disposition of same. Such records shall be available for the City's inspection at all times during normal working hours.

Contractor shall furnish to the City on a monthly basis:

A. A report of the service locations not served on the regularly scheduled service day during the preceding month and the reason service could not be provided.

B. A report of complaints received during the preceding month and the resolution of these complaints. The City may require Contractor to make personal supervisory contact to resolve a service complaint.

18. NOTIFICATION OF CUSTOMERS

Contractor shall notify all customers about complaint procedures, changes in services, days of collection and other information regarding the services provided by the Contractor under this Agreement. Except for holiday service changes, Contractor and City shall agree on all service changes thirty (30) days prior to any change in service. Except for holiday changes, the Contractor shall notify all affected customers thirty (30) days prior to the change. The method of customer notification shall be a combination of door hangers, mailing and/or media advertising approved by the City. To the extent there are services changes from the existing service, within ten (10) days of the execution of this Agreement or any change in services, the Contractor shall deliver printed information

about its services under this Agreement to every Residential Unit pursuant to the methods of notification set forth herein.

19. CONTRACTOR'S PERSONNEL

19.1 Contractor shall assign a qualified person to be in charge of its performance of this Contract.

19.2 Contractor's collection employees shall wear a uniform and shirt bearing Contractor's name and the name of the individual employee.

19.3 Each employee shall, at all times, carry a valid driver's license for the type of vehicle he is driving.

19.4 Contractor shall provide operating and safety training for all personnel.

19.5 No person shall be denied employment by Contractor for reasons of age, race, sex, creed, or religion or national origin.

20. FORCE MAJEURE

From and after the Commencement Date, Contractor's performance hereunder may be suspended and its obligations hereunder excused in the event and during the period that such performance is prevented by a cause or causes beyond the reasonable control of Contractor. Such causes may include, by way of example and not limitations, acts of God, acts of war, riot, fire, explosion, accident, flood or sabotage; lack of adequate fuel, power or raw materials, judicial administrative or governmental laws, regulations, requirements, rules, orders or actions; injunctions or restraining orders; the failure of any governmental body to issue, grant, or the suspension or revocation or modification of any license, permit or other authorization necessary for the services envisioned by this Agreement; national defense requirements; labor strike, lockout or injunction.

21. PERMITS AND LICENSES

Contractor shall obtain at its own expense all permits and licenses required by law or ordinance and maintain same in full force and effect.

22. TERMINATION

Except as otherwise provided herein, if either party breaches this Agreement or defaults in the performance of any of the covenants or conditions contained herein for fifteen (15) days after the other party has given the party breaching or defaulting written notice of such breach or default, unless a longer period of time is required to cure such breach or default and the party breaching or defaulting shall have commenced to cure such breach or default within said period and pursues diligently to the completion thereof, the other party may: (a) terminate this Agreement as of any date which the said other

party may select provided said date is at least thirty (30) days after the fifteen (15) days in which to cure or commence curing; (b) cure the breach or default at the expense of the breaching or defaulting party; and/or (c) have recourse to any other right or remedy to which it may be entitled by law, including, but not limited to, the right for all damage or loss suffered as a result of such termination. In the event either party waives default by the other party, such waiver shall not be construed or determined to be a continuing waiver of the same or any subsequent breach or default.

In the event that a change in law prohibits the binding of the successors in office of the City's elected officials, those successors reserve the right to terminate this Agreement upon giving notice to Contractor.

23. EXCLUSIVE CONTRACT

Contractor shall have the sole and exclusive right to provide residential solid waste collection and recycling services for and on behalf of the City. This Agreement shall not constitute a franchise or exclusive right to collect solid waste from other commercial, institutional and industrial units within the City.

24. NOTICE

A letter addressed and sent by certified United States Mail to either party at the business address specified shall be sufficient notice whenever required for any purpose in this Contract. Also, the address designated at this address may be changed from time to time by written notice sent by Certified U.S. Mail as provided herein.

City: Office of the Mayor
219 South President Street
Jackson, MS 39201

with copies to: City Attorney
455 East Capitol Street
Jackson, MS 39201

Public Works Director
200 South President Street
Jackson, MS 39201

Contractor: Waste Management of Mississippi, Inc.
1450 Country Club Road
Jackson, MS 39209-2509
Attn: Area Manager, Public Affairs

with a copy to: Area General Counsel
Waste Management Southern Area
1850 Parkway Place, Suite 600

Marietta, GA 30067

25. MODIFICATION

This Contract constitutes the entire contract and understanding between the parties hereto, and it shall not be considered modified, altered, changed or amended in any respect unless in writing and signed by the parties hereto.

26. COMPLIANCE WITH LAWS

Contractor shall conduct operations under this Contract in compliance with all applicable laws, provided, however, that the terms of this Contract shall govern the obligations of Contractor where conflicting ordinances exist.

27. LAW TO GOVERN

This Contract shall be governed by the laws of the State of Mississippi both as to interpretation and performance.

28. SUCCESSORS AND ASSIGNS

This Agreement may not be assigned by any party without the prior written consent of the other part. This Agreement shall inure to the benefit of and be binding upon the successors and permitted assigns of the parties hereto, except where law prohibits the binding of the successors in office of the City's elected officials.

29. MINORITY / WOMEN BUSINESS ENTERPRISE PARTICIPATION:

29.1 Equal Business Opportunity Contractor requirements. Contractor agrees that it will comply with the Equal Business Opportunity Plan attached hereto as Exhibit B and with the Executive Order on equal business opportunity.

The Contractor agrees to exercise good faith in making available opportunities for minority business enterprises (MBEs) which includes, but is not limited to, African American Business Enterprises, Female Business Enterprises, Hispanic Business Enterprises, and Asian Business Enterprises to perform commercially useful work described in Exhibit B to this agreement which is incorporated into this agreement as if fully reprinted in accordance with the provisions of this Executive Order and shall take the following actions as part of its good faith outreach efforts to comply with the terms of the agreement and the Executive Order implemented by Mayor Tony Yarber of the City of Jackson on July 29, 2014 and as revised:

- (1) Notification to MBEs and FBEs that the Contractor has subcontracting opportunities available and maintenance of records of the MBEs and FBEs responses.

- (2) Maintenance by the Contractor of a file of the names and addresses of each MBE and FBE contacted and action taken with respect to each such contact.
- (3) Dissemination of the Contractor's EBO policy externally by informing and discussing it with all management and technical assistance sources; by advertising in news and electronic media, and by notifying and discussing it with all subcontractors and suppliers.
- (4) Specific and continuing personal (both written and oral) recruitment efforts directed at MBE and FBE contractor organizations and/or MBE and FBE assistance organizations.
- (5) Subdivision of the contract into economically feasible segments as practical to allow the greatest opportunity for participation by MBEs and FBEs.
- (6) Increasing where possible the number of aggregate purchase items so as to eliminate the requirement of front-end purchases of material for as many MBE and FBE subcontractors as possible.
- (7) Adoption of the equal business opportunity plan submitted with its response to the invitation for bids or request for proposals as obligations under this agreement, as approved by the equal business opportunity officer.
- (8) Submission of monthly reports on the forms and to the extent required by the equal business opportunity officer which shall be due on the 10th day of each month following the award of the work set forth in the agreement.

29.2 Maintenance of records and reports by Contractor. Contractors awarded eligible projects incorporating EBO requirements must submit monthly participation reports on a form provided by the Equal Business Opportunity Officer. The report shall be submitted to the Equal Business Opportunity Officer on the 10th day of each month following the award of the eligible project. Each report shall include the following:

- (a) the name, address, telephone number, and contact person of each subcontractor or other business used until the present date;
- (b) the type of work or service each business has performed;
- (c) a summary of the dollar amounts contracted or committed to each business during the term of the contract;
- (d) the dollar amounts actually paid to each business during the current month;
- (e) the total dollar amounts actually paid each business by race or gender (denoted as either AABE, HBE, ABE, NABE or FBE).
- (f) Other information requested by the EBO Officer.

Contractor shall maintain participation reports for a period of two (2) years after the completion of the applicable contract or project. Contractor shall create and maintain for a minimum of two years following the project's completion all records and documents reasonably necessary to demonstrate and verify the Contractor's compliance with the requirements of the Executive Order and Contractor's EBO Plan. Upon request by the EBO officer, Contractor shall either submit documents and records related to its compliance to the Division of Equal Business Opportunity or permit inspection of the documents for the purpose of assessing and verifying compliance.

29.3 Failure to meet equal business opportunity participation goals. Contractor's failure to cure any instances of non-compliance within thirty (30) days after receiving notice of a determination by the Equal Business Opportunity Officer that the Contractor has failed to comply with any portion of the Executive Order or the Contractor's EBO Plan may subject the Contractor to any or all of the following penalties:

- (1) Withholding from the Contractor ten percent (10%) of all future payments for the current eligible project until it is determined that the contractor is in compliance;
- (2) Withholding from the Contractor all future payments for the current eligible project until it is determined that the Contractor is in compliance;
- (3) Rejection of all future bids or offers for any eligible project with the City of Jackson or any of its departments or divisions until such time as the Contractor demonstrates that there has been established and there shall be carried out all of the provisions of this Executive Order and the Contractor's EBO Plan;
- (4) The submission of a recommendation to the governing authorities that the Contractor's agreement with the City be terminated.

[Signature page follows.]

IN WITNESS WHEREOF, this Agreement has been executed in duplicate original on the day and in the year first above mentioned.

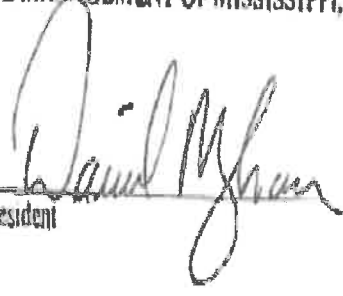
THE CITY OF JACKSON, MISSISSIPPI

BY: 
ITS Mayor

Attest:


City Clerk

WASTE MANAGEMENT OF MISSISSIPPI,
INC.

BY: 
ITS President


Witness

President Lindsay moved adoption; Council Member Foote seconded.

President Lindsay recognized Roy Campbell, Representative of Bradley Arant Boult Cummings, who provided a brief overview of said item.

After a thorough discussion, President Lindsay and Council Member Foote, withdrew their motion and second. Said item was tabled until later in the meeting.

ORDER OF THE JACKSON CITY COUNCIL APPROVING CONTRACT FOR EMERGENCY GARBAGE COLLECTION SERVICES FOR JACKSON, MISSISSIPPI.

WHEREAS, the City of Jackson's current contract with Waste Management of Mississippi, Inc. for solid waste collection and hauling services is set to expire on September 30, 2021; and

WHEREAS, on March 25, 2021, the City requested proposals for solid waste collection and hauling services, with various options for the duration of the contract, the frequency of pickup, and other options; and

WHEREAS, in response to that request for proposals several proposals were received but, to date, none have been accepted; and

WHEREAS, on September 27, 2021, the City Council of Jackson adopted a Proclamation of Local Emergency relative to the absence of any arrangements made to provide for solid waste collection and hauling services for the City beginning October 1, 2021, and finding that the Mayor, as a part of the City's governing authority, has abdicated his responsibility to participate in providing for the collection and disposal of garbage and rubbish; and

WHEREAS, the City has received two proposals for the emergency collection and disposal of garbage and rubbish beginning October 1, 2021, as follows: from National Waste United, LLC, under which the City would agree to pay for six months \$15.00 per residential unit per month, and "a mobilization fee of \$750,000.00 within 30 days, exclusive of and in addition to all other compensation," with a performance bond of \$625,958.00; the other from the existing vendor for garbage collection, Waste Management of Mississippi, Inc., to continue to provide its same services to the City during the month of October on the same terms and conditions as exist under its current contract, including the existing rates of \$10.56 per residential unit per month, with a performance bond of \$1,000,000.00; and

WHEREAS, approximately 53,869 residential units would be served by either proposal.

NOW, THEREFORE the City Council of Jackson, Mississippi, in accordance with the authority vested in it by its Proclamation of Local Emergency and Mississippi Code § 33-15-17(b), does hereby approve the proposal of **National Waste United, LLC** for the emergency collection and disposal of garbage and rubbish beginning October 1, 2021.

FURTHER, IT IS ORDERED that, upon entry of a judgment by a court of competent jurisdiction declaring that this action by the City Council of Jackson is lawful and authorized, the President of the City Council is designated and authorized on behalf of the City Council to execute the proposal of National Waste United, LLC for the emergency collection and disposal of garbage and rubbish beginning October 1, 2021, in substantially the form attached hereto as Exhibit A.

WITNESS MY HAND, on this 27TH day of September, 2021.

EXHIBIT A

EMERGENCY AGREEMENT
for
SOLID WASTE COLLECTION
AND HAULING SERVICES
between
CITY OF JACKSON, MISSISSIPPI and
NATIONAL WASTE UNITED, LLC

This Agreement is entered into this the 17th day of September, 2021 by and between the City of Jackson, Mississippi, a municipal corporation, with its principal mailing address being P.O. Box 17, Jackson, Mississippi 39205 (hereinafter referred to as "City" or "The City of Jackson") and National Waste United, LLC (see Exhibit "G" for membership disclosures of contracting entity) a limited liability company with its principal place of business at 5520 Highland Dr, Jackson, MS 39206 (hereinafter referred to as "Contractor").

WHEREAS, the City of Jackson, Mississippi advertised for a qualified company to collect and haul Solid Waste from residential units within the city limits, from certain city facilities, and to provide certain other related services; and

WHEREAS, the City was unable to agree to the terms of a contract pursuant to the Request for Proposal process required under Section 31-7-13 (r) of the Mississippi Code, as amended; and

WHEREAS, pursuant to the authority vested in the Mayor pursuant to Mississippi law, the Mayor has proclaimed the existence of a state of local emergency, in anticipation of the City's inability to collect solid waste from residential units throughout the City; and

WHEREAS, National Waste United, LLC has represented to the Mayor that they are willing and able to collect residential solid waste and otherwise fulfill the scope of services currently being provided under the existing October 1, 2015 Agreement for Solid Waste and Recycling Services, as amended in 2020 to discontinue recycling services; and

WHEREAS, National Waste United, LLC has agreed to provide the services set forth in this Agreement on an emergency basis until such time as the City is able to procure a contract through the Request for Proposal process set forth in Section 31-7-13 (r) and the contractor procured under that process is prepared to begin providing solid waste collection and hauling services; and

WHEREAS, the City of Jackson and National Waste United, LLC have a mutual desire to accomplish the environmentally safe and effective collection and hauling of Solid Waste;

NOW THEREFORE, in consideration of the premises and of the mutual obligations undertaken herein, the parties hereto hereby agree as follows:

1. DEFINITIONS

1.1 **Certain Definitions.** The following terms used throughout this Agreement shall have the meaning set forth in this section, unless otherwise defined herein.

"Agreement" shall mean this Agreement for the Collection and Hauling of Solid Waste duly executed by the City of Jackson and Contractor

"Bags" shall mean a plastic or paper sack designed to store or enclose Solid Waste with sufficient strength to maintain physical integrity when lifted by top. Total weight of a bag with contents shall not exceed sixty (60) pounds.

"Bulky Items" shall mean, but are not limited to white goods such as washers and dryers, dishwashers, water heaters, furniture, appliances, and similar items. Bulky Items do not include tires, refrigerators, freezers, air conditioners or automobile parts

"City" shall mean The City of Jackson, Mississippi, a municipal corporation represented by its Mayor and City Council

"Code of Ordinances" shall mean the Code of Ordinances of the City of Jackson, Mississippi.

"Contractor" shall mean National Waste United, LLC.

"Director of Public Works" shall mean the Director of Public Works for the City of Jackson or his/her designee.

"Disposal Site (landfill)" shall mean the Waste Management of Mississippi, Inc MDEQ-permitted transfer station within the City.

"Household Solid Waste" shall mean all Solid Waste with the exception of Yard Debris and Bulky Items.

"Residential Unit" shall mean a dwelling unit such as a home or trailer, or a dwelling unit in a multi-family dwelling of four or less units, not including hotels and motels.

"Service Area" shall mean the area of the City of Jackson within, which services will be provided by the Contractor, as reflected in Exhibit "D", plus any annexed areas.

"Solid Waste (garbage)" shall include, but is not limited to, all garbage, refuse from household maintenance, Yard Debris, putrescible and non-putrescible solid, semi-solid, and liquid wastes, paper, rubbish, ashes, human and animal waste, kitchen and table waste, cardboard containers, cans, Bulky Items and the like.

"Standard Container" shall mean a metal or plastic can of not less than ten (10) gallons, no more than thirty (30) gallons, cardboard boxes, or similar items used to containerize Solid Waste.

"Yard Debris (trash)" shall mean yard clippings, tree trimmings, leaves, wood, and similar items normally accumulated in the care and maintenance of yards (green waste). All tree trimmings and wood shall be cut to lengths of four (4) feet or less and will not exceed four (4) inches in diameter. Debris resulting from commercial tree trimmings or removal operations is not be included

2. TERM

2.1 Term of Agreement. The initial term of this Agreement is for six (6) months commencing on October 1, 2021 and ending March 31, 2022. Thereafter, the City and National Waste United, LLC may, upon mutual consent, agree to extend this Agreement for successive monthly periods until such time as the necessity to collect residential Solid Waste, Yard Debris, and Bulky Items on an emergency basis ceases, the intent of parties being to provide emergency collection services until a contract is procured under Section 31-7-13 (r) of the Mississippi Code, as amended.

3. AUTHORITY TO CONTRACT

3.1 Representation of National Waste United, LLC represents and warrants that:

(1) National Waste United, LLC is a limited liability company in good standing under the laws of the State of Mississippi and is duly licensed to conduct business in the State of Mississippi and the City of Jackson.

(2) National Waste United, LLC has the full power, authority, and legal right to enter into and perform this Agreement.

(3) This Agreement constitutes a legal, valid, and binding obligation of National Waste United, LLC enforceable in accordance with its term.

3.2 Representation of the City. The City of Jackson represents and warrants that:

(1) It has the full power, authority, and legal right to enter into and perform this Agreement.

(2) This Agreement constitutes a legal, valid, and binding obligation of the City of Jackson, Mississippi enforceable in accordance with its term, subject to the City Council approving the need to continue the local emergency declared by the Mayor and its ratification by the City Council.

4. SCOPE OF SERVICES

4.1 General Services. The Contractor agrees to furnish all land, buildings, labor, mechanics, tools, equipment, material, supplies, and services necessary to perform all work and services to satisfactorily collect all Solid Waste from locations within the City of Jackson, Mississippi, transport collected Solid Waste, including Yard Debris and Bulky Items, to City's designated disposal site and perform all other work or services incidental to Solid Waste collection and transportation services in strict accordance with the terms and conditions of this Agreement.

The Contractor shall perform the services described herein utilizing the vehicles and equipment described in the Vehicle and Equipment schedule and all subsequent amendments thereto set forth in Exhibit "A" attached hereto and incorporated herein.

4.2 Residential Services. The Contractor shall collect and haul Household Solid Waste from all Residential Units located within the corporate limits of the City of Jackson in accordance with the Code of Ordinances, City of Jackson, Mississippi, including any and all amendments thereto adopted by the City of Jackson, Mississippi. Contractor shall be responsible for curbside collection of Household Solid Waste from Residential Units twice weekly on Regular Collection Days to be designated by the Contractor and approved by the Department of Public Works. Except as otherwise provided, the Contractor shall collect Household Solid Waste containerized pursuant to the City's Code of Ordinances, in Bags and Standard Containers.

4.3 Municipal Buildings and Facilities. Contractor shall collect Solid Waste from selected municipal buildings and facilities set forth in the City Facilities Collection Schedule and all subsequent amendments thereto set forth in Exhibit "B" attached hereto and incorporated herein. Contractor shall collect Solid Waste at each city building and facility based on the frequency of collection set forth in Exhibit "B" and utilizing the number and sizes of containers set forth therein. The City shall adjust the compensation paid to Contractor in the event the City increases or decreases the number of buildings and facilities serviced, the frequency of collection at buildings and facilities, and the sizes of containers used for collection.

4.4 Bulky Items. The Contractor shall collect all Bulky Items from Residential Units once per week on the second Regular Collection Day to be designated by the Contractor and approved by the Department of Public Works.

4.5 Yard Debris. The Contractor agrees to provide the collection of containerized Yard Debris twice weekly and up to two (2) cubic yards of uncontainerized Yard Debris from each Residential Unit once weekly on the second regular collection day to be designated by the Contractor and approved by the Director of the Department of Public Works. The Contractor shall not be required under any circumstances to collect any uncontainerized Yard Debris from any Residential unit except on the second regular collection day for such Residential Unit nor collect more than two (2) cubic yards of uncontainerized Yard Debris from any Residential Unit on the second collection day for such Residential Unit. Should the Contractor suspect that a Residential Unit has placed more than two (2) cubic yards of uncontainerized Yard Debris, the Contractor shall notify the City, within twenty-four (24) hours, of the location of such Residential Unit. The Contractor and the City shall make a mutual determination of whether a Residential Unit has placed more than two (2) cubic yards of uncontainerized Yard Debris for collection on the second collection day. Should the parties determine that a Residential Unit shall have placed more than two (2) cubic yards of uncontainerized Yard Debris for collection, the Contractor shall not be required to collect any of such uncontainerized Yard Debris from such Residential Unit. The City shall then collect such Yard Debris in accordance with the Code of Ordinances of the City, and the Contractor shall have no responsibility for such collection.

The City and Contractor agree that any publication or notification that the Contractor provides to residents with the approval of the City shall contain information encouraging residents to containerize Yard Debris.

4.6 Rolloff Services. At no additional charge to the City, the Contractor shall provide 30 cubic yard rolloff containers in each ward of the City as requested by the City, but not more frequently than once per month for the delivery of Solid Waste and Bulky Items by residents of Jackson. The Contractor shall place the rolloff containers on dates and at locations to be determined by the City between the hours of 7 A.M. to 5 P.M. The City shall be responsible for providing personnel at each location to monitor the delivery of Solid Waste and Bulky Items. Contractor shall haul the containers to the City's designated Disposal Site. Should additional rolloff hauls be requested, the Contractor shall be entitled to additional compensation for such rolloff hauls at the following rates: \$ 420 ___ per additional rolloff haul. The City shall be responsible for paying all disposal charges related to the monthly rolloff services.

4.7 Debris Removal and Illegal Dumping. In addition to the Rolloff Services provided in 4.6, Contractor agrees to provide equipment and labor at the request of the City to assist in cleaning up illegal dumping and removing residential debris that is not otherwise eligible for collection under the Residential Collection services. The Contractor will be compensated at the rate of \$24 per cubic yard LVM (loose volume measurement) including the cost of disposal. Contractor shall report the compensation claimed in its invoice separately from the compensation for Residential Collection services.

4.8 Annexed Areas. Within fifteen (15) days of notification from the Director of Public Works of the addition of annexed areas, the Contractor shall provide to annexed areas the same quality and frequency of service required by this Agreement. In such case, the compensation payable to the Contractor shall be adjusted to reflect the increased number of Residential Units served by the Contractor, based on a per residential unit cost of.

ARTICLE V

STANDARD COLLECTION, HAULING AND DISPOSAL

PROVISIONS

5.01 Service Area. The Contractor shall furnish all Solid Waste collection and hauling services required in this Agreement within the Service Area of the City of Jackson as shown on the Service Area map and any and all subsequent amendments thereto set forth in Exhibit D attached hereto and incorporated herein. The City reserves the right at any time during the term of this Agreement to assign any portion of the Service Area to another Contractor for cause due to lack of substantial performance to provide some or all of the services being provided under the Agreement, the intent being that this Agreement shall not constitute an exclusive Agreement with National Waste United, LLC to provide the services within the scope of his Agreement.

5.02 Map of Routes. The Contractor shall provide, within seven (7) calendar days following the implementation of services hereunder, at its own expense, the maps of the collection routes. The published map shall be of such size and clarity to show all pertinent information, including the Contractor's name, office location, and telephone number. The actual route need not be shown, but the areas picked up on various days must be clearly defined. These routes shall be review by the City of Jackson Public Works Department and

any required adjustments will be provided within fourteen (14) calendar days following their submittal. The map and any subsequent amendments thereto shall be attached to this Agreement as Exhibit E and shall be incorporated herein upon their approval by the Public Works Department.

5.03 **Schedule of Operations.** Within seven (7) working days following the implementation of service, the Contractor shall prepare and submit to the Director of Public Works for their approval a Schedule of Operations, which shall be attached to this Agreement along with all subsequent amendments thereto as Exhibit F and shall be incorporated herein upon their approval by the Public Works Department. Any subsequent changes of schedules must be approved in writing by the Director of Public Works or his designee. All such changed schedules must be documented in the same detail as the original schedule supplied by Contractor.

The Contractor shall collect Solid Waste from all locations required to be serviced under this Agreement in accordance with the Schedule of Operations, which shall comply with the service provisions of this Agreement.

5.04 **Days of Collection.** Regular Collection Days are limited to Monday, Tuesday, Wednesday, Thursday, Friday and Saturday. No regularly scheduled collection shall be allowed on Sundays without the prior approval of the Public Works Director. Scheduled work shall normally be performed between 7:00 a.m. and 9:00 p.m.

5.05 **Holidays.** Holidays upon which work will not be required are New Year's Day, Dr. Martin Luther King, Jr.'s Birthday, the Fourth of July, Thanksgiving Day and Christmas Day. The Contractor shall be responsible for publicizing and shall bear the expense of publicizing any changes in collections schedules due to the observance of the above holidays.

5.06 **Care and Diligence in Lifting and Hauling.** The Contractor shall exercise all reasonable care and diligence in collecting Solid Waste, Yard Debris and Bulky Items. Every effort must be made to prevent spilling, scattering or dropping Solid Waste during the collection and hauling process. However, in the event that Solid Waste is spilled, splattered or dropped, the Contractor shall immediately clean up the material. The Contractor shall exercise care in handling of containers, making certain that containers are emptied completely. The Contractor shall also exercise care to prevent damage to containers, and other property, including lawns, shrubs, and other plants. All Solid Waste hauled by the Contractor shall be so contained, tied or enclosed so that leaking, spilling or blowing are prevented. The Contractor shall be fully and solely responsible for any subsequent cleanup.

5.07 **Vehicles and Equipment.** The Contractor shall provide and maintain during the entire period of this Agreement a fleet of Solid Waste collection vehicles sufficient in number and capacity to perform the work required by this Agreement. The vehicles must contain the Solid Waste, Yard Debris and Bulky Items so that no material is spilled, leaked or blown from the vehicle during its transit to the appropriate Disposal Site as designated by the City of Jackson. The fleet must be sufficient to handle the special requirements of adverse weather and holiday overload.

The Contractor shall maintain collection equipment in good repair at all times. All parts and systems of the collection equipment shall be operated and maintained properly. The Contractor shall take reasonable care to prevent damage to containers during collection.

The Contractor shall supply the Public Works Director with the Vehicle and Equipment Schedule (Exhibit "A") which lists all equipment, including equipment identification numbers, mileage, age and type that it will use to fulfill this Agreement and shall notify the City of additions or deletions as they occur. The Director of Public Works shall have the right to demand an increase in the number of vehicles used for services if, in the judgment of the Public Works Director, an increase in the number of vehicles is needed for the Contractor to satisfactorily perform its obligations under this Agreement. The Contractor shall have fourteen (14) calendar days within which to comply with such demand.

The Contractor shall not use the City's name or other words implying municipal ownership on vehicles or equipment.

The Contractor shall not use or permit any vehicles assigned to the performance of this Agreement to make any non-Agreement related collections unless approved by the Director of the Department of Public Works or his designee.

All vehicles and equipment used in collection and transportation of Solid Waste within the City shall be of sufficient size, capacity and number to adequately and efficiently collect Solid Waste in accordance with the terms of this Agreement.

The Contractor shall maintain all vehicles and equipment in a clean and sanitary condition at all times.

5.09 Change In Services. The Contractor shall not change its delivery of services under this Agreement in a manner that will affect delivery of service without the prior written approval of the City of Jackson through its Public Works Director or his designee.

ARTICLE VI

COMPENSATION

6.01. General Compensation. Contractor shall provide services to all Residential Units in the Service Area during the term of this Agreement and all Residential Units added thereto as a result of annexation as set forth in § 4.02 above. As full consideration for performing all work and services set out in this Agreement, the City agrees to pay the Contractor \$ 15.00 per residential unit per month. The number of residential units for purposes of this Agreement is 53,869 units. City agrees to pay National Waste Systems a mobilization fee of \$750,000.00 within 30 days, exclusive of and in addition to all other compensation.

The City shall deduct from monthly payments any and all assessments against the Contractor. In the event the City exercises its right under Section 3.01 to assign a portion of the Service Area to another Contractor, City will make a good faith determination of the proportion of units in the remaining Service Area and so reduce the compensation based on the number of units remaining in the Service Area being collected by Contractor.

6.02. Method of Payment. Upon completion of monthly services, the Contractor shall submit an invoice setting forth: (1) a certification from the Contractor that it has fully and properly performed all items of work covered by the payment request, that all insurance and bonds required hereunder are in full force and effect; and (2) certification that it is not in default under any provision of this Agreement. The City will use best efforts to pay the Contractor for undisputed services within thirty (30) days of receipt of the invoice. If the undisputed portion of any an invoice is not paid within forty-five (45) days of receipt, interest shall accrue on undisputed portion of the invoice at the rate of 1.5% per month or any portion thereof. Invoices shall be submitted to the Public Works Director or his designee.

VII

DISPOSAL

7.01 Disposal. All Solid Waste collected in the Service Area by the Contractor shall be delivered to the City's designated Disposal Site, unless otherwise designated by the Director of Public Works. All Solid Waste, upon being removed from the premises where collected and transported upon or over a public street, alley, lane, right-of-way, or place shall become the property of the Contractor until deposited in the Disposal Site.

The Contractor shall not deliver any Solid Waste or other material not collected in performance with this Agreement to the Disposal Site and present them as materials collected as a part of this Agreement. The Contractor shall not deliver the Solid Waste collected under this Agreement to any disposal facility other than the Disposal Site designated by the City. The City reserves the right to monitor the performance of the Contractor's duties, including routes and collections made, customer reports, trips to designated disposal facilities, and other destinations, the content of individual loads and portion or loads disposed of at the designated Disposal Site and the Contractor's records at any time in order to ensure Contractor's compliance with this Agreement.

ARTICLE VIII

PERFORMANCE SECURITY

8.01 Performance and Payment Bond. Within five (5) days of receipt of a fully executed Agreement by the Contractor, the Contractor shall furnish and maintain a performance bond in the amount of SIX HUNDRED TWENTY-FIVE THOUSAND, NINE HUNDRED FIFTY-EIGHT AND 00/100 DOLLARS (\$625,958.00) to secure the Contractor's performance of this Agreement.

The bond shall be valid and non-cancelable for the period of the Agreement. The bond shall not be released to the Contractor until expiration of this Agreement. The bond shall serve

as security for the faithful performance of this Agreement. The surety on such bond shall be issued by a duly authorized surety company, licensed and doing business in Mississippi and counter-signed by a resident agent. The performance bond shall be procured at the Contractor's expense and payable to the City of Jackson. Prior to approval of the performance bond, the City reserves the right to review the bond and requires the Contractor to substitute an acceptable bond in such form as the City may reasonably require. The premiums on such bonds shall be paid by the Contractor. The bonds must specifically refer to this Agreement and shall bind the surety to all the terms and conditions of this Agreement. In the event that the Contractor is terminated under the provisions of this Agreement, the City may claim against the performance bond.

ARTICLE IX

TERMINATION

9.01 **General.** All terms and conditions of this Agreement are considered material, and failure to perform any of the terms and conditions on the part of either party shall be considered a breach of this Agreement.

9.02 **Termination for Cause.** The City may terminate this Agreement if the Contractor:

(a) fails to perform any duty or obligation of the Contractor under this Agreement and the Contractor fails to cure such default within seven (7) calendar days of the City's written notice to the Contractor of such default. In the event of a default as a result of bankruptcy, the City, at its option, may or may not elect to provide the Contractor with an opportunity to cure the default. If the City determines that the Contractor is unable to collect Solid Waste, the City may declare the Contractor to be in default and immediately terminate the Agreement, thus making performance and payment bond proceeds immediately available for the City's use in collection of Solid Waste, to safeguard the health and safety of its residents.

(b) is adjudicated bankrupt, is the subject of the appointment of a receiver, has any of its property attached, becomes insolvent, or is unable to pay its debts as they become due.

(c) fails to provide or maintain the performance bond as required by this Agreement, or fails to obtain or maintain any insurance policies and endorsements as required by this Agreement, or fails to provide after seven (7) days of the City's request, the proof of insurance as required by this Agreement.

(d) owing to the emergency nature of this Agreement and time being of the essence, if within seven (7) days of the date upon which the Contractor is to begin providing service under this Agreement or any time thereafter, if the City, in its sole discretion, determines the Contractor does not have sufficient equipment or labor to fulfill the Contractor's responsibilities.

under the terms of this Agreement, the City may immediately provide the Contractor with a written notice of deficiency and the City, at its sole discretion, may thereafter immediately terminate this Agreement and substitute another Contractor to provide any portion of the services being provided under this Agreement.

ARTICLE X

PERSONNEL

10.01 Contractor's Personnel. The Contractor shall assign a qualified person or persons to be in charge of the performance of this Agreement, and shall advise the City of such persons in advance and when changes occur. Each driver shall at all times carry a valid State of Mississippi commercial drivers license for the type of vehicle being driven. The Contractor shall provide operating and safety training for all personnel.

The Contractor shall ensure that employees service the public in a courteous, helpful, and impartial manner. All employees of the Contractor in both field and office shall refrain from belligerent behavior and/or profanity. Correction of any such behavior and language shall be the responsibility of the Contractor. If an employee of the Contractor is the subject of repeated or egregious allegations of the type described above, the City may request that the employee be barred from further work for the Contractor in connection with this Agreement. Upon the City's request, the Contractor shall, within ten (10) days, comply with the City's request for the duration of the Agreement time.

Contractor's personnel shall make collections with as little noise and little disturbance to the customer as possible.

No employee shall disturb or otherwise interfere with property that is impertinent to the proper execution of his duties.

Care shall be taken to prevent damage to property including shrubs, flowers and other plants.

The Contractor agrees that it has adopted and will maintain and enforce a policy of nondiscrimination on the basis of race, color, religion, sex, age, national origin, or disability.

The Contractor will take necessary steps to ensure that it maintains a drug free workplace. These steps shall include, but shall not necessarily be limited to, compliance with all federal and state laws and regulations.

The terms and conditions stated above shall apply for all agreements resulting from this Agreement, including subcontractors.

ARTICLE XI

INDEMNITY AND INSURANCE

11.01 **Indemnity.** The Contractor shall indemnify and save harmless the City, its officers, agents, employees and assigns from and against all losses, costs, damages, expense, and liability caused by any occurrence resulting in bodily injury, including death, sickness or disease to any person, or damage or destruction to property, real or personal, arising directly or indirectly from the acts or omissions of the Contractor, its officers, agents and employees in performing under this Agreement, including but not limited to, operations, products, services rendered under this Agreement

The Contractor shall be responsible for any damage to customers' property, real or personal, which is caused by the Contractor or the Contractor's agent in performance of this Agreement.

11.02 **Insurance.** Within seven (7) days of the execution of this Agreement and continuing throughout the life of this Agreement, the Contractor shall provide and maintain policies providing the following insurance protection:

1. **COMMERCIAL GENERAL LIABILITY (CGL)** Insurance including coverage for

- Premises/Operations
- Products/Completed Operations
- Pollution – On-Site and Off-Site (Pollution Liability Insurance minimum limits of liability may be evidenced with separate coverage)
- Personal/Advertising Injury
- Contractual
- Independent Contractors
- Stop Gap/Employers Liability

Such Insurance must provide the following minimum limits of liability:

\$1,000,000	each occurrence Combined Single Limit bodily injury and property damage (CSL)
\$2,000,000	Products/completed operations aggregate
\$2,000,000	General aggregate
\$1,000,000	each accident/disease/policy limit

2. **BUSINESS AUTOMOBILE LIABILITY INSURANCE** for owned, non-owned, hired, and leased vehicles, as applicable, written on a form CA 00 01 or equivalent. Such insurance must provide a minimum limit of liability of \$1,000,000 CSL.

3. **WORKERS' COMPENSATION INSURANCE** as required by the laws of the state of Mississippi.

4. **UMBRELLA/EXCESS/BUMBERSHOOT LIABILITY INSURANCE** over CGI and automobile liability minimum limit shall be \$2,000,000 CSL. (\$3,000,000 total limits requirement)

The limits of liability specified above may be satisfied with primary limits of liability or any combination of primary limits and excess/umbrella limits.

Each policy shall contain a requirement that, in the event of a change or cancellation, the Contractor shall provide the City within thirty (30) days prior written notice by mail. In each case, a certificate of insurance describing the coverage shall be furnished by the Contractor and shall contain appropriate wording to the effect that the policy described cover the Contractor's operation under this Agreement.

ARTICLE XII

PERMITS AND LICENSE

12.01 The Contractor shall obtain at its expense, all permits and licenses required by law or ordinance and maintain them in full force and effect.

ARTICLE XIII

CUSTOMER SERVICE STANDARDS

13.01 **Local Office.** The Contractor shall maintain an office in the City of Jackson equipped with telephone service as may be necessary to receive and handle complaints or to receive instruction and direction from the City between the hours of 7:00 a.m. until 5:15 p.m. Monday through Friday and 7:00 A.M. and 3:00 P.M. on Saturdays. The Contractor's telephone number shall be publicized by Contractor.

13.02 **Telephone Service.** The Contractor shall provide appropriate personnel and phone systems needed to answer at least 95% of customer calls with a personal response within five (5) rings. An automated phone system is permissible after hours.

13.03 **Notification of Customers.** The Contractor shall notify all customers about complaint procedures, changes in services, days of collection and other information regarding the services provided by the Contractor under this Agreement. Contractor and City shall agree on all service changes thirty (30) days prior to any change in service. The Contractor shall notify all affected customers thirty (30) days prior to the change. The method of customer notification shall be a combination of door hanger, mailing and media advertising that is approved by the City. Prior to the execution of this Agreement, the Contractor shall deliver printed information about its services under this Agreement to every Residential Unit pursuant to the methods of notification set forth herein.

13.04 **Customer Complaints.** The Contractor shall provide a remedy for all customer complaints reported to the Contractor or the City by the end of next regular business day after the complaint is received. The Contractor shall submit the following information to the Department of Public Works on a weekly basis relative to resolution of complaint:

- a. Date complaint received
- b. Name and address of complainant
- c. Nature of the complaint
- d. Date complaint resolved
- e. How complaint was resolved

The Contractor shall notify all customers of complaint procedures, rules, and regulation on an annual basis. Whenever there is an approved change of service, it is the Contractor's responsibility to draft and provide a draft customer information notice to the City for approval. Presentation of draft customer information must be completed by the Contractor on a schedule that allows sufficient time for approval, production, and publication or other dissemination of the notice. All notices must be pre-approved by the Public Works Director or his designee.

The City will have the right to send a monitor out to check on the resolution of any complaint. If a monitor records deficiencies, they will notify the Contractor of such deficiencies. The Contractor shall notify the City when these deficiencies have been corrected. The monitor will re-check the work to determine that it has been completed satisfactorily. If the monitor finds that the deficiencies previously noted were not corrected, the Contractor shall be subject to liquidated damages as set forth in Article XV below.

ARTICLE XIV

ADMINISTRATION OF AGREEMENT

14.01 **City Administration.** The Director of Public Works for the City of Jackson, Mississippi shall be the chief administrator for this Agreement on behalf of the City. The Public Works Director reserves the right to delegate administration of this Agreement to a designated division manager.

14.02 **Waste Management Administration.** Dewayne Pickett is designated by National Waste United, LLC to be the chief administrator for this Agreement on behalf the Contractor. The Contractor may change the person to be the chief administrator for this Agreement on behalf of the Contractor by giving the City 30 days written notice of such

change.

ARTICLE XV

LIQUIDATED DAMAGES

15.01 The City shall notify the Contractor of each reported violation of the Agreement. It shall be the duty of the Contractor to take whatever steps necessary to remedy the cause of the violation and notify the City within 24 hours after receipt of the complaint confirming action taken.

Failure to remedy the cause of the complaint shall be considered a breach of the Agreement for the purposes of computing damages under the provision of this section. It is agreed that the City may deduct from payments due or to become due the Contractor the following amounts as liquidated damages:

- a. Failure to increase number of vehicles: \$100.00 per day for each vehicle or piece of equipment within specified time.
- b. Failure to clean up spilled Solid Waste: \$25.00 for each instance.
- c. Failure to clean vehicles, conveyances, containers, docks, yards, shops and other equipment as provided in the specification: \$50.00 for each instance.
- d. Failure to collect Solid Waste within 24 hours after notification of a complaint: \$25.00 for each failure or neglect of repeated instance at same residence.
- e. Using vehicles assigned to the performance of this Agreement to make private collections: \$500.00 each instance.
- f. Failure to maintain vehicle in operable condition and acceptable appearance shall, after inspection and notice cause confiscation of vehicle sign, thus not allowing that vehicle to be used for the collection and removal of Solid Waste.
- g. Failure to correct service deficiencies other than those specified in items a - f. above after monitoring by City: \$25 per occurrence.

ARTICLE XVI

GENERAL PROVISIONS

17.01 Employment Status. Contractor shall, during the entire term of this Agreement, be construed to be an independent Contractor. Nothing in this Agreement is intended to nor shall be construed to create an employer/employee relationship or a joint venture relationship.

Contractor represents that it has, or will secure, at its own expense, applicable personnel who shall be qualified to perform the services required to be performed under this Agreement. Such personnel shall not be deemed in any way directly or indirectly or by implication to be

employees of the City. Any person assigned by Contractor to perform the services hereunder shall be an employee or subcontractor of Contractor who shall have the sole right to hire and discharge its employees and/or subcontractors.

It is further understood that the consideration expressed herein constitutes the full and complete compensation for all services and performances hereunder, and that any sum due and payable to Contractor shall be paid as a gross sum with no withholdings or deductions being made by the City for any purpose from said Agreement sum.

Contractor shall pay, when due, all salaries and wages of its employees and accepts exclusive responsibility for the payment of federal income tax, state income tax, social security, unemployment compensation, and any other withholdings that may be required.

17.02 Record Retention and Access to Records. Contractor shall maintain and make available to the City of Jackson any financial records, supporting documents, statistical records and all other records pertinent to services performed under this Agreement. These records shall be maintained for at least three years, however, if any litigation or other legal action by or on behalf of the City of Jackson has begun that is not completed at the end of the three-year period, or if an audit, litigation, or legal action have not been resolved at the end of the three-year period, the records shall be retained until resolution.

17.03 Modification or Amendment. Modifications, changes, or amendments to this Agreement may be made upon mutual Agreement of the parties hereto. However, any change, supplement, modification, or amendment of any term, provision or condition of this Agreement must be in writing and signed by both parties hereto.

17.04 Assignment. Contractor shall not assign, subcontract, or otherwise transfer the obligation incurred on its part pursuant to terms of this Agreement without prior written consent of the City. Any attempted assignment or transfer of this obligation without consent shall be wholly void.

17.05 Waiver. Failure of either party hereto to insist upon strict compliance with any of the terms, covenants, and conditions hereof shall not be deemed a waiver or relinquishment of any similar right or power herein at any subsequent time or of any other provisions hereof, nor shall it be construed to be a modification of the terms of this Agreement.

17.06 Governing Law. This Agreement shall be construed in accordance with the laws of the State of Mississippi.

17.07 Severability. If any term or provision of this Agreement is prohibited by the laws of the State of Mississippi or declared invalid or void by a court of competent jurisdiction, the remainder of this Agreement shall not be affected thereby. Each term and provision of this Agreement shall be valid and enforceable to the fullest extent permitted by law.

17.08 Compliance with Laws. Contractor shall comply with all applicable laws, regulations, policies, and procedures of the United States, the State of Mississippi, or the City of Jackson, that may affect the performance of services under this Agreement. Specifically, but not limited to, Contractor shall not discriminate against any employee nor

shall any party be subject to discrimination in the performance of this Agreement because of race, creed, color, sex, age, national origin, or disability.

17.09 **Entire Agreement.** This Agreement constitutes the entire agreement of the parties with respect to the subject matter contained herein and supersedes and replaces any and all prior negotiations, understandings, and agreements written or oral between the parties relating thereto.

17.10 **General.** Contractor represents that no director, officer, agent employee or other person acting on behalf of Contractor will, with respect to this Agreement, (i) give or agree to give any gift or similar benefit to any council person or other officer or employee of the City of Jackson or (ii) use any corporate or other funds for any unlawful contribution or payments or make any unlawful expenditures relating to political activity of government officials of the City.

17.11 **Notice.** Any notice required or permitted to be given under this Agreement shall be in writing and sent by United States certified mail, return receipt requested to the party to whom the notice shall be given at the address set forth below:

Contractor:

National Waste United, LLC

**2639 Dry Grove Rd.
Crystal Springs, MS 39059**

With Copies To:

City

**City of Jackson
Department of Public Works
Post Office Box 17
Jackson, Mississippi 39205
Attention: Martin King Director of Public Works**

With Copies to:

Clckwe A. Lumumba, Mayor
City Hall
219 South President Street
Jackson, Mississippi 39201

Office of the City Attorney
455 East Capitol Street
Jackson, Mississippi 39201
Attn: City Attorney

17.12 Force Majeure. Neither party shall be liable for its failure to perform its obligations under this Agreement if such failure is due to any unforeseen circumstances beyond its reasonable control or a force majeure event. For the purposes of this Agreement, "unforeseen circumstances" shall mean any event or condition which has an effect on the rights or obligations of the parties under this Agreement, or upon the project, which is beyond the reasonable control of the party relying thereon and constitutes a justification for a delay in or non-performance of action required by this Agreement, including but not limited to (i) an act of God, landslide, lightning, earthquake, tornado, fire, explosion, flood, failure to possess sufficient property rights, acts of public enemy, war, blockade, sabotage, insurrection, riot or civil disturbance, (ii) preliminary or final order of any local, state or federal court, administrative agency or governmental body of competent jurisdiction, (iii) any change in law, regulation, rule, requirement, interpretation or statute adopted, promulgated, issued or otherwise specifically modified or changed by any local, state or federal governmental body, (iv) labor disputes, strikes, work slowdowns or work stoppages, but excluding labor disputes, strikes, work slowdowns or work stoppages by employees of Contractor; and (v) loss of or inability to obtain services from a utility necessary to furnish power for the operation and maintenance of the project.

17.13 Headings. The headings inserted herein are for convenience only, and are not intended to be used as aids to interpretation and are not binding on the parties.

ARTICLE

XVIII

DOCUMENTS

18.01 Documents and Order of Precedence. The Agreement made by and between the parties hereto shall consist of, and precedence is hereby established by the order of, the following:

1. This Agreement entered into by the City of Jackson and National Waste United, LLC, and all exhibits attached hereto and incorporated herein, and all subsequent amendments thereto

2. The Code of Ordinances of the City of Jackson, MS., and all amendments thereto.

In the event of a conflict, a higher order document shall supersede a lower order document to the extent necessary to resolve any conflict or inconsistency arising under the various provisions thereof, provided, however, that in the event an issue is addressed in one of the above-mentioned documents that is not addressed in another of such documents, no conflict or inconsistency shall be deemed to occur by reason thereof.

The City and the Contractor have had full opportunity to review, revise, and clarify provisions of this Agreement with the assistance of their respective attorneys, and no party hereto shall be deemed the drafter of this document for the purpose of having ambiguities construed against the drafter. The City and Contractor indicate their approval of this Agreement by their signatures below, and each party warrants that all corporate or governmental action necessary to bind the parties to the terms of this Agreement has been taken.

IN WITNESS WHEREOF, this Agreement has been executed in duplicate original on the day and in the year first above mentioned.

THE CITY OF JACKSON, MISSISSIPPI

NATIONAL WASTE UNITED, LLC

BY: [Signature]
ITS: Mayor

BY: [Signature]
Member Charles Pickett

[Signature]
Witness

Witness

Vice President Lee moved adoption; President Lindsay seconded.

President Lindsay recognized Roy Campbell, Representative of Bradley Arant Boult Cummings, who provided a brief overview of said item.

After a thorough discussion, Vice President Lee and President Lindsay withdrew their motion and second. Said item was tabled until later in the meeting.

ORDER CONFIRMING THE MAYOR'S APPOINTMENT OF RICKEY JONES TO THE JACKSON MUNICIPAL AIRPORT AUTHORITY BOARD.

WHEREAS, the Jackson Municipal Airport Authority Board consist of (5) members; for a term of five (5) years; and

WHEREAS, Rickey Jones, resident of Ward 5, after evaluation of his qualifications, has been nominated by the Mayor to serve on the Jackson Municipal Airport Authority Board.

IT IS, THEREFORE, ORDERED that the Mayor's appointment of Rickey Jones to the Jackson Municipal Airport Authority Board be confirmed with a said term to expire 3/19/2022.

Vice President Lee moved adoption; Council Member Grizzell seconded.

President Lindsay stated there was an amendment needed on said item, changing said term to expire from 3/19/2022 to 10/27/2025. Council Member Grizzell moved, and Council Member Hartley seconded, to amend said order changing said term to expire from 3/19/2022 to 10/27/2025. The motion prevailed by the following votes:

Yeas – Banks, Foote, Grizzell, Hartley, Lee, Lindsay and Stokes.
Nays – None.
Absent – Stokes.

President Lindsay recognized Mayor Chokwe Antar Lumumba, who provided a brief overview of said item.

President Lindsay recognized Rickey Jones, who gave his personal statement and answered questions posed to him by Council Members.

Thereafter, President Lindsay called for the vote on the Order, as amended:

ORDER CONFIRMING THE MAYOR'S APPOINTMENT OF RICKEY JONES TO THE JACKSON MUNICIPAL AIRPORT AUTHORITY BOARD.

WHEREAS, the Jackson Municipal Airport Authority Board consist of (5) members; for a term of five (5) years; and

WHEREAS, Rickey Jones, resident of Ward 5, after evaluation of his qualifications, has been nominated by the Mayor to serve on the Jackson Municipal Airport Authority Board.

IT IS, THEREFORE, ORDERED that the Mayor's appointment of Rickey Jones to the Jackson Municipal Airport Authority Board be confirmed with a said term to expire 10/27/2025.

Yeas – Banks, Foote, Grizzell, Hartley, Lee, Lindsay, and Stokes.
Nays – None.
Absent – None.

ORDER CONFIRMING THE MAYOR’S APPOINTMENT OF ATTORNEY ONETTA S. WHITLEY TO THE CIVIL SERVICE COMMISSION.

WHEREAS, the Civil Service Board consists of three (3) members; and

WHEREAS, Attorney Onetta S. Whitley, after evaluation of her qualifications, has been appointed by the Mayor to fill a vacant position on the Civil Service Board; and

IT IS, THEREFORE, ORDERED that the Mayor’s appointment of Onetta S. Whitley to the Civil Service Board be confirmed with said term to expire 4/18/2026.

Council Member Stokes moved adoption; **Council Member Grizzell** seconded.

President Lindsay recognized **Mayor Chokwe Antar Lumumba**, who provided a brief overview of said item.

President Lindsay recognized **Onetta Whitley**, who gave her personal statement and answered questions posed to her by Council Members.

After a thorough discussion, **President Lindsay** called for a vote on said item:

Yeas – Banks, Foote, Grizzell, Hartley, Lee, Lindsay and Stokes.
Nays – None.
Absent – None.

ORDER CONFIRMING THE MAYOR’S APPOINTMENT OF TOYA MARTIN AS DIRECTOR OF THE DEPARTMENT OF HUMAN RESOURCES, CITY OF JACKSON, MISSISSIPPI.

WHEREAS, on September 27, 2021, the Mayor appointed Toya Martin as Director of the Department of Human Resources for the City of Jackson, Mississippi; and

WHEREAS, the appointment came before the City Council for confirmation as required by Section 21-8-23, Mississippi Code of 1972, as amended; and

WHEREAS, the City Council has considered the appointment, and a majority of the Council present and voting has determined that the appointment should be confirmed.

IT IS, THEREFORE, ORDERED by the City Council of the City of Jackson, Mississippi, that the appointment of Toya Martin as Director of the Department of Human Resources for the City of Jackson, Mississippi, is hereby confirmed.

Vice President Lee moved adoption; **Council Member Grizzell** seconded.

President Lindsay recognized **Mayor Chokwe Antar Lumumba**, who provided a brief overview of said item.

President Lindsay recognized **Toya Martin**, who gave her personal statement and answered questions posed to her by Council Members.

After a thorough discussion, **President Lindsay** called for a vote on said item:

Yeas – Banks, Foote, Grizzell, Hartley, Lee, Lindsay, and Stokes.
Nays – None.
Absent – None.

ORDER CONFIRMING THE MAYOR’S APPOINTMENT OF DR. ADRIANE DORSEY-KIDD AS DIRECTOR OF THE DEPARTMENT OF HUMAN AND CULTURAL SERVICES, CITY OF JACKSON, MISSISSIPPI.

WHEREAS, on September 27, 2021, the Mayor appointed Dr. Adriane Dorsey-Kidd as Director of the Department of Human and Cultural Services for the City of Jackson, Mississippi; and

WHEREAS, the appointment came before the City Council for confirmation as required by Section 21-8-23, Mississippi Code of 1972, as amended; and

WHEREAS, the City Council has considered the appointment, and a majority of the Council present and voting has determined that the appointment should be confirmed.

IT IS, THEREFORE, ORDERED by the City Council of the City of Jackson, Mississippi, that the appointment of Dr. Adriane Dorsey-Kidd as Director of the Department of Human and Cultural Services for the City of Jackson, Mississippi, is hereby confirmed.

Council Member Banks moved adoption; **Council Member Grizzell** seconded.

President Lindsay recognized **Mayor Chokwe Antar Lumumba**, who provided a brief overview of said item.

President Lindsay recognized **Adriane Dorsey-Kidd**, who gave her personal statement and answered questions posed to her by Council Members.

After a thorough discussion, **President Lindsay** called for a vote on said item:

Yeas – Banks, Foote, Grizzell, Hartley, Lee, Lindsay, and Stokes.
Nays – None.
Absent – None.

ORDER CONFIRMING THE MAYOR’S APPOINTMENT OF ISON HARRIS, JR. AS DIRECTOR OF THE DEPARTMENT OF PARKS AND RECREATION, CITY OF JACKSON, MISSISSIPPI.

WHEREAS, on September 27, 2021, the Mayor appointed Ison Harris, Jr. as Director of the Department of Human and Cultural Services for the City of Jackson, Mississippi; and

WHEREAS, the appointment came before the City Council for confirmation as required by Section 21-8-23, Mississippi Code of 1972, as amended; and

WHEREAS, the City Council has considered the appointment, and a majority of the Council present and voting has determined that the appointment should be confirmed.

IT IS, THEREFORE, ORDERED by the City Council of the City of Jackson, Mississippi, that the appointment of Ison Harris, Jr. as Director of the Department of Parks and Recreation for the City of Jackson, Mississippi, is hereby confirmed.

Vice President Lee moved adoption; **Council Member Grizzell** seconded.

President Lindsay recognized **Mayor Chokwe Antar Lumumba**, who provided a brief overview of said item.

President Lindsay recognized **Ison Harris Jr.**, who gave his personal statement and answered questions posed to him by Council Members.

After a thorough discussion, **President Lindsay** called for a vote on said item:

Yeas – Banks, Foote, Grizzell, Hartley, Lee, Lindsay and Stokes.
Nays – None.
Absent – None.

ORDER CONFIRMING THE MAYOR’S APPOINTMENT OF ANGELA HARRIS AS MUNICIPAL CLERK, CITY OF JACKSON, MISSISSIPPI.

WHEREAS, on September 27, 2021, the Mayor appointed Angela Harris as Municipal Clerk for the City of Jackson, Mississippi; and

WHEREAS, the appointment came before the City Council for confirmation as required by Section 21-8-23, Mississippi Code of 1972, as amended; and

WHEREAS, the City Council has considered the appointment, and a majority of the Council present and voting has determined that the appointment should be confirmed.

IT IS, THEREFORE, ORDERED by the City Council of the City of Jackson, Mississippi, that the appointment of Angela Harris as Municipal Clerk for the City of Jackson, Mississippi, is hereby confirmed.

Vice President Lee moved adoption; **Council Member Grizzell** seconded.

President Lindsay recognized **Mayor Chokwe Antar Lumumba**, who provided a brief overview of said item.

President Lindsay recognized **Angela Harris**, who gave her personal statement and answered questions posed to her by Council Members.

After a thorough discussion, **President Lindsay** called for a vote on said item:

Yeas – Banks, Foote, Grizzell, Hartley, Lee, Lindsay and Stokes.
Nays – None.
Absent – None.

ORDER CONFIRMING THE MAYOR’S APPOINTMENT OF WILLIE OWENS AS FIRE CHIEF, CITY OF JACKSON, MISSISSIPPI.

WHEREAS, on September 27, 2021, the Mayor appointed Willie Owens as Fire Chief for the City of Jackson, Mississippi; and

WHEREAS, the appointment came before the City Council for confirmation as required by Section 21-8-23, Mississippi Code of 1972, as amended; and

WHEREAS, the City Council has considered the appointment, and a majority of the Council present and voting has determined that the appointment should be confirmed.

IT IS, THEREFORE, ORDERED by the City Council of the City of Jackson, Mississippi, that the appointment of Willie Owens as Fire Chief for the City of Jackson, Mississippi, is hereby confirmed.

Council Member Grizzell moved adoption; **Vice President Lee** seconded.

President Lindsay recognized **Mayor Chokwe Antar Lumumba**, who provided a brief overview of said item.

President Lindsay recognized **Willie Owens**, who gave his personal statement and answered questions posed to him by Council Members.

After a thorough discussion, **President Lindsay** called for a vote on said item:

- Yeas – Foote, Grizzell, Lee, Lindsay and Stokes.
- Nays – Banks and Hartley.
- Absent – None.

ORDER CONFIRMING THE MAYOR’S APPOINTMENT OF JAMES DAVIS AS CHIEF OF POLICE, CITY OF JACKSON, MISSISSIPPI.

WHEREAS, on September 27, 2021, the Mayor appointed James Davis, as Chief of Police for the City of Jackson, Mississippi; and

WHEREAS, the appointment came before the City Council for confirmation as required by Section 21-8-23, Mississippi Code of 1972, as amended; and

WHEREAS, the City Council has considered the appointment, and a majority of the Council present and voting has determined that the appointment should be confirmed.

IT IS, THEREFORE, ORDERED by the City Council of the City of Jackson, Mississippi, that the appointment of James Davis as Chief of Police for the City of Jackson, Mississippi, is hereby confirmed.

Vice President Lee moved adoption; **Council Member Grizzell** seconded.

President Lindsay recognized **Mayor Chokwe Antar Lumumba**, who provided a brief overview of said item.

President Lindsay recognized **James Davis**, who gave his personal statement and answered questions posed to him by Council Members.

After a thorough discussion, **President Lindsay** called for a vote on said item:

- Yeas –Foote, Grizzell, Leeand Stokes.
- Nays – Banks, Hartley, Lindsay
- Absent – None.

President Lindsay recessed the meeting to allow for a break. After a 20-minute recess, **President Lindsay** reconvened the meeting.

President Lindsay requested that agenda items 9 and 10 be moved forward on the agenda. Hearing no objections, the Clerk read the following:

ORDER OF THE JACKSON CITY COUNCIL APPROVING CONTRACT FOR EMERGENCY GARBAGE COLLECTION SERVICES FOR JACKSON, MISSISSIPPI.

WHEREAS, the City of Jackson's current contract with Waste Management of Mississippi, Inc. for solid waste collection and hauling services is set to expire on September 30, 2021; and

WHEREAS, on March 25, 2021, the City requested proposals for solid waste collection and hauling services, with various options for the duration of the contract, the frequency of pickup, and other options; and

WHEREAS, in response to that request for proposals several proposals were received but, to date, none have been accepted; and

WHEREAS, on September 27, 2021, the City Council of Jackson adopted a Proclamation of Local Emergency relative to the absence of any arrangements to provide for solid waste collection and hauling services for the City beginning October 1, 2021, and finding that the Mayor, as a part of the City's governing authority, has abdicated his responsibility to participate in providing for the collection and disposal of garbage and rubbish; and

WHEREAS, the City has received two proposals for the emergency collection and disposal of garbage and rubbish beginning October 1, 2021, as follows: from National Waste United, LLC, under which the City would agree to pay for six months \$15.00 per residential unit per month, and "a mobilization fee of \$750,000.00 within 30 days, exclusive of and in addition to all other compensation," with a performance bond of \$625,958.00; the other from the existing vendor for garbage collection, Waste Management of Mississippi, Inc., to continue to provide its same services to the City during the month of October on the same terms and conditions as exist under its current contract, including the existing rates of \$10.56 per residential unit per month, with a performance bond of \$1,000,000.00; and

WHEREAS, approximately 53,869 residential units would be served by either proposal.

NOW, THEREFORE, the City Council of Jackson, Mississippi, in accordance with the authority vested in it by its Proclamation of Local Emergency and Mississippi Code § 33-15-17(b), does hereby approve the proposal of Waste Management of Mississippi, Inc. for the emergency collection and disposal of garbage and rubbish beginning October 1, 2021.

FURTHER, IT IS ORDERED that, upon entry of a judgment by a court of competent jurisdiction declaring that this action by the City Council of Jackson is lawful and authorized, the President of the City Council is designated and authorized on behalf of the City Council to execute the proposal of Waste Management of Mississippi, Inc. for the emergency collection and disposal of garbage and rubbish beginning October 1, 2021, in substantially the form attached hereto as Exhibit A.

WITNESS MY HAND, on this 27th day of September, 2021.

**EXHIBIT
A**

Contract for Waste Collection Services

Waste Management of Mississippi, Inc. and the City of Jackson, Mississippi agree to enter into this contract for the provision of solid waste collection services from October 1, 2021 through October 31, 2021. The parties agree to adhere to the terms and conditions of the October 1, 2015 contract between the parties which expires on September 30, 2021, which is attached hereto as Exhibit A. Waste Management of Mississippi, Inc. will provide services at the existing rate of \$10.56 per household. The City of Jackson is authorized to enter into this contract and agrees to pay for the services at this rate on or before November 15, 2021.

Agreed this the ____ of ____, 2021

Amenia Farmer, Area VP

Waste Management of Mississippi, Inc.

City of Jackson, Mississippi

AGREEMENT
FOR SOLID WASTE AND RECYCLING SERVICES
BETWEEN THE CITY OF JACKSON, MISSISSIPPI
AND
WASTE MANAGEMENT OF MISSISSIPPI, INC.

This Agreement made and entered into on this the 5th day of October, 2015, by and between the City of Jackson, Mississippi, hereinafter referred to as the "City" and Waste Management of Mississippi, Inc., a Mississippi corporation, hereinafter referred to as "Contractor".

WITNESSETH

WHEREAS, the City is desirous of securing solid waste collection and recycling services from Contractor; and

WHEREAS, Contractor desires to provide solid waste collection and recycling services to the City;

NOW, THEREFORE, it is hereby agreed as follows:

1. DEFINITIONS:

- 1.1 **APPROVED GARBAGE CONTAINER** - Approved Garbage Container shall mean a Bag (so long as it and its contents do not exceed sixty (60) pounds) or a metal or plastic can of not less than ten gallons nor more than 30 gallon capacity, fitted with a closely fitting cover. In the event the City exercises its option to change to a Collection Service Option under Section 10.4 that includes Garbage Carts, then Approved Garbage Container shall mean Garbage Cart. For the avoidance of doubt, in the event that the City selects a Collection Service Option that includes Garbage Carts, then Bags and metal or plastic cans shall no longer be deemed Approved Garbage Containers, except with respect to the containment of Yard Debris.
- 1.2 **APPROVED RECYCLING CONTAINER** - A Recycling Bin or, if the City exercises its option to change to a Collection Service Option under Section 10.4 that includes Recycling Carts, then a Recycling Cart. For the avoidance of doubt, in the event that the City selects a Collection Service Option that includes Recycling Carts, then Recycling Bins shall no longer be deemed Approved Recycling Containers.
- 1.3 **BAG** - A plastic sack designed to store and enclose Garbage with sufficient wall strength to maintain physical integrity when lifted by its top.
- 1.4 **BULK WASTE** - Stoves, refrigerators, water tanks, washing machines, furniture, mattresses, and other waste materials, other than Construction and Demolition Debris and Hazardous Waste, or volumes that preclude or

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- complicate their handling by normal solid waste collection, processing, or disposal methods.
- 1.5 **COLLECTION** - The act of removing solid waste (or materials that have been separated for the purpose of recycling) from a Residential Unit.
- 1.6 **COMMERCIAL SOLID WASTE** - All types of solid waste generated by stores, offices, restaurants, warehouses, and other non-manufacturing activities, excluding residential and industrial waste.
- 1.7 **CONSTRUCTION AND DEMOLITION WASTE** - Solid waste resulting from construction, remodeling, repair, or demolition operations on buildings, or other structures, including inert debris, land-clearing debris, or used asphalt, asphalt mixed with dirt, sand, gravel, rock, concrete, or similar material.
- 1.8 **GARBAGE** - All putrescible and non-putrescible waste generated from normal (non-storm related) household and office maintenance, including animal offal and carcasses of less than ten (10) pounds in weight except those slaughtered for human consumption; every accumulation of waste that results from the preparation, processing, consumption, dealing in, handling, packing, canning, storage, transportation, decay or decomposition of meats, fish, fowl, birds, fruits, grains or vegetable matter, including, but by no way of limitation, used tin cans and other food containers; and all putrescible or decomposable waste or vegetable matter which is likely to attract flies or rodent, but excluding sewage, human waste, and animal waste.
- 1.9 **GARBAGE CART** - A roll out cart receptacle with two wheels and a properly designed axle and fittings, and a top lid that is to remain closed except when loading material, with a body consisting of approximately sixty-four (64) or ninety-six (96) gallons in capacity, constructed of heavy duty plastic and having the strength to store Garbage and equipped with proper attachments for hydraulic loading into Contractor's collection vehicle by the hydraulic lifts affixed to such vehicle body.
- 1.10 **HAZARDOUS WASTE** - Any chemical, compound, mixture, substance or article which is designated by the United States Environmental Protection Agency or appropriate agency of the State to be "hazardous" as that term is defined by or pursuant to Federal or State law or regulations.
- 1.11 **MATERIALS PROCESSING FACILITY** - A facility that receives and processes Recyclable Materials.
- 1.12 **PERSON** - Any individual, corporation, association, partnership, unit of government, state agency, federal agency, or other legal entity.

- 1.13 **RECYCLABLE MATERIALS** - Newspapers and inserts, high-density polyethylene ("HDPE") and polyethylene terephthalate ("PET") plastic containers, aluminum, bimetal, and ferrous beverage and food cans, all of which have been separated from Garbage and other waste and placed in a separate container at the point of Collection. Additional materials may be added to the definition of Recyclable Materials upon mutual agreement of the parties. Glass materials are specifically excluded from the definition of Recyclable Materials.
- 1.14 **RECYCLING BIN** - An eighteen (18) gallon capacity recycling bin sufficient for containing single stream Recyclable Material.
- 1.15 **RECYCLING CART** - A roll out cart receptacle with two wheels and a properly designed axle and fittings, and a top lid that is to remain closed except when loading material, with a body consisting of approximately sixty-four (64) gallons in capacity, constructed of heavy duty plastic and having the strength to store normal Recyclable Materials and equipped with proper attachments for hydraulic loading into Contractor's collection vehicle by the hydraulic lifts affixed to such vehicle body. Each Recycling Cart must contain a yellow lid or a label specifically identifying the Recycling Cart as a recycling container.
- 1.16 **REPLACEMENT GARBAGE CART**—A Garbage Cart that is provided for the purpose of replacing a damaged or faulty Garbage Cart.
- 1.17 **REPLACEMENT RECYCLING CART** - A Recycling Cart that is provided for the purpose of replacing a damaged or faulty Recycling Cart.
- 1.18 **RESIDENTIAL UNIT** - A free standing structure, including but not limited to a house or trailer, within the Service Area constructed for use as a residence. Each unit of an apartment or condominium dwelling consisting of four (4) or less living units, whether single or multi-level construction, shall be treated as a Residential Unit.
- 1.19 **SERVICE AREA** - The area within the city limits of the City of Jackson, Mississippi, including any annexed areas.
- 1.20 **SERVICE COLLECTION OPTION** - Service Collection Option shall mean any of the "Collection Services" and "Recyclables Collection Services" options set forth on Contractor's Fee Proposal attached hereto as Exhibit C.
- 1.21 **SOLID WASTE DISPOSAL SITE** - A facility at which municipal solid waste can be disposed, including a landfill and transfer station.
- 1.22 **YARD DEBRIS** - Any and all vegetative matter, including grass, weeds, leaves, tree and shrubbery pruning, and other similar materials, resulting from private landscaping or regular yard maintenance. Yard Debris shall not include limbs which are greater than five (5) feet in length or four (4) inches in diameter. Yard

Debris also shall not include debris from commercial/professional landscaping or excessive debris caused by storms or other inclement weather.

2. TERM

The term of this Agreement shall begin October 1, 2015, (the "Commencement Date") and continue through September 30, 2020 (the "Initial Term"); provided however, that the Agreement may be extended for an additional period of one (1) year upon the mutual agreement of the parties expressed in writing before the end of the initial Term.

3. SERVICES

3.1 **General Services.** Contractor agrees, in accordance with the terms and conditions of this Agreement, to furnish all services and equipment necessary for the collection and transportation of Garbage, Yard Debris, Bulk Waste and/or Recyclable Materials from Residential Units located within the Service Area to the Solid Waste Disposal Sites or Materials Processing Facilities designated in Section 14.1.

3.2 **Garbage.** Contractor shall collect Garbage from the curbside of all Residential Units located within the Service Area at a frequency of two (2) times per week; provided, however, that in the event that the City exercises its option under Section 10.4 to change to Collection Service Options, then the frequency of collection for the selected collection service shall be as set forth on the Fee Proposal attached hereto as Exhibit C. Contractor shall provide to the City a report setting forth the total tonnage of Garbage collected each month.

3.3 **Bulk Waste.** Contractor shall collect up to two (2) items of Bulk Waste from the curbside of each Residential Unit located within the Service Area at a frequency of one (1) time per week.

3.4 **Yard Debris.** Contractor agrees to collect all containerized Yard Debris and up to two (2) cubic yards of uncontainerized Yard Debris, excluding leaves and yard clippings, from the curbside of each Residential Unit located within the Service Area at a frequency of one (1) time per week. Contractor shall not be responsible for the collection of leaves and grass clippings that are not containerized, nor shall Contractor be responsible for collecting more than two (2) cubic yards of uncontainerized Yard Debris from any Residential Unit on the designated collection day for such Residential Unit. Should Contractor suspect that a Residential Unit has placed more than two (2) cubic yards of uncontainerized Yard Debris, Contractor shall notify the City, within twenty-four (24) hours, of the location of such Residential Unit. Contractor and the City shall make a mutual determination of whether a Residential Unit has placed more than two (2) cubic yards of uncontainerized Yard Debris for collection. Should the parties determine that a Residential Unit placed more than two (2) cubic yards of uncontainerized Yard Debris for collection, Contractor shall not be required to collect any of the uncontainerized Yard Debris from such Residential Unit. The City shall then collect such Yard Debris in accordance with the Jackson Code of Ordinances of the City.

3.5 Recyclable Materials. Contractor shall collect Recyclable Materials from the curbside of each Residential Unit located within the Service Area at a frequency of one (1) time every other week; provided, however, that in the event that the City exercises its option under Section 10.4 to change Collection Service Options, then the frequency of collection for the selected recyclables collection service shall be as set forth on the Fee Proposal attached hereto as Exhibit C. Recyclable Materials shall be placed in an Approved Recycling Container. Recyclables shall be collected on the same day of the week in which Garbage is collected in accordance with Section 3.2 herein. In the event that a customer commingles non-Recyclable Materials with Recyclable Materials, Contractor will leave all materials in the container along with instructional material educating the customer about the Recyclable Materials accepted in the City's recycling program and how to prepare those materials for Collection.

Contractor will provide public education materials about recycling and services on a not less than quarterly basis. The educational materials will include, but not be limited to, acceptable Recyclable Materials, collection schedules, and specifications for accepting Yard Debris and Recyclable Materials set out at the curb.

Contractor shall ensure that the Recyclable Materials collected, so long as they are marketable, are recycled for reuse and shall prevent such material from being deposited in any landfill. Should the market for a Recyclable Material covered by the terms of this Agreement collapse and render the product worthless (i.e., local recycling processors will not accept the material without charge), the collection of such Recyclable Material shall be suspended until the markets improve unless the City is willing to reimburse Contractor for marketing the materials at a negative value.

Contractor shall maintain records on the weight of Recyclable Materials collected. Contractor shall provide to the City a report setting forth the total tonnage of Recyclable Materials collected each month.

3.6 Municipal Buildings and Facilities. At no additional charge to the City, Contractor shall collect solid waste and Recyclable Materials from municipal buildings and facilities in accordance with the City Facilities Collection Schedule set forth on Exhibit A, which shall identify (i) the municipal buildings and facilities to which collection services will be provided; (ii) the frequency of collection; and (iii) the number and size of containers to be provided to each municipal building and facility for collection of solid waste and Recyclable Materials.

3.7 Monthly Roll Off Services. At no additional charge to the City, one day each month, Contractor shall deliver one (1) thirty (30) cubic yard roll off container to each of the seven (7) wards of the City for the collection of solid waste and Bulk Waste from the residents of the City. The City shall designate the date and specific location where each roll off container is to be delivered. Each roll off container shall be available to the City and residents of the City between the hours of 7 A.M. and 5 P.M. on the date selected by the City, after which Contractor will transport any waste collected to Little Dixie Landfill,

located at 1716 N. County Line Road, Ridgeland, MS, or such other Solid Waste Disposal Site as the parties may mutually agree. The City shall be responsible for providing personnel at each location to monitor the delivery of solid waste and Bulk Waste. The City is responsible for paying the disposal charges, as well as charges for any additional services requested by the City, related to the monthly roll off services.

3.8 **Storm Debris.** Contractor shall not be responsible for the collection or disposal of any increased volume of waste resulting from a flood, hurricane or similar or different acts of God over which Contractor has no control. In the event of such a flood, hurricane or other act of God, Contractor and the City shall negotiate the payment to be made to Contractor for additional services, if Contractor and City agree that the increased volume is to be handled by Contractor. Further, if the City and Contractor reach such an agreement, the City shall grant Contractor variances in routes and schedules as deemed necessary by Contractor.

3.9 **Discontinuance of Services.** Contractor shall discontinue collection service at any location set forth in a written notice sent to Contractor by the City. Upon further notification by the City, Contractor shall resume collection on the next regularly scheduled collection day.

4. HOUSE COUNT

4.1 **Initial House Count:** Immediately after the Commencement Date, Contractor, with participation from the City, shall begin the process of determining the total number of Residential Units receiving services under this Agreement (the "Initial House Count"). The parties agree that the Initial House Count will be completed as soon as practicable after the Commencement Date, but in no event later than 120 days after the Commencement Date. Each party agrees that it will work diligently to complete the Initial House Count in a timely manner and will refrain from engaging in any tactic that would unreasonably delay the completion of the Initial House Count.

4.2 **Additional House Counts:** Beginning on the second anniversary of the Commencement Date, each party shall have the right to request an additional house count (an "Additional House Count"), which shall be conducted jointly; provided, however, an Additional House Count is not to be conducted more frequently than once during each 12-month period of the Agreement term.

5. NEWLY DEVELOPED AND ANNEXED AREAS

If additional territory is annexed into the City subsequent to the execution of this Agreement, the City shall provide written notice to Contractor of the addition of the annexed areas after the expiration of any existing agreement involving a governmental entity under which the Residential Units within the annexed area are receiving Garbage collection service. Contractor will, within thirty (30) days of receipt of such notification

from the City, provide the same frequency and quality of service to the annexed areas required by this Agreement. As new homes are constructed and occupied in the City, Contractor shall, after proper notification by the City, provide solid waste services as required by the Contract on the next scheduled day of collection following notification. The compensation payable to Contractor shall be adjusted based on the Residential Unit costs for services provided under this Section 5. Contractor will assist the City with any issues associated with the billing of Residential Units located in newly developed or annexed areas.

6. POINT OF CONTACT

All communications between Contractor and the City shall be directed by Contractor to the Solid Waste Manager or the designee of the Public Works Director

7. CONTAINERS

7.1 **Approved Garbage Containers.** Contractor is not responsible for providing Approved Garbage Containers to Residential Units; provided, however, that in the event that the City exercises its option under Section 10.4 to select a Collection Service Option that calls for the collection of Garbage from a Garbage Cart, then Contractor shall be responsible for providing Garbage Carts to each Residential Unit receiving services under this Agreement.

7.2 **Recycling Bins and Carts.** Contractor will provide the City with up to 2000 Recycling Bins each contract year at no cost to the City, which the City will deliver to new and existing Residential Units receiving services under this Agreement. Contractor shall have no further obligation to provide Recycling Bins to the City or Residential Units. In the event that the City exercises its option under Section 10.4 to select a Collection Service Option that calls for the collection of Recyclable Materials from a Recycling Cart, then Contractor shall be responsible for providing Recycling Carts to each Residential Unit receiving services under this Agreement.

7.3 **Replacement Carts.** Should the City exercise its option under Section 10.4 to select a Collection Service Option that calls for collection from Garbage or Recycling Carts, Contractor will provide, at its own expense, (i) up to a number of Replacement Garbage Carts that is equal to 2% of the number of new Garbage Carts previously delivered to Residential Units; and (ii) up to a number of Replacement Recycling Carts that is equal to 2% of the number of new Recycling Carts previously delivered to Residential Units (the "Replacement Cart Amount"). The Contractor may charge the City \$65.00 for each Replacement Garbage Cart and Replacement Recycling Cart that it provides in excess of the Replacement Cart Amount.

7.5 **Required Use.** Contractor is not responsible for collecting Garbage from Residential Units that is not contained within an Approved Garbage Container. Contractor is not responsible for collecting Recyclable Materials from Residential Units that are not contained within an Approved Recycling Container.

8. EXTRAORDINARY WASTE MATERIALS

Contractor shall not be responsible for the collection of Hazardous Wastes, body wastes, animal waste, abandoned vehicles, vehicle parts, Construction and Demolition Waste, Commercial Solid Waste, large equipment (other than "Bulk Waste"), or dead animals over ten (10) pounds under the terms of this Agreement.

9. OFFICE AND TELEPHONE CONTACT

Contractor shall maintain an office and service facilities through which it may be contacted without charge by telephone. The office shall be equipped with sufficient telephones and shall have responsible personnel in charge from 8:00 a.m. until 5:00 p.m., Monday through Friday.

10. COMPENSATION

10.1 Compensation for Collection and Hauling Services. As compensation for the collection and hauling of Garbage, Bulk Waste, and Yard Debris, the City shall pay to Contractor the sum of Nine and 27/100 Dollars (\$9.27) per Residential Unit per month. Such monthly compensation does not include the cost of disposal charged by the Solid Waste Disposal Sites. In the event that the City exercises its option to change garbage collection services under Section 10.4, then the City shall pay Contractor the rate applicable to the City's selected Service Collection Option as set forth on the Fee Proposal attached hereto as Exhibit C, subject to adjustments provided in Sections 10.5 and 10.6.

10.2 Compensation for Recycling Services. As compensation for the recycling services described in Section 3.5 above, the City shall pay to Contractor the sum of One and 68/100 Dollars (\$1.68) for each Residential Unit per month. In the event that the City exercises its option to change recycling services under Section 10.4, then the City shall pay Contractor at the rate applicable to the City's selected Service Collection Option as set forth on the Fee Proposal attached hereto as Exhibit C, subject to adjustments provided in Sections 10.5 and 10.6.

10.3 Pricing Adjustment for House Count. During the first 120 days of the contract, the total number of Residential Units for which Contractor shall be compensated in accordance with Sections 10.1 and 10.2 is 45,000. Thereafter, Contractor shall be compensated for providing services to the number of Residential Units determined by the Initial House Count to be receiving services under this Agreement. The compensation payable to Contractor shall be adjusted to reflect the results of any Additional House Count conducted pursuant to Section 4.2. Notwithstanding the foregoing, if additional Residential Units are added to the Service Area as a result of annexation by the City, Contractor's compensation shall be adjusted immediately upon commencement of service to the annexed areas, without the necessity of an Additional House Count.

10.4 Election of Change in Services. Beginning on October 1, 2016 and ending November 30, 2016 (the "Option Period"), the City shall have the option to change the services provided hereunder to a different Collection Service Option. The City may exercise such option by providing written notice to Contractor before the expiration of the Option Period. Contractor will be allowed a reasonable period of time to make changes in services to those selected by the City. Without limiting the foregoing, in the event that the City selects a Collection Service Option that requires collection from Garbage Carts or Recycling Carts, Contractor agrees that it will order carts from its cart supplier within thirty (30) days following receipt of the City's notice required under this Section 10.4 and will deliver such carts to the Residential Units within a reasonable period of time after receipt of the carts from the supplier. In the month following delivery of Garbage Carts or Recycling Carts, Contractor will bill the applicable rate set forth on the Fee Schedule attached as Exhibit C for the number of Residential Units to whom carts were delivered. Any Garbage Carts or Recycling Carts provided as a result of the City's election to change services shall remain the property of Contractor.

10.5 Inflationary Adjustments. The Compensation payable by the City to the Company under Sections 10.1 and 10.2 shall be adjusted annually by the same percentage as the Consumer Price Index for All Urban Consumers, Garbage and Trash Collection, (1983-100), Not Seasonally Adjusted, (published by the Bureau of Labor Statistics, U.S. Department of Labor) ("C.P.I.") shall have increased or decreased during the preceding twelve months. In the event the U.S. Department of Labor, Bureau of Labor Statistics ceases to publish the C.P.I., the parties hereto agree to substitute another equally authoritative measure of change in the purchasing power of the U.S. dollar as may be then available so as to carry out the intent of this provision. The initial rate adjustment shall take effect on the first anniversary date of the Commencement Date, and rate adjustments for succeeding contract years shall take effect on the successive anniversary dates of the Commencement Date during each succeeding year throughout the term hereof. Monthly payments due by the City to the Company shall be adjusted to compensate for such annual rate increases.

10.6 Adjustments for Increased Costs. Contractor shall be entitled to an increase in its compensation rates to offset any increased costs associated with longer haul distance should the City designate a Solid Waste Disposal Site or Materials Processing Facility other than the Solid Waste Disposal Sites and Materials Processing Facilities specifically designated in Section 14.1.

10.7 Taxes and Surcharges. In the event that Contractor becomes liable for or is required to pay any governmental tax or surcharge in connection with the services provided for under the terms of this Agreement, such tax or surcharge shall be the responsibility of the City and shall be payable to Contractor in addition to Contractor's normal monthly compensation.

10.8 Submission and Payment of Bills. City will pay according to Mississippi law within 45 days of the receipt of Contractor's invoices for services rendered under this

Agreement unless the amount of the invoice is disputed. In the event the amount of the invoice is disputed, City will pay the undisputed amount within 45 days.

11. PERFORMANCE BOND:

Within five (5) days of receipt of a fully executed Agreement by Contractor, Contractor shall furnish and provide a performance bond in the amount of One Million Dollars (\$1,000,000.00) to secure Contractor's performance of this Agreement. The bond shall remain in full force and effect for the duration of the Agreement and shall be valid and irrevocable for the duration of the Agreement.

The bond shall serve as security for the faithful performance of this Agreement and shall not be released until expiration of this Agreement. A duly authorized surety company, licensed and doing business in Mississippi and countersigned by a resident agent, shall issue the surety on such bond. The performance bond shall be procured at Contractor's expense. The City reserves the right to review the bond and require Contractor to provide a substitute bond, at Contractor's expense, in such form as the City may reasonably require. The City further reserves the right to require Contractor, at Contractor's expense, to provide an updated bond based upon the value of the contract and the services performed. The bonds must specifically refer to this Agreement and shall bind the surety to all the terms and conditions of this Agreement.

12. HOURS AND DAYS OF OPERATION

Residential route collection shall not begin prior to 7:00 a.m. each day or continue after 9:00 p.m. Exceptions to collection hours shall be effected only upon the mutual agreement of the City and Contractor, or when Contractor reasonably determines an exception is necessary in order to complete collection on an existing collection route due to unusual circumstances. Contractor will not be responsible for providing service on the following holidays:

New Year's Day	Dr. Martin Luther King's Birthday
Thanksgiving Day	Independence Day
Christmas Day	

Contractor is not required to provide a make-up day to collect solid waste or Recyclable Materials from Residential Units affected by the cancellation of services on the foregoing holidays. Without limiting the foregoing, Contractor shall be responsible for publicizing (and the expense of publishing) any changes in collection schedules due to holiday observance. Proper publicizing will include the placement of advertisements or public service announcements serving the affected area.

13. INDEMNITY

Contractor shall indemnify and save harmless the City, its officers, agents, servants, and employees, from and against any and all suits, actions, legal proceedings, claims, demands, damages, costs, expenses, and attorney's fees to the extent resulting from a willful or negligent act or omission of Contractor, its officers, agents, servants, and employees in the performance of this Agreement; provided, however, that Contractor shall not be liable for any suits, actions, legal proceedings, claims, demands, damages, costs, expenses and attorneys' fees arising out of the award of this Agreement or for a willful or negligent act or omission of the City, its officers, agents, servants and employees.

14. DISPOSAL

14.1 Designated Disposal Sites and Processing Facilities. All Garbage, Bulk Waste, and Yard Debris collected by Contractor shall be delivered by Contractor to the Little Dixie Landfill, located at 1716 N. County Line Road, Ridgeland, MS. All Recyclable Materials shall be delivered to the Jackson Transfer Station located at 1462 Country Club Drive, Jackson, MS, where it will then be transferred onto a trailer and delivered to Advance Disposal Sumrall Recycling, located at 1386 Highway 42, Sumrall, MS. Garbage, Bulk Waste, Yard Debris, and Recyclable Materials may be delivered to such other Solid Waste Disposal Sites or Materials Processing Facilities as the parties may mutually agree, and, in such event, Contractor's compensation shall be subject to adjustments as addressed in Section 10.5 above.

14.2 Disposal Charges. The City shall be responsible for all disposal charges applicable to the disposal of all waste collected at the Solid Waste Disposal Sites designated in Section 14.1.

15. INSURANCE

During the Term of this Contract, Contractor shall maintain in full force and effect the following minimum insurance:

<u>Coverage</u>	<u>Limits of Liability</u>
Workmen's Compensation	Statutory
Employer's Liability	\$ 500,000.00
Bodily Injury Liability	\$ 1,000,000.00 each occurrence
except Automobile	\$ 2,000,000.00 aggregate
Property Damage Liability	\$ 1,000,000.00 each occurrence
except automobile	\$ 1,000,000.00 aggregate
Automobile Bodily Injury	\$ 1,000,000.00 each person
Liability	\$ 2,000,000.00 each occurrence
Automobile Property	
Damage Liability	\$ 1,000,000.00 each occurrence
Excess Umbrella Liability	\$ 5,000,000.00 each occurrence

Contractor shall provide proof of existence of said policies to the City prior to the Commencement Date of the Agreement. The City shall be included as an additional insured on the comprehensive general liability and automobile liability policies.

16. LOCATION OF COLLECTION

Approved Garbage Containers and Recycling Bins shall be placed in a location that is readily accessible to Contractor and its equipment, not to exceed five (5) feet from the curb or edge of the traveled portion of road or street. The City will aid Contractor in resolving problems relating to the location of Approved Garbage Containers and Approved Recycling Containers.

17. SERVICE INQUIRIES

All complaints shall be made directly to Contractor. Contractor shall give all complaints prompt and courteous attention. In the case of an alleged missed schedule collection, Contractor shall investigate and if such allegations are verified, shall arrange for collection within twenty-four (24) hours of the time the complaint was received.

Contractor shall maintain forms or a log indicating the time a complaint or request is received, the nature of the complaint or request, and the disposition of same. Such records shall be available for the City's inspection at all times during normal working hours.

Contractor shall furnish to the City on a monthly basis:

A. A report of the service locations not served on the regularly scheduled service day during the preceding month and the reason service could not be provided.

B. A report of complaints received during the preceding month and the resolution of these complaints. The City may require Contractor to make personal supervisory contact to resolve a service complaint.

18. NOTIFICATION OF CUSTOMERS

Contractor shall notify all customers about complaint procedures, changes in services, days of collection and other information regarding the services provided by the Contractor under this Agreement. Except for holiday service changes, Contractor and City shall agree on all service changes thirty (30) days prior to any change in service. Except for holiday changes, the Contractor shall notify all affected customers thirty (30) days prior to the change. The method of customer notification shall be a combination of door hangers, mailing and/or media advertising approved by the City. To the extent there are services changes from the existing service, within ten (10) days of the execution of this Agreement or any change in services, the Contractor shall deliver printed information

about its services under this Agreement to every Residential Unit pursuant to the methods of notification set forth herein.

19. CONTRACTOR'S PERSONNEL

- 19.1 Contractor shall assign a qualified person to be in charge of its performance of this Contract.
- 19.2 Contractor's collection employees shall wear a uniform and shirt bearing Contractor's name and the name of the individual employee.
- 19.3 Each employee shall, at all times, carry a valid driver's license for the type of vehicle he is driving.
- 19.4 Contractor shall provide operating and safety training for all personnel.
- 19.5 No person shall be denied employment by Contractor for reasons of age, race, sex, creed, or religion or national origin.

20. FORCE MAJEURE

From and after the Commencement Date, Contractor's performance hereunder may be suspended and its obligations hereunder excused in the event and during the period that such performance is prevented by a cause or causes beyond the reasonable control of Contractor. Such causes may include, by way of example and not limitations, acts of God, acts of war, riot, fire, explosion, accident, flood or sabotage; lack of adequate fuel, power or raw materials, judicial administrative or governmental laws, regulations, requirements, rules, orders or actions; injunctions or restraining orders; the failure of any governmental body to issue, grant, or the suspension or revocation or modification of any license, permit or other authorization necessary for the services envisioned by this Agreement; national defense requirements; labor strike, lockout or injunction.

21. PERMITS AND LICENSES

Contractor shall obtain at its own expense all permits and licenses required by law or ordinance and maintain same in full force and effect.

22. TERMINATION

Except as otherwise provided herein, if either party breaches this Agreement or defaults in the performance of any of the covenants or conditions contained herein for fifteen (15) days after the other party has given the party breaching or defaulting written notice of such breach or default, unless a longer period of time is required to cure such breach or default and the party breaching or defaulting shall have commenced to cure such breach or default within said period and pursues diligently to the completion thereof, the other party may: (a) terminate this Agreement as of any date which the said other

party may select provided said date is at least thirty (30) days after the fifteen (15) days in which to cure or commence curing; (b) cure the breach or default at the expense of the breaching or defaulting party; and/or (c) have recourse to any other right or remedy to which it may be entitled by law, including, but not limited to, the right for all damage or loss suffered as a result of such termination. In the event either party waives default by the other party, such waiver shall not be construed or determined to be a continuing waiver of the same or any subsequent breach or default.

In the event that a change in law prohibits the binding of the successors in office of the City's elected officials, those successors reserve the right to terminate this Agreement upon giving notice to Contractor.

23. EXCLUSIVE CONTRACT

Contractor shall have the sole and exclusive right to provide residential solid waste collection and recycling services for and on behalf of the City. This Agreement shall not constitute a franchise or exclusive right to collect solid waste from other commercial, institutional and industrial units within the City.

24. NOTICE

A letter addressed and sent by certified United States Mail to either party at the business address specified shall be sufficient notice whenever required for any purpose in this Contract. Also, the address designated at this address may be changed from time to time by written notice sent by Certified U.S. Mail as provided herein.

City: Office of the Mayor
219 South President Street
Jackson, MS 39201

with copies to: City Attorney
455 East Capitol Street
Jackson, MS 39201

Public Works Director
200 South President Street
Jackson, MS 39201

Contractor: Waste Management of Mississippi, Inc.
1450 Country Club Road
Jackson, MS 39209-2509
Attn: Area Manager, Public Affairs

with a copy to: Area General Counsel
Waste Management Southern Area
1850 Parkway Place, Suite 600

Marietta, GA 30067

25. MODIFICATION

This Contract constitutes the entire contract and understanding between the parties hereto, and it shall not be considered modified, altered, changed or amended in any respect unless in writing and signed by the parties hereto.

26. COMPLIANCE WITH LAWS

Contractor shall conduct operations under this Contract in compliance with all applicable laws, provided, however, that the terms of this Contract shall govern the obligations of Contractor where conflicting ordinances exist.

27. LAW TO GOVERN

This Contract shall be governed by the laws of the State of Mississippi both as to interpretation and performance.

28. SUCCESSORS AND ASSIGNS

This Agreement may not be assigned by any party without the prior written consent of the other part. This Agreement shall inure to the benefit of and be binding upon the successors and permitted assigns of the parties hereto, except where law prohibits the binding of the successors in office of the City's elected officials.

29. MINORITY / WOMEN BUSINESS ENTERPRISE PARTICIPATION:

29.1 **Equal Business Opportunity Contractor requirements.** Contractor agrees that it will comply with the Equal Business Opportunity Plan attached hereto as Exhibit B and with the Executive Order on equal business opportunity.

The Contractor agrees to exercise good faith in making available opportunities for minority business enterprises (MBEs) which includes, but is not limited to, African American Business Enterprises, Female Business Enterprises, Hispanic Business Enterprises, and Asian Business Enterprises to perform commercially useful work described in Exhibit B to this agreement which is incorporated into this agreement as if fully reprinted in accordance with the provisions of this Executive Order and shall take the following actions as part of its good faith outreach efforts to comply with the terms of the agreement and the Executive Order implemented by Mayor Tony Yarber of the City of Jackson on July 29, 2014 and as revised:

- (1) Notification to MBEs and FBEs that the Contractor has subcontracting opportunities available and maintenance of records of the MBEs and FBEs responses.

- (2) Maintenance by the Contractor of a file of the names and addresses of each MBE and FBE contacted and action taken with respect to each such contact.
- (3) Dissemination of the Contractor's EBO policy externally by informing and discussing it with all management and technical assistance sources; by advertising in news and electronic media, and by notifying and discussing it with all subcontractors and suppliers.
- (4) Specific and continuing personal (both written and oral) recruitment efforts directed at MBE and FBE contractor organizations and/or MBE and FBE assistance organizations.
- (5) Subdivision of the contract into economically feasible segments as practical to allow the greatest opportunity for participation by MBEs and FBEs.
- (6) Increasing where possible the number of aggregate purchase items so as to eliminate the requirement of front-end purchases of material for as many MBE and FBE subcontractors as possible.
- (7) Adoption of the equal business opportunity plan submitted with its response to the invitation for bids or request for proposals as obligations under this agreement, as approved by the equal business opportunity officer.
- (8) Submission of monthly reports on the forms and to the extent required by the equal business opportunity officer which shall be due on the 10th day of each month following the award of the work set forth in the agreement.

29.2 Maintenance of records and reports by Contractor. Contractors awarded eligible projects incorporating EBO requirements must submit monthly participation reports on a form provided by the Equal Business Opportunity Officer. The report shall be submitted to the Equal Business Opportunity Officer on the 10th day of each month following the award of the eligible project. Each report shall include the following:

- (a) the name, address, telephone number, and contact person of each subcontractor or other business used until the present date;
- (b) the type of work or service each business has performed;
- (c) a summary of the dollar amounts contracted or committed to each business during the term of the contract;
- (d) the dollar amounts actually paid to each business during the current month;
- (e) the total dollar amounts actually paid each business by race or gender (denoted as either AABE, HBE, ABE, NABE or FBE).
- (f) Other information requested by the EBO Officer.

Contractor shall maintain participation reports for a period of two (2) years after the completion of the applicable contract or project. Contractor shall create and maintain for a minimum of two years following the project's completion all records and documents reasonably necessary to demonstrate and verify the Contractor's compliance with the requirements of the Executive Order and Contractor's EBO Plan. Upon request by the EBO officer, Contractor shall either submit documents and records related to its compliance to the Division of Equal Business Opportunity or permit inspection of the documents for the purpose of assessing and verifying compliance.

29.3 Failure to meet equal business opportunity participation goals. Contractor's failure to cure any instances of non-compliance within thirty (30) days after receiving notice of a determination by the Equal Business Opportunity Officer that the Contractor has failed to comply with any portion of the Executive Order or the Contractor's EBO Plan may subject the Contractor to any or all of the following penalties:

- (1) Withholding from the Contractor ten percent (10%) of all future payments for the current eligible project until it is determined that the contractor is in compliance;
- (2) Withholding from the Contractor all future payments for the current eligible project until it is determined that the Contractor is in compliance;
- (3) Rejection of all future bids or offers for any eligible project with the City of Jackson or any of its departments or divisions until such time as the Contractor demonstrates that there has been established and there shall be carried out all of the provisions of this Executive Order and the Contractor's EBO Plan;
- (4) The submission of a recommendation to the governing authorities that the Contractor's agreement with the City be terminated.

(Signature page follows.)

IN WITNESS WHEREOF, this Agreement has been executed in duplicate original on the day and in the year first above mentioned.

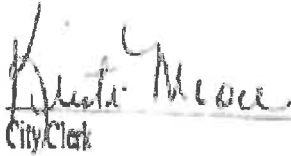
THE CITY OF JACKSON, MISSISSIPPI

BY:

ITS: Mayor



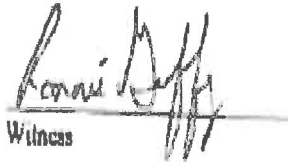
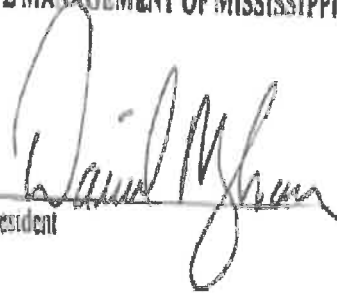
Attest:


City Clerk

WASTE MANAGEMENT OF MISSISSIPPI,
INC.

BY:

ITS: President


Witness

President Lindsay moved adoption; **Council Member Foote** seconded.

President Lindsay recognized **Roy Campbell, Representative of Bradley Arant Boulton Cummings**, who provided a brief overview of said item.

After a thorough discussion, **President Lindsay** called for a vote on said item:

Yeas – Banks, Foote, Hartley and Lindsay.
Nays – Grizzell and Lee.
Absent – Stokes.

* * * * *

ORDER OF THE JACKSON CITY COUNCIL APPROVING CONTRACT FOR EMERGENCY GARBAGE COLLECTION SERVICES FOR JACKSON, MISSISSIPPI.

WHEREAS, the City of Jackson’s current contract with Waste Management of Mississippi, Inc. for solid waste collection and hauling services is set to expire on September 30, 2021; and

WHEREAS, on March 25, 2021, the City requested proposals for solid waste collection and hauling services, with various options for the duration of the contract, the frequency of pickup, and other options; and

WHEREAS, in response to that request for proposals several proposals were received but, to date, none have been accepted; and

WHEREAS, on September 27, 2021, the City Council of Jackson adopted a Proclamation of Local Emergency relative to the absence of any arrangements made to provide for solid waste collection and hauling services for the City beginning October 1, 2021, and finding that the Mayor, as a part of the City’s governing authority, has abdicated his responsibility to participate in providing for the collection and disposal of garbage and rubbish; and

WHEREAS, the City has received two proposals for the emergency collection and disposal of garbage and rubbish beginning October 1, 2021, as follows: from National Waste United, LLC, under which the City would agree to pay for six months \$15.00 per residential unit per month, and “a mobilization fee of \$750,000.00 within 30 days, exclusive of and in addition to all other compensation,” with a performance bond of \$625,958.00; the other from the existing vendor for garbage collection, Waste Management of Mississippi, Inc., to continue to provide its same services to the City during the month of October on the same terms and conditions as exist under its current contract, including the existing rates of \$10.56 per residential unit per month, with a performance bond of \$1,000,000.00; and

WHEREAS, approximately 53,869 residential units would be served by either proposal.

NOW, THEREFORE the City Council of Jackson, Mississippi, in accordance with the authority vested in it by its Proclamation of Local Emergency and Mississippi Code § 33-15-17(b), does hereby approve the proposal of National Waste United, LLC for the emergency collection and disposal of garbage and rubbish beginning October 1, 2021;

FURTHER, IT IS ORDERED that, upon entry of a judgment by a court of competent jurisdiction declaring that this action by the City Council of Jackson is lawful and authorized, the President of the City Council is designated and authorized on behalf of the City Council to execute the proposal of National Waste United, LLC for the emergency collection and disposal of garbage and rubbish beginning October 1, 2021, in substantially the form attached hereto as Exhibit A.

WITNESS MY HAND, on this 27TH day of September, 2021.

EXHIBIT A

EMERGENCY AGREEMENT
for
SOLID WASTE COLLECTION
AND HAULING SERVICES
between
CITY OF JACKSON, MISSISSIPPI and
NATIONAL WASTE UNITED, LLC

This Agreement is entered into this the 17th day of September, 2021 by and between the City of Jackson, Mississippi, a municipal corporation, with its principal mailing address being P.O. Box 17, Jackson, Mississippi 39205 (hereinafter referred to as "City" or "The City of Jackson") and National Waste United, LLC (see Exhibit "G" for membership disclosures of contracting entity) a limited liability company with its principal place of business at 5520 Highland Dr, Jackson, MS 39206 (hereinafter referred to as "Contractor").

WHEREAS, the City of Jackson, Mississippi advertised for a qualified company to collect and haul Solid Waste from residential units within the city limits, from certain city facilities, and to provide certain other related services, and

WHEREAS, the City was unable to agree to the terms of a contract pursuant to the Request for Proposal process required under Section 31-7-13 (r) of the Mississippi Code, as amended, and

WHEREAS, pursuant to the authority vested in the Mayor pursuant to Mississippi law, the Mayor has proclaimed the existence of a state of local emergency, in anticipation of the City's inability to collect solid waste from residential units throughout the City, and

WHEREAS, National Waste United, LLC has represented to the Mayor that they are willing and able to collect residential solid waste and otherwise fulfill the scope of services currently being provided under the existing October 1, 2015 Agreement for Solid Waste and Recycling Services, as amended in 2020 to discontinue recycling services, and

WHEREAS, National Waste United, LLC has agreed to provide the services set forth in this Agreement on an emergency basis until such time as the City is able to procure a contract through the Request for Proposal process set forth in Section 31-7-13 (r) and the contractor procured under that process is prepared to begin providing solid waste collection and hauling services, and

WHEREAS, the City of Jackson and National Waste United, LLC have a mutual desire to accomplish the environmentally safe and effective collection and hauling of Solid Waste,

NOW THEREFORE, in consideration of the premises and of the mutual obligations undertaken herein, the parties hereto hereby agree as follows:

1. **DEFINITIONS**

1.1 **Certain Definitions.** The following terms used throughout this Agreement shall have the meaning set forth in this section, unless otherwise defined herein.

"**Agreement**" shall mean this Agreement for the Collection and Hauling of Solid Waste duly executed by the City of Jackson and Contractor.

"**Bags**" shall mean a plastic or paper sack designed to store or enclose Solid Waste with sufficient strength to maintain physical integrity when lifted by top. Total weight of a bag with contents shall not exceed sixty (60) pounds.

"**Bulky Items**" shall mean, but are not limited to white goods such as washers and dryers, dishwashers, water heaters, furniture, appliances, and similar items. Bulky Items do not include tires, refrigerators, freezers, air conditioners or automobile parts.

"**City**" shall mean The City of Jackson, Mississippi, a municipal corporation represented by its Mayor and City Council.

"**Code of Ordinances**" shall mean the Code of Ordinances of the City of Jackson, Mississippi.

"**Contractor**" shall mean National Waste United, LLC.

"**Director of Public Works**" shall mean the Director of Public Works for the City of Jackson or his/her designee.

"**Disposal Site (landfill)**" shall mean the Waste Management of Mississippi, Inc MDEQ-permitted transfer station within the City.

"**Household Solid Waste**" shall mean all Solid Waste with the exception of Yard Debris and Bulky Items.

"**Residential Unit**" shall mean a dwelling unit such as a home or trailer, or a dwelling unit in a multi-family dwelling of four or less units, not including hotels and motels.

"**Service Area**" shall mean the area of the City of Jackson within, which services will be provided by the Contractor, as reflected in Exhibit "D", plus any annexed areas.

"**Solid Waste (garbage)**" shall include, but is not limited to, all garbage, refuse from household maintenance, Yard Debris, putrescible and non-putrescible solid, semi-solid, and liquid wastes, paper, rubbish, ashes, human and animal waste, kitchen and table waste, cardboard containers, cans, Bulky Items and the like.

"**Standard Container**" shall mean a metal or plastic can of not less than ten (10) gallons, no more than thirty (30) gallons, cardboard boxes, or similar items used to containerize Solid Waste.

"Yard Debris (trash)" shall mean yard clippings, tree trimmings, leaves, wood, and similar items normally accumulated in the care and maintenance of yards (green waste). All tree trimmings and wood shall be cut to lengths of four (4) feet or less and will not exceed four (4) inches in diameter. Debris resulting from commercial tree trimmings or removal operations is not be included.

2. TERM

2.1 **Term of Agreement.** The initial term of this Agreement is for six (6) months commencing on October 1, 2021 and ending March 31, 2022. Thereafter, the City and National Waste United, LLC may, upon mutual consent, agree to extend this Agreement for successive monthly periods until such time as the necessity to collect residential Solid Waste, Yard Debris, and Bulky Items on an emergency basis ceases, the intent of parties being to provide emergency collection services until a contract is procured under Section 31-7-13 (r) of the Mississippi Code, as amended.

3. AUTHORITY TO CONTRACT

3.1 **Representation of National Waste United, LLC** represents and warrants that:

(1) National Waste United, LLC is a limited liability company in good standing under the laws of the State of Mississippi and is duly licensed to conduct business in the State of Mississippi and the City of Jackson.

(2) National Waste United, LLC has the full power, authority, and legal right to enter into and perform this Agreement.

(3) This Agreement constitutes a legal, valid, and binding obligation of National Waste United, LLC enforceable in accordance with its term.

3.2 **Representation of the City.** The City of Jackson represents and warrants that:

(1) It has the full power, authority, and legal right to enter into and perform this Agreement.

(2) This Agreement constitutes a legal, valid, and binding obligation of the City of Jackson, Mississippi enforceable in accordance with its term, subject to the City Council approving the need to continue the local emergency declared by the Mayor and its ratification by the City Council.

4. SCOPE OF SERVICES

4.1 **General Services.** The Contractor agrees to furnish all land, buildings, labor, mechanics, tools, equipment, material, supplies, and services necessary to perform all work and services to satisfactorily collect all Solid Waste from locations within the City of Jackson, Mississippi, transport collected Solid Waste, including Yard Debris and Bulky Items, to City's designated disposal site and perform all other work or services incidental to Solid Waste collection and transportation services in strict accordance with the terms and conditions of this Agreement.

The Contractor shall perform the services described hereta utilizing the vehicles and equipment described in the Vehicle and Equipment schedule and all subsequent amendments thereto set forth in Exhibit "A" attached hereto and incorporated herein.

4.2 Residential Services. The Contractor shall collect and haul Household Solid Waste from all Residential Units located within the corporate limits of the City of Jackson in accordance with the Code of Ordinances, City of Jackson, Mississippi, including any and all amendments thereto adopted by the City of Jackson, Mississippi. Contractor shall be responsible for curbside collection of Household Solid Waste from Residential Units twice weekly on Regular Collection Days to be designated by the Contractor and approved by the Department of Public Works. Except as otherwise provided, the Contractor shall collect Household Solid Waste containerized pursuant to the City's Code of Ordinances, in Bags and Standard Containers.

4.3 Municipal Buildings and Facilities. Contractor shall collect Solid Waste from selected municipal buildings and facilities set forth in the City Facilities Collection Schedule and all subsequent amendments thereto set forth in Exhibit "B" attached hereto and incorporated herein. Contractor shall collect Solid Waste at each city building and facility based on the frequency of collection set forth in Exhibit "B" and utilizing the number and sizes of containers set forth therein. The City shall adjust the compensation paid to Contractor in the event the City increases or decreases the number of buildings and facilities serviced, the frequency of collection at buildings and facilities, and the sizes of containers used for collection.

4.4 Bulky Items. The Contractor shall collect all Bulky Items from Residential Units once per week on the second Regular Collection Day to be designated by the Contractor and approved by the Department of Public Works.

4.5 Yard Debris. The Contractor agrees to provide the collection of containerized Yard Debris twice weekly and up to two (2) cubic yards of uncontainerized Yard Debris from each Residential Unit once weekly on the second regular collection day to be designated by the Contractor and approved by the Director of the Department of Public Works. The Contractor shall not be required under any circumstances to collect any uncontainerized Yard Debris from any Residential unit except on the second regular collection day for such Residential Unit nor collect more than two (2) cubic yards of uncontainerized Yard Debris from any Residential Unit on the second collection day for such Residential Unit. Should the Contractor suspect that a Residential Unit has placed more than two (2) cubic yards of uncontainerized Yard Debris, the Contractor shall notify the City, within twenty-four (24) hours, of the location of such Residential Unit. The Contractor and the City shall make a mutual determination of whether a Residential Unit has placed more than two (2) cubic yards of uncontainerized Yard Debris for collection on the second collection day. Should the parties determine that a Residential Unit shall have placed more than two (2) cubic yards of uncontainerized Yard Debris for collection, the Contractor shall not be required to collect any of such uncontainerized Yard Debris from such Residential Unit. The City shall then collect such Yard Debris in accordance with the Code of Ordinances of the City, and the Contractor shall have no responsibility for such collection.

The City and Contractor agree that any publication or notification that the Contractor provides to residents with the approval of the City shall contain information encouraging residents to containerize Yard Debris.

4.6 **Rolloff Services.** At no additional charge to the City, the Contractor shall provide 30 cubic yard rolloff containers in each ward of the City as requested by the City, but not more frequently than once per month for the delivery of Solid Waste and Bulky Items by residents of Jackson. The Contractor shall place the rolloff containers on dates and at locations to be determined by the City between the hours of 7 A.M. to 5 P.M. The City shall be responsible for providing personnel at each location to monitor the delivery of Solid Waste and Bulky items. Contractor shall haul the containers to the City's designated Disposal Site. Should additional rolloff hauls be requested, the Contractor shall be entitled to additional compensation for such rolloff hauls at the following rates: \$ 420 ___ per additional rolloff haul. The City shall be responsible for paying all disposal charges related to the monthly rolloff services.

4.7 **Debris Removal and Illegal Dumping.** In addition to the Rolloff Services provided in 4.6, Contractor agrees to provide equipment and labor at the request of the City to assist in cleaning up illegal dumping and removing residential debris that is not otherwise eligible for collection under the Residential Collection services. The Contractor will be compensated at the rate of \$24 per cubic yard LVM (loose volume measurement) including the cost of disposal. Contractor shall report the compensation claimed in its invoice separately from the compensation for Residential Collection services.

4.8 **Annexed Areas.** Within fifteen (15) days of notification from the Director of Public Works of the addition of annexed areas, the Contractor shall provide to annexed areas the same quality and frequency of service required by this Agreement. In such case, the compensation payable to the Contractor shall be adjusted to reflect the increased number of Residential Units served by the Contractor, based on a per residential unit cost of.

ARTICLE V

STANDARD COLLECTION, HAULING AND DISPOSAL

PROVISIONS

5.01 **Service Area.** The Contractor shall furnish all Solid Waste collection and hauling services required in this Agreement within the Service Area of the City of Jackson as shown on the Service Area map and any and all subsequent amendments thereto set forth in Exhibit D attached hereto and incorporated herein. The City reserves the right at any time during the term of this Agreement to assign any portion of the Service Area to another Contractor for cause due to lack of substantial performance to provide some or all of the services being provided under the Agreement, the intent being that this Agreement shall not constitute an exclusive Agreement with National Waste United, LLC to provide the services within the scope of his Agreement.

5.02 **Map of Routes.** The Contractor shall provide, within seven (7) calendar days following the implementation of services hereunder, at its own expense, the maps of the collection routes. The published map shall be of such size and clarity to show all pertinent information, including the Contractor's name, office location, and telephone number. The actual route need not be shown, but the areas picked up on various days must be clearly defined. These routes shall be review by the City of Jackson Public Works Department and

any required adjustments will be provided within fourteen (14) calendar days following their submittal. The map and any subsequent amendments thereto shall be attached to this Agreement as Exhibit E and shall be incorporated herein upon their approval by the Public Works Department.

5.03 Schedule of Operations. Within seven (7) working days following the implementation of service, the Contractor shall prepare and submit to the Director of Public Works for their approval a Schedule of Operations, which shall be attached to this Agreement along with all subsequent amendments thereto as Exhibit F and shall be incorporated herein upon their approval by the Public Works Department. Any subsequent changes of schedules must be approved in writing by the Director of Public Works or his designee. All such changed schedules must be documented in the same detail as the original schedule supplied by Contractor.

The Contractor shall collect Solid Waste from all locations required to be serviced under this Agreement in accordance with the Schedule of Operations, which shall comply with the service provisions of this Agreement.

5.04 Days of Collection. Regular Collection Days are limited to Monday, Tuesday, Wednesday, Thursday, Friday and Saturday. No regularly scheduled collection shall be allowed on Sundays without the prior approval of the Public Works Director. Scheduled work shall normally be performed between 7:00 a.m. and 9:00 p.m.

5.05 Holidays. Holidays upon which work will not be required are New Year's Day, Dr. Martin Luther King, Jr.'s Birthday, the Fourth of July, Thanksgiving Day and Christmas Day. The Contractor shall be responsible for publicizing and shall bear the expense of publicizing any changes in collections schedules due to the observance of the above holidays.

5.06 Care and Diligence in Lifting and Hauling. The Contractor shall exercise all reasonable care and diligence in collecting Solid Waste, Yard Debris and Bulky Items. Every effort must be made to prevent spilling, scattering or dropping Solid Waste during the collection and hauling process. However, in the event that Solid Waste is spilled, splattered or dropped, the Contractor shall immediately clean up the material. The Contractor shall exercise care in handling of containers, making certain that containers are emptied completely. The Contractor shall also exercise care to prevent damage to containers, and other property, including lawns, shrubs, and other plants. All Solid Waste hauled by the Contractor shall be so contained, tied or enclosed so that leaking, spilling or blowing are prevented. The Contractor shall be fully and solely responsible for any subsequent cleanup.

5.07 Vehicles and Equipment. The Contractor shall provide and maintain during the entire period of this Agreement a fleet of Solid Waste collection vehicles sufficient in number and capacity to perform the work required by this Agreement. The vehicles must contain the Solid Waste, Yard Debris and Bulky Items so that no material is spilled, leaked or blown from the vehicle during its transit to the appropriate Disposal Site as designated by the City of Jackson. The fleet must be sufficient to handle the special requirements of adverse weather and holiday overload.

The Contractor shall maintain collection equipment in good repair at all times. All parts and systems of the collection equipment shall be operated and maintained properly. The Contractor shall take reasonable care to prevent damage to containers during collection.

The Contractor shall supply the Public Works Director with the Vehicle and Equipment Schedule (Exhibit "A") which lists all equipment, including equipment identification numbers, mileage, age and type that it will use to fulfill this Agreement and shall notify the City of additions or deletions as they occur. The Director of Public Works shall have the right to demand an increase in the number of vehicles used for services if, in the judgment of the Public Works Director, an increase in the number of vehicles is needed for the Contractor to satisfactorily perform its obligations under this Agreement. The Contractor shall have fourteen (14) calendar days within which to comply with such demand.

The Contractor shall not use the City's name or other words implying municipal ownership on vehicles or equipment.

The Contractor shall not use or permit any vehicles assigned to the performance of this Agreement to make any non-Agreement related collections unless approved by the Director of the Department of Public Works or his designee.

All vehicles and equipment used in collection and transportation of Solid Waste within the City shall be of sufficient size, capacity and number to adequately and efficiently collect Solid Waste in accordance with the terms of this Agreement.

The Contractor shall maintain all vehicles and equipment in a clean and sanitary condition at all times.

5.09 Change in Services. The Contractor shall not change its delivery of services under this Agreement in a manner that will affect delivery of service without the prior written approval of the City of Jackson through its Public Works Director or his designee.

ARTICLE VI

COMPENSATION

6.01. General Compensation. Contractor shall provide services to all Residential Units in the Service Area during the term of this Agreement and all Residential Units added thereto as a result of annexation as set forth in § 4.09 above. As full consideration for performing all work and services set out in this Agreement, the City agrees to pay the Contractor \$ 15.00 per residential unit per month. The number of residential units for purposes of this Agreement is 53,869 units. City agrees to pay National Waste Systems a mobilization fee of \$750,000.00 within 30 days, exclusive of and in addition to all other compensation.

The City shall deduct from monthly payments any and all assessments against the Contractor. In the event the City exercises its right under Section 3.01 to assign a portion of the Service Area to another Contractor, City will make a good faith determination of the proportion of units in the remaining Service Area and so reduce the compensation based on the number of units remaining in the Service Area being collected by Contractor.

6.02. Method of Payment. Upon completion of monthly services, the Contractor shall submit an invoice setting forth: (1) a certification from the Contractor that it has fully and properly performed all items of work covered by the payment request, that all insurance and bonds required hereunder are in full force and effect; and (2) certification that it is not in default under any provision of this Agreement. The City will use best efforts to pay the Contractor for undisputed services within thirty (30) days of receipt of the invoice. If the undisputed portion of any an invoice is not paid within forty-five (45) days of receipt, interest shall accrue on undisputed portion of the invoice at the rate of 1.5% per month or any portion thereof. Invoices shall be submitted to the Public Works Director or his designee.

VII

DISPOSAL

7.01 Disposal. All Solid Waste collected in the Service Area by the Contractor shall be delivered to the City's designated Disposal Site, unless otherwise designated by the Director of Public Works. All Solid Waste, upon being removed from the premises where collected and transported upon or over a public street, alley, lane, right-of-way, or place shall become the property of the Contractor until deposited in the Disposal Site.

The Contractor shall not deliver any Solid Waste or other material not collected in performance with this Agreement to the Disposal Site and present them as materials collected as a part of this Agreement. The Contractor shall not deliver the Solid Waste collected under this Agreement to any disposal facility other than the Disposal Site designated by the City. The City reserves the right to monitor the performance of the Contractor's duties, including routes and collections made, customer reports, trips to designated disposal facilities, and other destinations, the content of individual loads and portion or loads disposed of at the designated Disposal Site and the Contractor's records at any time in order to ensure Contractor's compliance with this Agreement.

ARTICLE VIII

PERFORMANCE SECURITY

8.01 Performance and Payment Bond. Within five (5) days of receipt of a fully executed Agreement by the Contractor, the Contractor shall furnish and maintain a performance bond in the amount of SIX HUNDRED TWENTY-FIVE THOUSAND, NINE HUNDRED FIFTY-EIGHT AND 00/100 DOLLARS (\$625,958.00) to secure the Contractor's performance of this Agreement.

The bond shall be valid and non-cancelable for the period of the Agreement. The bond shall not be released to the Contractor until expiration of this Agreement. The bond shall serve

as security for the faithful performance of this Agreement. The surety on such bond shall be issued by a duly authorized surety company, licensed and doing business in Mississippi and counter-signed by a resident agent. The performance bond shall be procured at the Contractor's expense and payable to the City of Jackson. Prior to approval of the performance bond, the City reserves the right to review the bond and requires the Contractor to substitute an acceptable bond in such form as the City may reasonably require. The premiums on such bonds shall be paid by the Contractor. The bonds must specifically refer to this Agreement and shall bind the surety to all the terms and conditions of this Agreement. In the event that the Contractor is terminated under the provisions of this Agreement, the City may claim against the performance bond

ARTICLE IX

TERMINATION

9.01 **General.** All terms and conditions of this Agreement are considered material, and failure to perform any of the terms and conditions on the part of either party shall be considered a breach of this Agreement.

9.02 **Termination for Cause.** The City may terminate this Agreement if the Contractor:

(a) fails to perform any duty or obligation of the Contractor under this Agreement and the Contractor fails to cure such default within seven (7) calendar days of the City's written notice to the Contractor of such default. In the event of a default as a result of bankruptcy, the City, as its option, may or may not elect to provide the Contractor with an opportunity to cure the default. If the City determines that the Contractor is unable to collect Solid Waste, the City may declare the Contractor to be in default and immediately terminate the Agreement, thus making performance and payment bond proceeds immediately available for the City's use in collection of Solid Waste, to safeguard the health and safety of its residents.

(b) is adjudicated bankrupt, is the subject of the appointment of a receiver, has any of its property attached, becomes insolvent, or is unable to pay its debts as they become due.

(c) fails to provide or maintain the performance bond as required by this Agreement; or fails to obtain or maintain any insurance policies and endorsements as required by this Agreement; or fails to provide after seven (7) days of the City's request, the proof of insurance as required by this Agreement.

(d) owing to the emergency nature of this Agreement and time being of the essence, if within seven (7) days of the date upon which the Contractor is to begin providing service under this Agreement or any time thereafter, if the City, in its sole discretion, determines the Contractor does not have sufficient equipment or labor to fulfill the Contractor's responsibilities

under the terms of this Agreement, the City may immediately provide the Contractor with a written notice of deficiency and the City, at its sole discretion, may thereafter immediately terminate this Agreement and substitute another Contractor to provide any portion of the services being provided under this Agreement.

ARTICLE X

PERSONNEL

10.01 Contractor's Personnel. The Contractor shall assign a qualified person or persons to be in charge of the performance of this Agreement, and shall advise the City of such persons in advance and when changes occur. Each driver shall at all times carry a valid State of Mississippi commercial drivers license for the type of vehicle being driven. The Contractor shall provide operating and safety training for all personnel.

The Contractor shall ensure that employees service the public in a courteous, helpful, and impartial manner. All employees of the Contractor in both field and office shall refrain from belligerent behavior and/or profanity. Correction of any such behavior and language shall be the responsibility of the Contractor. If an employee of the Contractor is the subject of repeated or egregious allegations of the type described above, the City may request that the employee be barred from further work for the Contractor in connection with this Agreement. Upon the City's request, the Contractor shall, within ten (10) days, comply with the City's request for the duration of the Agreement time.

Contractor's personnel shall make collections with as little noise and little disturbance to the customer as possible.

No employee shall disturb or otherwise interfere with property that is impertinent to the proper execution of his duties.

Care shall be taken to prevent damage to property including shrubs, flowers and other plants.

The Contractor agrees that it has adopted and will maintain and enforce a policy of nondiscrimination on the basis of race, color, religion, sex, age, national origin, or disability.

The Contractor will take necessary steps to ensure that it maintains a drug free workplace. These steps shall include, but shall not necessarily be limited to, compliance with all federal and state laws and regulations.

The terms and conditions stated above shall apply for all agreements resulting from this Agreement, including subcontractors.

ARTICLE XI

INDEMNITY AND INSURANCE

11.01 **Indemnity.** The Contractor shall indemnify and save harmless the City, its officers, agents, employees and assigns from and against all losses, costs, damages, expense, and liability caused by any occurrence resulting in bodily injury, including death, sickness or disease to any person; or damage or destruction to property, real or personal, arising directly or indirectly from the acts or omissions of the Contractor, its officers, agents and employees in performing under this Agreement, including but not limited to, operations, products, services rendered under this Agreement

The Contractor shall be responsible for any damage to customers' property, real or personal, which is caused by the Contractor or the Contractor's agent in performance of this Agreement.

11.02 **Insurance.** Within seven (7) days of the execution of this Agreement and continuing throughout the life of this Agreement, the Contractor shall provide and maintain policies providing the following insurance protection:

1. **COMMERCIAL GENERAL LIABILITY (CGL) Insurance** including coverage for:

- Premises/Operations
- Products/Completed Operations
- Pollution – On-Site and Off-Site (Pollution Liability Insurance minimum limits of liability may be evidenced with separate coverage)
- Personal/Advertising Injury
- Contractual
- Independent Contractors
- Stop Gap/Employers Liability

Such Insurance must provide the following minimum limits of liability:

\$1,000,000	each occurrence Combined Single Limit bodily injury and property damage (CSL)
\$2,000,000	Products/completed operations aggregate
\$2,000,000	General aggregate
\$1,000,000	each accident/disease/policy limit

2. **BUSINESS AUTOMOBILE LIABILITY INSURANCE** for owned, non-owned, hired, and leased vehicles, as applicable, written on a form CA 00 01 or equivalent. Such insurance must provide a minimum limit of liability of \$1,000,000 CSL.

3. **WORKERS' COMPENSATION INSURANCE** as required by the laws of the state of Mississippi.

4. **UMBRELLA/EXCESS/NUMBERSHOOT LIABILITY INSURANCE** over CGL and automobile liability minimum limit shall be \$2,000,000 CSL. (\$3,000,000 total limits requirement)

The limits of liability specified above may be satisfied with primary limits of liability or any combination of primary limits and excess/umbrella limits

Each policy shall contain a requirement that, in the event of a change or cancellation, the Contractor shall provide the City within thirty (30) days prior written notice by mail. In each case, a certificate of insurance describing the coverage shall be furnished by the Contractor and shall contain appropriate wording to the effect that the policy described cover the Contractor's operation under this Agreement.

ARTICLE XII

PERMITS AND LICENSE

12.01 The Contractor shall obtain at its expense, all permits and licenses required by law or ordinance and maintain them in full force and effect.

ARTICLE XIII CUSTOMER SERVICE STANDARDS

13.01 **Local Office.** The Contractor shall maintain an office in the City of Jackson equipped with telephone service as may be necessary to receive and handle complaints or to receive instruction and direction from the City between the hours of 7: 00 a.m. until 5: 15 p.m. Monday through Friday and 7: 00 A.M. and 3: 00 P.M. on Saturdays. The Contractor's telephone number shall be publicized by Contractor

13.02 **Telephone Service.** The Contractor shall provide appropriate personnel and phone systems needed to answer at least 95% of customer calls with a personal response within five (5) rings. An automated phone system is permissible after hours.

13.03 Notification of Customers. The Contractor shall notify all customers about complaint procedures, changes in services, days of collection and other information regarding the services provided by the Contractor under this Agreement. Contractor and City shall agree on all service changes thirty (30) days prior to any change in service. The Contractor shall notify all affected customers thirty (30) days prior to the change. The method of customer notification shall be a combination of door hanger, mailing and media advertising that is approved by the City. Prior to the execution of this Agreement, the Contractor shall deliver printed information about its services under this Agreement to every Residential Unit pursuant to the methods of notification set forth herein.

13.04 Customer Complaints. The Contractor shall provide a remedy for all customer complaints reported to the Contractor or the City by the end of next regular business day after the complaint is received. The Contractor shall submit the following information to the Department of Public Works on a weekly basis relative to resolution of complaint:

- a. Date complaint received
- b. Name and address of complainant
- c. Nature of the complaint
- d. Date complaint resolved
- e. How complaint was resolved

The Contractor shall notify all customers of complaint procedures, rules, and regulation on an annual basis. Whenever there is an approved change of service, it is the Contractor's responsibility to draft and provide a draft customer information notice to the City for approval. Presentation of draft customer information must be completed by the Contractor on a schedule that allows sufficient time for approval, production, and publication or other dissemination of the notice. All notices must be pre-approved by the Public Works Director or his designee.

The City will have the right to send a monitor out to check on the resolution of any complaint. If a monitor records deficiencies, they will notify the Contractor of such deficiencies. The Contractor shall notify the City when these deficiencies have been corrected. The monitor will re-check the work to determine that it has been completed satisfactorily. If the monitor finds that the deficiencies previously noted were not corrected, the Contractor shall be subject to liquidated damages as set forth in Article XV below.

ARTICLE XIV

ADMINISTRATION OF AGREEMENT

14.01 City Administration. The Director of Public Works for the City of Jackson, Mississippi shall be the chief administrator for this Agreement on behalf of the City. The Public Works Director reserves the right to delegate administration of this Agreement to a designated division manager.

14.02 Waste Management Administration. Dewayne Pickett is designated by National Waste United, LLC to be the chief administrator for this Agreement on behalf the Contractor. The Contractor may change the person to be the chief administrator for this Agreement on behalf of the Contractor by giving the City 30 days written notice of such

change.

ARTICLE XV

LIQUIDATED DAMAGES

15.01 The City shall notify the Contractor of each reported violation of the Agreement. It shall be the duty of the Contractor to take whatever steps necessary to remedy the cause of the violation and notify the City within 24 hours after receipt of the complaint confirming action taken.

Failure to remedy the cause of the complaint shall be considered a breach of the Agreement for the purposes of computing damages under the provision of this section. It is agreed that the City may deduct from payments due or to become due the Contractor the following amounts as liquidated damages:

- a. Failure to increase number of vehicles: \$100.00 per day for each vehicle or piece of equipment within specified time.
- b. Failure to clean up spilled Solid Waste: \$25.00 for each instance.
- c. Failure to clean vehicles, conveyances, containers, docks, yards, shops and other equipment as provided in the specification: \$50.00 for each instance.
- d. Failure to collect Solid Waste within 24 hours after notification of a complaint: \$25.00 for each failure or neglect of repeated instance at same residence.
- e. Using vehicles assigned to the performance of this Agreement to make private collections: \$500.00 each instance.
- f. Failure to maintain vehicle in operable condition and acceptable appearance shall, after inspection and notice cause confiscation of vehicle sign, thus not allowing that vehicle to be used for the collection and removal of Solid Waste.
- g. Failure to correct service deficiencies other than those specified in items a. - f. above after monitoring by City: \$25 per occurrence.

ARTICLE XVI

GENERAL PROVISIONS

17.01 Employment Status. Contractor shall, during the entire term of this Agreement, be construed to be an independent Contractor. Nothing in this Agreement is intended to nor shall be construed to create an employer/employee relationship or a joint venture relationship.

Contractor represents that it has, or will secure, at its own expense, applicable personnel who shall be qualified to perform the services required to be performed under this Agreement. Such personnel shall not be deemed in any way directly or indirectly or by implication to be

employees of the City. Any person assigned by Contractor to perform the services hereunder shall be an employee or subcontractor of Contractor who shall have the sole right to hire and discharge its employees and/or subcontractors.

It is further understood that the consideration expressed herein constitutes the full and complete compensation for all services and performances hereunder, and that any sum due and payable to Contractor shall be paid as a gross sum with no withholdings or deductions being made by the City for any purpose from said Agreement sum.

Contractor shall pay, when due, all salaries and wages of its employees and accepts exclusive responsibility for the payment of federal income tax, state income tax, social security, unemployment compensation, and any other withholdings that may be required.

17.02 Record Retention and Access to Records. Contractor shall maintain and make available to the City of Jackson any financial records, supporting documents, statistical records and all other records pertinent to services performed under this Agreement. These records shall be maintained for at least three years, however, if any litigation or other legal action by or on behalf of the City of Jackson has begun that is not completed at the end of the three-year period, or if an audit, litigation, or legal action have not been resolved at the end of the three-year period, the records shall be retained until resolution.

17.03 Modification or Amendment. Modifications, changes, or amendments to this Agreement may be made upon mutual Agreement of the parties hereto. However, any change, supplement, modification, or amendment of any term, provision or condition of this Agreement must be in writing and signed by both parties hereto.

17.04 Assignment. Contractor shall not assign, subcontract, or otherwise transfer the obligation incurred on its part pursuant to terms of this Agreement without prior written consent of the City. Any attempted assignment or transfer of this obligation without consent shall be wholly void.

17.05 Waiver. Failure of either party hereto to insist upon strict compliance with any of the terms, covenants, and conditions hereof shall not be deemed a waiver or relinquishment of any similar right or power herein at any subsequent time or of any other provisions hereof, nor shall it be construed to be a modification of the terms of this Agreement.

17.06 Governing Laws. This Agreement shall be construed in accordance with the laws of the State of Mississippi.

17.07 Severability. If any term or provision of this Agreement is prohibited by the laws of the State of Mississippi or declared invalid or void by a court of competent jurisdiction, the remainder of this Agreement shall not be affected thereby. Each term and provision of this Agreement shall be valid and enforceable to the fullest extent permitted by law.

17.08 Compliance with Laws. Contractor shall comply with all applicable laws, regulations, policies, and procedures of the United States, the State of Mississippi, or the City of Jackson, that may affect the performance of services under this Agreement. Specifically, but not limited to, Contractor shall not discriminate against any employee nor

shall any party be subject to discrimination in the performance of this Agreement because of race, creed, color, sex, age, national origin, or disability.

17.09 Entire Agreement. This Agreement constitutes the entire agreement of the parties with respect to the subject matter contained herein and supercedes and replaces any and all prior negotiations, understandings, and agreements written or oral between the parties relating thereto.

17.10 General. Contractor represents that no director, officer, agent employee or other person acting on behalf of Contractor will, with respect to this Agreement, (i) give or agree to give any gift or similar benefit to any council person or other officer or employee of the City of Jackson or (ii) use any corporate or other funds for any unlawful contribution or payments or make any unlawful expenditures relating to political activity of government officials of the City.

17.11 Notice. Any notice required or permitted to be given under this Agreement shall be in writing and sent by United States certified mail, return receipt requested to the party to whom the notice shall be given at the address set forth below:

Contractor:

National Waste United, LLC

2639 Dry Grove Rd.
Crystal Springs, MS 39059

With Copies To:

City

City of Jackson
Department of Public Works
Post Office Box 17
Jackson, Mississippi 39205
Attention: Martin King Director of Public Works

With Copies to:

Chokwe A. Lumumba, Mayor
City Hall
219 South President Street
Jackson, Mississippi 39201

Office of the City Attorney
455 East Capitol Street
Jackson, Mississippi 39201
Attn: City Attorney

17.12 Force Majeure. Neither party shall be liable for its failure to perform its obligations under this Agreement if such failure is due to any unforeseen circumstances beyond its reasonable control or a force majeure event. For the purposes of this Agreement, "unforeseen circumstances" shall mean any event or condition which has an effect on the rights or obligations of the parties under this Agreement, or upon the project, which is beyond the reasonable control of the party relying thereon and constitutes a justification for a delay in or non-performance of action required by this Agreement, including but not limited to (i) an act of God, landslide, lightning, earthquake, tornado, fire, explosion, flood, failure to possess sufficient property rights, acts of public enemy, war, blockade, sabotage, insurrection, riot or civil disturbance, (ii) preliminary or final order of any local, state or federal court, administrative agency or governmental body of competent jurisdiction, (iii) any change in law, regulation, rule, requirement, interpretation or statute adopted, promulgated, issued or otherwise specifically modified or changed by any local, state or federal governmental body, (iv) labor disputes, strikes, work slowdowns or work stoppages, but excluding labor disputes, strikes, work slowdowns or work stoppages by employees of Contractor, and (v) loss of or inability to obtain services from a utility necessary to furnish power for the operation and maintenance of the project.

17.13 Headings. The headings inserted herein are for convenience only, and are not intended to be used as aids to interpretation and are not binding on the parties.

ARTICLE

XVIII

DOCUMENTS

18.01 Documents and Order of Precedence. The Agreement made by and between the parties hereto shall consist of, and precedence is hereby established by the order of, the following:

1. This Agreement entered into by the City of Jackson and National Waste United, LLC, and all exhibits attached hereto and incorporated herein, and all subsequent amendments thereto.

2. The Code of Ordinances of the City of Jackson, MS., and all amendments thereto.

In the event of a conflict, a higher order document shall supersede a lower order document to the extent necessary to resolve any conflict or inconsistency arising under the various provisions thereof, provided, however, that in the event an issue is addressed in one of the above-mentioned documents that is not addressed in another of such documents, no conflict or inconsistency shall be deemed to occur by reason thereof.

The City and the Contractor have had full opportunity to review, revise, and clarify provisions of this Agreement with the assistance of their respective attorneys, and no party hereto shall be deemed the drafter of this document for the purpose of having ambiguities construed against the drafter. The City and Contractor indicate their approval of this Agreement by their signatures below, and each party warrants that all corporate or governmental action necessary to bind the parties to the terms of this Agreement has been taken.

IN WITNESS WHEREOF, this Agreement has been executed in duplicate original on the day and in the year first above mentioned.

THE CITY OF JACKSON, MISSISSIPPI

NATIONAL WASTE UNITED, LLC

BY: Charles Pickett
ITS: Mayor

BY: Charles Pickett
Member Charles Pickett

Angele Harris
Witness

Witness

Note: Said item failed due to a lack of motion.

President Lindsay stated that there were items that needed to be discussed in Executive Session regarding "Litigation Matters".

Council Member Hartley moved, seconded by Council Member Banks to go into Closed Session to discuss Agenda Item No. 12. The motion prevailed by the following vote:

Yeas – Banks, Foote, Hartley and Lindsay.
Nays – Grizzell and Lee.
Absent – Stokes.

President Lindsay announced to the public that the Council voted to go into Closed Session to discuss going into Executive Session to discuss Agenda Item No. 12. regarding "Litigation Matters".

During Closed Session, Council Member Banks moved, seconded by Council Member Hartley to go into Executive Session to discuss litigation matters. The motion prevailed by the following vote:

Yeas – Banks, Foote, Hartley and Lindsay.
Nays – Grizzell and Lee.
Absent – Stokes.

An announcement was made to the public that the Council voted to go into Executive Session to discuss Litigation Matters.

Council Member Hartley moved, seconded by Council Member Foote, to come out of Executive Session. The motion prevailed by the following vote:

Yeas –Banks, Foote, Hartley, Grizzell, Lee and Lindsay.
Nays – None.
Absent – Stokes.

President Lindsay announced to the public that the Council voted to come out of Executive Session and action was taken.

During Executive Session, the Council took action on Agenda Item No. 12.

ORDER OF THE JACKSON CITY COUNCIL AUTHORIZING BRADLEY ARANT TO TAKE CERTAIN ACTION ON BEHALF OF THE JACKSON CITY COUNCIL.

WHEREAS, the City Council and the Mayor, as the governing authority for the City of Jackson, must provide for the collection and disposal of the City's garbage and rubbish; and

WHEREAS, on September 22, 2021, the Mayor stated, "I want to make it clear to the residents of Jackson that it is on the Council to determine how trash is picked up."; and

WHEREAS, the failure to provide for the collection and disposal of the City's garbage and rubbish may result in substantial injury or harm to the population or substantial damage to or loss of property; and

WHEREAS, the City, the City Council and the Mayor will also be subject to a civil penalty of not more than twenty-five thousand dollars (\$25,000.00) for each failure to provide for the collection and disposal of the City’s garbage and rubbish; and

WHEREAS, the City Council has proclaimed that the City of Jackson is in a state of local emergency relative to the collection and disposal of garbage; and

WHEREAS, the City Council may have to pursue legal, administrative or other remedies in order to take action to ensure the City can provide for the collection and disposal of the City’s garbage and rubbish after the current contract for those services expires on September 30, 2021; and

WHEREAS, the City Council has retained Bradley Arant Boult Cummings LLP (“Bradley Arant”) as independent legal counsel.

IT IS, THEREFORE, ORDERED that Bradley Arant is authorized to undertake such legal, administrative or other action as it deems appropriate for and on behalf of, and to assist, the City Council in providing for the collection and disposal of the City’s garbage and rubbish on an emergency basis as a result of the expiration of the current contract for those services on September 30, 2021.

WITNESS MY HAND, on this 27th day of September, 2021.

President Lindsay moved adoption; **Council Member Banks** seconded.

Yeas – Banks, Foote, Hartley and Lindsay.
Nays – Grizzell and Lee.
Absent – Stokes.

There were no reports/announcements provided during the meeting.

There being no further business to come before the City Council, it was unanimously voted to adjourn until the Special Council Meeting at 10:00 a.m. on September 28, 2021. At 1:00 p.m., the Council stood adjourned.

PREPARED BY:

Shanekia M. [Signature]
CLERK OF COUNCIL

APPROVED:

[Signature]
MAYOR

4/5/2022
DATE

ATTEST:

[Signature]
CITY CLERK
