

AGREEMENT NO. 2019-30
RECYCLABLE MATERIALS PROCESSING AND MARKETING SERVICES

THIS NON-EXCLUSIVE AGREEMENT ("Agreement") is made and entered into by and between the City of North Port, Florida, a municipal corporation of the State of Florida, herein after referred to as the "CITY" and Single Stream Recyclers, LLC, a Florida Limited Liability company, with a principal address of 3901 N Orange Ave, Sarasota, FL 32434, hereinafter referred to as "CONTRACTOR."

NOW THEREFORE, for and in consideration of the mutual covenants specified herein and for other good and valuable consideration, the sufficiency and receipt of which are hereby acknowledged, the parties agree as follows:

1. CONTRACTOR'S SERVICES

- A. CONTRACTOR agrees to diligently provide all materials, services, and labor for the performance of Recyclable Materials Processing and Marketing Services in accordance with this Agreement.
- B. The term of this Agreement shall commence on October 1, 2019, and shall end on September 30, 2022. Before the expiration of this Agreement, the parties may, in writing, renew this Agreement under the same terms and condition for an additional three (3) year term.

2. COMPENSATION AND PAYMENT FOR CONTRACTOR'S SERVICE

- A. CONTRACTOR shall receive payments as compensation for its services in accordance with the prices set forth in "Exhibit A," which is attached hereto and incorporated as if set forth fully herein. This compensation shall include all profit, direct and indirect labor costs, personnel related costs, overhead and administrative costs, and all other costs which are necessary to provide the services as outlined in this Agreement.
- B. If the Average Market Value (AMV) is less than the CONTRACTOR'S Fee, the CITY shall pay CONTRACTOR the dollar for dollar difference. The payment per Ton shall be calculated pursuant to the Fee Schedule set forth in "Exhibit A," which is attached hereto and incorporated as if set forth fully herein.
- C. CONTRACTOR acknowledges and accepts that the formula outlined in this section and as provided in Exhibit "A" shall be used for calculating compensation throughout the term of this Agreement. It is intended to reflect the current value of the CITY'S Recyclables, but may not be an exact calculation of that value. Any and all costs associated with accepting, processing, marketing, and transporting the CITY'S Recyclables is the responsibility of the CONTRACTOR. CONTRACTOR acknowledges and agrees that no minimum amount of work is guaranteed under this Agreement.
- D. Each month, the CONTRACTOR must calculate the Average Market Value (AMV) of the CITY'S Recyclables, defined as the sum of the Southeast USA regional average commodity prices (U.S. Dollars per Ton) first posted in the month for which payment is being made in RecyclingMarkets.net multiplied by the composition percentages as defined in the Fee Schedule found in Exhibit "A." If at any time during the term of this Agreement RecyclingMarkets.net no longer posts or otherwise fails to provide the applicable market indices, then the parties shall mutually select an appropriate replacement source for the

required information from among the sources recycling industry professionals utilize to obtain reliable Recovered Material pricing information.

- E. The parties acknowledge and agree that the obligations of CITY to fulfill financial obligations of any kind pursuant to any and all provisions of this Agreement, or any subsequent agreement entered into pursuant to this Agreement, or referenced herein to which CITY is a party, are and shall remain subject to the provisions of Florida Statutes, Section 166.241, regardless of whether a particular obligation has been expressly so conditioned. CITY agrees to exercise all lawful and available authority to satisfy any financial obligations of CITY that may arise under this Agreement; however, since funds are appropriated annually by the City Commission on a fiscal year basis, the CITY'S legal liability for the payment of any costs shall not arise unless and until appropriations for such costs are approved for the applicable fiscal year by the City Commission (nor shall such liability arise if, a request for such appropriations is excluded from the budget approved by the City Commission). Notwithstanding the foregoing, no Commissioner, officer, employee, director, member or other natural person or agent of CITY shall have any personal liability in connection with the breach of the provisions of this Section or in the event of a default by CITY under this Section. This Agreement shall not constitute an indebtedness of CITY nor shall it constitute an obligation for which CITY is obligated to levy or pledge any form of taxation or for which CITY has levied or pledged any form of taxation

3. METHOD OF PAYMENT

- A. The CITY shall pay CONTRACTOR through payment issued by the Finance Department in accordance with the Florida Local Government Prompt Payment Act, Florida Statutes, Section 218.70, *et seq.*, upon receipt of CONTRACTOR'S invoice and written approval of same by the CITY'S Administrative Agent indicating that services have been rendered in conformity with this Agreement. CONTRACTOR shall submit an invoice for payment to the CITY for those specific tasks as described in the Scope of Services that were completed during that invoicing period.
- B. CONTRACTOR'S invoices shall be in a form satisfactory to the City of North Port Finance Department, who shall initiate disbursements.

4. INDEMNIFICATION

- A. To the extent permitted by Florida law, CONTRACTOR shall indemnify, defend, and hold harmless the CITY, its Commissioners, officers, agents, and employees, from all liabilities, fines, claims, assessments, suits, judgments, damages, losses, and costs, including consequential, special, indirect, and punitive damages, (including, but not limited to, reasonable attorneys' fees and court costs, whether such fees and costs are incurred in negotiations, at the trial level or on appeal, or in the collection of attorneys' fees), arising out of any acts, actions, breaches, neglect, or omissions of CONTRACTOR, or CONTRACTOR'S officers, employees, agents, sub-contractors, or other persons employed or utilized by CONTRACTOR in the performance of, or the failure to perform, this Agreement. This Agreement does not constitute a waiver of sovereign immunity or consent by the CITY or its subdivisions to suit by third parties.
- B. The CITY shall provide all available information and assistance that CONTRACTOR may reasonably require regarding any claim. In the event of a claim, the CITY shall promptly notify CONTRACTOR in writing by prepaid certified mail (return receipt requested) or by delivery through any nationally recognized courier service (such as Federal Express or UPS) which

provides evidence of delivery, at the address provided for receipt of notices in this Agreement.

- C. The insurance coverage and limits required in this Agreement may or may not be adequate to protect the CITY and such insurance coverage will not be deemed a limitation on CONTRACTOR'S liability under the indemnity provided in this section. In any proceedings between the parties arising out of or related to this Indemnity provision, the prevailing party shall be reimbursed all costs, expenses and reasonable attorney fees through all proceedings (at both trial and appellate levels).
- D. Nothing in this Agreement shall be deemed to affect the rights, privileges and immunities of the CITY as set forth in Florida Statutes, Section 768.28.
- E. The terms of this section shall survive termination or completion of this Agreement.

5. CONTRACTOR'S INSURANCE

A. INSURANCE

Before performing any work, CONTRACTOR must procure and maintain, during the life of this Agreement, the insurance listed below, unless otherwise specified. The policies of insurance must be primary and written on forms acceptable to the CITY and placed with insurance carriers approved and licensed by the Insurance Department of the State of Florida, and meet a minimum financial AM Best and Company rating of no less than "Excellent."

No changes are to be made to these specifications without the City Manager or designee's prior written approval. The City Manager or designee may alter the amounts or types of insurance policies required by this Agreement upon agreement with CONTRACTOR.

- 1. Workers' Compensation and Employers' Liability Insurance: Coverage to apply for all employees at the statutory limits provided by state and federal laws. Include proof of current Workers' Compensation Coverage or Workers' Compensation Exemption (notarized affidavit).
- 2. Comprehensive Commercial General Liability Insurance: Occurrence form required. Aggregate must apply separately to this Agreement. Minimum \$500,000 each occurrence; \$1,000,000 general aggregate; \$1,000,000 products and completed ops; and \$100,000 damage to rented premises.

B. WAIVER OF SUBROGATION

All required insurance policies are to be endorsed with a waiver of subrogation. The insurance companies, by proper endorsement or through other means, agree to waive all rights of subrogation against the CITY, its Commissioners, officers, officials, employees and volunteers, and the CITY'S insurance carriers, for losses paid under the terms of these policies that arise from the contractual relationship or work performed by CONTRACTOR for the CITY. It is CONTRACTOR'S responsibility to notify its insurance company of the waiver of subrogation and request written authorization or the proper endorsement. Additionally, CONTRACTOR, its officers, officials, agents, employees, volunteers, and any sub-contractors, agree to waive all rights of subrogation against the CITY and its insurance carriers for any losses paid, sustained or incurred, but not covered by insurance, that arise from the contractual relationship or work

performed. This waiver also applies to any deductibles or self-insured retentions for which CONTRACTOR or its agents may be responsible.

C. POLICY FORM

1. All policies required by this Agreement, with the exception of Workers' Compensation, or unless specific approval is given by Risk Management through the CITY'S Purchasing Office, are to be written on an occurrence basis and must name the City of North Port, Florida, its Commissioners, officers, agents, employees and volunteers as additional insured as their interest may appear under this Agreement. Claims Made Policies will be accepted for professional liability and hazardous materials and such other risks as are authorized by the CITY'S Purchasing Office. All Claims Made Policies contributing to the satisfaction of the insurance requirements herein shall have an extended reporting period option or automatic coverage of not less than two (2) years. If provided as an option, CONTRACTOR agrees to purchase the extended reporting period on cancellation or termination unless a new policy is affected with a retroactive date, including at least the last policy year.
2. Insurance requirements itemized in this Agreement, and required of the CONTRACTOR, shall be provided by or on behalf of all sub-contractors to cover their operations performed under this Agreement. The CONTRACTOR shall be held responsible for any modifications, deviations, or omissions in these insurance requirements as they apply to sub-contractors.
3. Each insurance policy required by this Agreement shall:
 - a. Apply separately to each insured against whom claim is made and suit is brought, except with respect to limits of the insurer's liability.
 - b. Be endorsed to state that coverage shall not be suspended, voided, or cancelled by either party except after notice is delivered in accordance with the policy provisions. The CONTRACTOR is to notify the CITY'S Purchasing Office by written notice via certified mail, return receipt requested.
4. The City shall retain the right to review, at any time, coverage, form, and amount of insurance.
5. **The procuring of required policies of insurance must not be construed to limit CONTRACTOR'S liability nor to fulfill the indemnification provisions and requirements of this Agreement. The extent of CONTRACTOR'S liability for indemnity of the CITY shall not be limited by insurance coverage or lack thereof, or unreasonably delayed for any reason, including but not limited to, insurance coverage disputes between the CONTRACTOR and its carrier.**
6. The CONTRACTOR is solely responsible for payment of all premiums for insurance contributing to the satisfaction of this Agreement and is solely responsible for the payment of all deductibles and retentions to which such policies are subject, whether or not the CITY is an insured under the policy. CONTRACTOR'S insurance is considered primary for any loss, regardless of any insurance maintained by the CITY. CONTRACTOR is responsible for all insurance policy premiums, deductibles, SIR (self-insured retentions) or any loss or portion of any loss that is not covered by any available insurance policy.

7. All Certificates of Insurance are to be furnished to the CITY'S Purchasing Office (4970 City Hall Boulevard, Suite 337, North Port, FL 34286) prior to commencement of work AND a minimum of thirty (30) calendar days prior to expiration of the insurance contract when applicable. All insurance certificates shall be received by the CITY'S Purchasing Office before the CONTRACTOR will be allowed to commence or continue work. The Certificate of Insurance issued by the underwriting department of the insurance carrier shall certify compliance with the insurance requirements provided herein.
8. Notices of Accidents (Occurrences) and Notices of Claims associated with work being performed under this Agreement shall be provided to CONTRACTOR'S insurer(s) and the CITY'S Purchasing Office as soon as practicable after notice to the insured.

6. RESPONSIBILITY OF THE CONTRACTOR

- A. Upon commencement of this Agreement the CONTRACTOR shall accept deliveries of the CITY'S Residential Recyclables at the CONTRACTOR'S facility located at 3901 N Orange Ave, Sarasota, FL (the "FACILITY") during the scheduled receiving hours as specified in this Agreement.
- B. The CONTRACTOR reserves the right to discontinue acceptance of any category of materials set forth in Exhibit "B," which is attached hereto and incorporated as if set forth fully herein, as a result of market conditions related to such materials and makes no representations as to the recyclability of the materials. CONTRACTOR shall provide six (6) month advance written notice to CITY and customer of its decision to discontinue acceptance of any such materials. The CITY may terminate this Agreement for the discontinued acceptance of any category of materials by giving no less than five (5) months written notice to the CONTRACTOR prior to the date of termination.
- C. The FACILITY shall be capable of accepting delivery of Recyclable Material from all types of delivery vehicles including but not limited to, packer trucks, roll-off trucks, tractor-trailer transfer vehicles, and rear-discharging tilt-bed collection vehicles. All recyclables shall be delivered in tarped or enclosed, water-proof or water-resistant, self-dumping trucks.
- D. The CONTRACTOR shall weigh all trucks that enter the FACILITY, perform recordkeeping, and generate reports of incoming materials as required herein or as requested in writing by the CITY. The CONTRACTOR may use tare weights; however, if tare weights are used all tare weights must be recalibrated at least every sixty (60) calendar days.
- E. The FACILITY must be equipped with adequately-sized legal-for-trade truck scales and computerized recordkeeping systems for weighing and recording all incoming and outgoing Recyclable Materials delivery vehicles and vehicles transporting Recyclable Materials to markets. Such scales must be inspected and approved for use prior to placing them into service. At a minimum, CONTRACTOR must have the scales calibrated and inspected annually, or more frequently as requested by the CITY.
- F. The CONTRACTOR must have the capability to accept and process the CITY'S Recyclable Material and must provide or act as a recycling market outlet for the recyclable materials during the term of this Agreement regardless of market fluctuations. The CONTRACTOR must not store or warehouse Recyclable Materials in violation of health and safety standards and must conform

to all requirements of the Florida Department of Environmental Protection (FDEP) and other state agencies.

- G. CONTRACTOR'S obligation to accept delivered Recyclable Materials upon the commencement of this Agreement is of importance to the CITY. In the event that CONTRACTOR fails or refuses to accept Recyclable Materials upon the commencement of this Agreement, the CONTRACTOR shall be liable for all hauling, processing, transportation, disposal charges, and any other related costs, in excess of payments that would have been made under this Agreement, which may be incurred by the CITY with respect to recycling and marketing such materials.
- H. CONTRACTOR warrants that it has not employed or retained any company or person (other than a bona fide employee working solely for CONTRACTOR), to solicit or secure this Agreement and that it has not paid or agreed to pay any person, company, corporation, individual, or firm other than a bona fide employee working solely for CONTRACTOR, any fee, commission, percentage, gift or any other consideration contingent upon or resulting from the award of this Agreement.
- I. CONTRACTOR shall perform its services in accordance with generally accepted industry standards and practices customarily utilized by competent firms in effect at the time CONTRACTOR'S services are rendered. CONTRACTOR covenants and agrees that it and its employees shall be bound by the standards of conduct in Florida Statutes, Section 112.313, as it relates to work performed under this Agreement. CONTRACTOR agrees to incorporate the provisions of this paragraph in any sub-contract into which it might enter with reference to the work performed.
- J. CONTRACTOR shall comply with all federal, state, and local laws, regulations and ordinances applicable to the work under this Agreement or payment for work thereof.
- K. The City of North Port, Florida does not discriminate on the basis of race, color, national origin, sex, age, disability, family or religious status in administration of its programs, activities or services. CONTRACTOR shall not administer this Agreement in an unlawfully discriminatory manner, nor deny participation in or the benefits of same to any individual based on that individual's race, color, national origin, sex, age, disability, family or religious status, marital status, sexual orientation, gender identity or expression, or physical characteristic.
- L. CONTRACTOR shall maintain books, records, documents, and other evidence directly pertaining to or connected with the services under this Agreement which shall be available and accessible at CONTRACTOR'S offices for inspection, audit, and copying during normal business hours by the CITY, or any of its authorized representatives. Such records shall be retained for a minimum of three (3) years after completion of the services.

7. OBLIGATIONS OF CITY

- A. Upon commencement of this Agreement the CITY will deliver all of the CITY'S Residential Recyclables to the FACILITY, located at 3901 N. Orange Avenue, Sarasota, FL, during the scheduled receiving hours as specified in this Agreement. The CITY'S Residential Recyclables will be in accordance with the specifications provide in Exhibit "B."

B. The CITY'S Administrative Agent is designated to do all things necessary to properly administer the terms and conditions of this Agreement, including, but not limited to:

1. Review of all CONTRACTOR payment requests for approval or rejection.
2. Periodic reviews of the work of the CONTRACTOR as necessary for the completion of the CONTRACTOR'S services during the term of this Agreement.

C. **Other than as agreed to herein, the CITY shall not provide any legal or other services to the CONTRACTOR in connection with any claim, suit, or action brought on behalf of or against the CONTRACTOR.**

8. SCHEDULED RECEIVING HOURS

- A. The FACILITY shall be open and available to receive the CITY'S Recyclable Materials from at least 7:00 a.m. to 5:00 p.m., Monday through Friday.
- B. The FACILITY may be closed on the following holidays: New Year's Day, Labor Day, Independence Day, Thanksgiving Day, and Christmas Day, but shall be open from at least 7:00 a.m. to 5:00 p.m. on the Saturday immediately following such holiday.
- C. No reductions in scheduled receiving hours shall be made without the prior written approval of the CITY'S Administrative Agent.

9. TRANSPORT, PROCESSING, AND MARKETING

- A. The CONTRACTOR will bear all costs associated with processing the CITY'S Recyclable Materials and the transporting and marketing of CITY'S Recovered Materials.
- B. The CONTRACTOR must maintain complete and accurate records of material inflows and outflows. These records are subject to review by the CITY during normal business hours.
- C. The CONTRACTOR must employ a local manager charged with the responsibility of overseeing this Agreement. The CONTRACTOR'S local manager or other competent person must be available to communicate with the CITY'S Administrative Agent or designee during normal business hours and must be available as needed outside of normal business hours.
- D. The FACILITY design must incorporate material processing systems capable of receiving and processing Recyclable Materials in accordance with this Agreement. The systems must be designed to achieve the maximum product recovery rates.

10. DISPOSAL

The CONTRACTOR shall not dispose of and/or landfill any Recyclable Materials collected under this Agreement without the express written permission of the CITY. The CONTRACTOR must not knowingly, or without reasonable assumption, sell Recyclable Materials to another agent that landfills or disposes of such material other than through recycling. This does not apply to Non-Recyclable Materials and Residue.

11. PUBLIC RECORDS LAW

In accordance with Florida Statutes, Section 119.0701, CONTRACTOR shall comply with all public records laws, and shall specifically:

- A. Keep and maintain public records required by the CITY to perform the service.
 - 1. The timeframes and classifications for records retention requirements must be in accordance with the General Records Schedule GSI-SL for State and Local Government Agencies.
(See: <http://dos.dos.state.fl.us/library-archives/records-management/generalrecords-schedules/>).
 - 2. "Public records" means and includes those items specified in Florida Statutes, Section 119.011(12), as amended from time to time, and currently defined as: All documents, papers, letters, maps, books, tapes, photographs, films, sound recordings, data processing software, or other material, regardless of the physical form, characteristics, or means of transmission, made or received pursuant to law or ordinance or in connection with the transaction of official business with the CITY. CONTRACTOR'S records under this Agreement include but are not limited to, supplier/sub-contractor invoices and contracts, project documents, meeting notes, emails and all other documentation generated during this Agreement.
- B. Upon request from the CITY'S custodian of public records, provide the CITY, at no cost, with a copy of the requested records or allow the records to be inspected or copied within a reasonable time at a cost that does not exceed the cost provided for by law. All records kept electronically must be provided to the CITY, upon request from the CITY'S custodian of public records, in a format compatible with the information technology systems of the CITY.
- C. Ensure that records that are exempt or confidential and exempt from public records disclosure requirements are not disclosed except as authorized by law for the duration of the Agreement term and, if CONTRACTOR does not transfer the records to the CITY following completion of the Agreement, for the time period specified in General Records Schedule GSI-SL for State and Local Government Agencies.
- D. Upon completion or termination of this Agreement, transfer, at no cost, to the CITY all public records in CONTRACTOR'S possession or keep and maintain public records required by the CITY to perform the service. If CONTRACTOR transfers all public records to the CITY upon completion of this Agreement, CONTRACTOR shall destroy any duplicate public records that are exempt or confidential and exempt from public records disclosure requirements. If CONTRACTOR keeps and maintains public records upon the completion or termination of the Agreement, CONTRACTOR shall meet all applicable requirements for retaining public records.
- E. **IF CONTRACTOR HAS QUESTIONS REGARDING THE APPLICATION OF CHAPTER 119, FLORIDA STATUTES, TO CONTRACTOR'S DUTY TO PROVIDE PUBLIC RECORDS RELATING TO THIS AGREEMENT, CONTACT THE CUSTODIAN OF PUBLIC RECORDS AT CUSTODIAN OF PUBLIC RECORDS,**

4970 CITY HALL BOULEVARD, NORTH PORT, FLORIDA 34286, (941) 429-7056 OR HOTLINE (941) 429-7270; E-MAIL: publicrecordsrequest@cityofnorthport.com.

- F. Failure of CONTRACTOR to comply with these requirements shall be a material breach of this Agreement. Further, CONTRACTOR may be subject to penalties under Florida Statutes, Section 119.10.

12. TIMELY PERFORMANCE OF CONTRACTOR'S PERSONNEL

- A. The timely performance and completion of the required services under this Agreement is vitally important to the interest of the CITY. The personnel assigned by the CONTRACTOR to perform the services under this Agreement must comply with the Technical Specifications outlined in Request for Proposal 2019-30 ("RFP 2019-30"). The CONTRACTOR must ensure that all key personnel, support personnel, and other agents are fully qualified and capable to perform their assigned tasks. Any change or substitution to the CONTRACTOR'S key personnel must receive the written approval of the CITY'S Administrative Agent before the change or substitution can become effective
- B. CONTRACTOR specifically agrees that all work performed under the terms and conditions of this Agreement shall be completed within the time limits as set forth, subject only to delays caused through no fault of CONTRACTOR or the CITY. Time is of the essence in the performance of this Agreement.

13. TERMINATION

- A. Termination for Cause. In the event there should occur any material breach or material default in the performance of any covenant or obligation of CONTRACTOR which has not been remedied within thirty (30) calendar days after receipt of written notice from the CITY specifying such breach or default (or such longer period of time as is reasonably necessary to cure any such breach or default which is not capable of being cured within thirty (30) calendar days, provided that the CONTRACTOR has undertaken the cure within such thirty (30) calendar days, and proceeds diligently thereafter to cure in an expeditious manner), the CITY may, if such breach or default is continuing, terminate this Agreement for cause upon ten (10) days written notice to the CONTRACTOR.
- B. Upon receipt of a Notice of Termination, CONTRACTOR shall promptly discontinue all affected work unless the Notice of Termination directs otherwise, deliver or otherwise make available to CITY all data, drawings, specifications, reports, estimates, summaries, such other information as may have been required under the terms of Agreement.
- C. The following events shall, without limitation, constitute a material breach or a material default by CONTRACTOR for purposes of this Section:
1. Abandonment. If CONTRACTOR abandons operation of the FACILITY for a period of seven (7) consecutive calendar days unless caused by event of Force Majeure. As used herein, the term "abandon" shall refer to voluntary cessation of the operation of the FACILITY and a withdrawal of all operating and maintenance personnel.

2. Processing. The failure of CONTRACTOR to process the CITY'S Recyclable Materials for a period of seven (7) consecutive days at any time after the commencement of this Agreement. Processing shall include processing at the designated FACILITY, or any other Materials Recycling Facility utilized due to extenuating circumstances. The use of a Materials Recycling Facility other than as designated herein must be approved in writing by the CITY'S Administrative Agent prior to such use.
 3. Hazardous Waste. If the CONTRACTOR'S hazardous substance contingency plan, as required by Section 3.7.1 of Exhibit "A," shall fail to comply with all federal and state regulations regarding the handling of Hazardous Waste.
 4. Nonpayment. The failure of CONTRACTOR to pay amounts owed to the CITY under the terms of this Agreement within thirty (30) calendar days after such amounts become finally due and payable, unless the CONTRACTOR has requested an extension and the extension has been granted.
 5. Bankruptcy. The City Manager or designee reserves the right to terminate this Agreement in the event the CONTRACTOR is placed in either voluntary or involuntary bankruptcy, a receiver is appointed for the CONTRACTOR, or an assignment is made for the benefit of creditors.
 6. Third Party Obligations. The default by CONTRACTOR with respect to any obligation to any third party pertaining to the CONTRACTOR, which may permit any third party, either immediately or following notice and/or the passage of time to accelerate the maturity of any obligation of the CONTRACTOR, to assume control of the CONTRACTOR, or take possession of or to transfer or cause to be transferred to any third party any portion of the assets of the CONTRACTOR, but only if such default materially interferes with or prevents CONTRACTOR'S performance under the terms of this Agreement.
 7. If the CONTRACTOR shall fail to diligently perform its work in accordance with the requirements of this Agreement.
- D. Termination With or Without Cause. The performance of work under this Agreement may be terminated with or without cause by the City Manager in whole or in part or whenever the City Manager determines that termination is in the CITY'S best interest. Any such termination shall be effected by the delivery to the CONTRACTOR of a written notice of termination at least sixty (60) days before the date of termination, specifying the extent to which performance of the work under the Agreement is terminated and the date upon which such termination becomes effective. Except as otherwise directed, the CONTRACTOR shall stop work on the date of receipt of the notice of termination or other date as specified in the notice; place no further orders or sub-contracts for material, services, or facilities except as necessary for completion of such portion of the work not terminated; terminate all vendors and sub-contracts; and settle all outstanding liabilities and claims. CONTRACTOR will be paid only for such work performed up to the termination. Under no circumstances shall the CITY make any payment to CONTRACTOR for services that have not been performed or that are performed subsequent to the termination date.

- E. CONTRACTOR'S Termination for Cause. In the event there should occur any material breach or default in obligations of the CITY, which has not been remedied within thirty (30) calendar days after receipt of written notice thereof from the CONTRACTOR specifying such breach or default (or such longer period of time as is reasonably necessary to cure any such breach or default which is not capable of being cured within thirty (30) calendar days, provided that the CITY has undertaken the cure within such thirty (30) calendar days, and proceeds diligently thereafter to cure in an expeditious manner), the CONTRACTOR may, if such breach or default is continuing, terminate this Agreement upon ten (10) days written notice to the CITY.

14. INDEPENDENT CONTRACTOR

CONTRACTOR is and shall be, in the performance of all work, services, and activities under this Agreement, an independent CONTRACTOR and not an employee, agent, or servant of the CITY. All persons engaged in any of the work or services performed pursuant to this Agreement shall at all times and in all places be subject to CONTRACTOR'S sole direction, supervision, and control. CONTRACTOR shall exercise control over the means and manner in which it and its employees perform the work, and in all respects CONTRACTOR'S relationship and the relationship of its employees to the CITY shall be that of an independent CONTRACTOR and not as employees or agents of the CITY. CONTRACTOR does not have the power or authority to bind the CITY in any promise, agreement or representation other than as specifically provided for in this Agreement. CONTRACTOR shall not pledge the CITY'S credit or make it a guarantor of payment of surety for any contract, debt, obligation, judgment, lien or any form of indebtedness. CONTRACTOR further warrants and represents that it has no obligation or indebtedness that would impair its ability to fulfill the terms of this Agreement.

15. ENTIRE AGREEMENT

This Agreement constitutes the sole and complete understanding between the parties and supersedes all agreements between them, whether oral or written, with respect to the subject matter.

16. AMENDMENT

No amendment, change, or addendum to this Agreement is enforceable unless agreed to in writing by both parties and incorporated into this Agreement. For any increase in the compensation for the services, the City Commission for the CITY and the duly authorized representative for CONTRACTOR shall agree in writing to this change. For all other changes the City Manager or designee and CONTRACTOR'S representative may agree to amendments that do not increase compensation to CONTRACTOR.

17. ASSIGNMENT

CONTRACTOR shall not assign any interest in this Agreement and shall not transfer any interest in same (whether by assignment or novation) without prior written consent of the City Manager or designee, except that claims for the money due or to become due to CONTRACTOR from the CITY under this Agreement may be assigned to a financial institution or to a trustee in bankruptcy without such approval from the CITY. Notice of any such transfer or assignment due to bankruptcy shall be promptly given to the CITY.

18. WAIVER

The exercise by either party of any rights or remedies provided herein shall not constitute a waiver of any other rights or remedies available under this Agreement or any applicable law.

19. GOVERNING LAW, VENUE, AND SEVERABILITY

The rights, obligations, and remedies of the parties under this Agreement shall be governed by the laws of the State of Florida and the exclusive venue for any legal or judicial proceedings in connection with the enforcement or interpretation of this Agreement shall be in the Circuit Court of the Twelfth Judicial Circuit in and for Sarasota County, Florida and the United States District Court for the Middle District of Florida. If any term, condition, or covenant of this Agreement is held by a court of competent jurisdiction to be invalid, void, or unenforceable, the remaining provisions of this Agreement shall be valid and binding on each party

20. AUTHORITY

The parties covenant and agree that each is duly authorized to enter into and perform this Agreement and those executing this Agreement have all requisite power and authority to bind the parties.

21. NO HIRE

CONTRACTOR shall not hire any CITY employee associated with this project throughout the duration of the Agreement and for a period of one (1) year after completion.

22. NOTICES

Any notice, demand, communication, or request required or permitted hereunder shall be sent by certified mail, return receipt requested, or via a recognized national courier service in a manner that provides for written or electronic record of delivery, to the addresses listed below:

As to CITY: Solid Waste Manager
City of North Port Public Works Department
1100 N. Chamberlain Blvd.
North Port, Florida 34286
Tel: (941) 240-8074

**With copies
of Notices to:** City Attorney's Office
4970 City Hall Boulevard
North Port, Florida 34286
Tel: (941) 429-7260

As to CONTRACTOR: John Hansen
Single Stream Recyclers, LLC
3901 N. Orange Ave
Sarasota, FL 34234

Notices shall be effective when received at the addresses specified above. Changes in the respective addresses which such notice is to be directed may be made from time to time by either party by written notice to the other party. Nothing in this Article shall be construed to restrict the transmission of routine communications between representatives of CONTRACTOR and CITY.

23. PARAGRAPH HEADINGS

Paragraph headings are for the convenience of the parties and for the reference purposes only and shall be given no legal effect.

24. ATTORNEYS' FEES

In any proceedings between the parties arising out of or related to this Agreement, the prevailing party shall be reimbursed all costs, expenses, and reasonable attorney fees through all proceedings (at both trial and appellate levels).

25. SCRUTINIZED COMPANIES

A. As required by Florida Statutes, Section 287.135(5), for contracts of \$1,000,000.00 or less, when submitting a bid or proposal, and prior to entering into a contract with the CITY, every person or entity shall certify on a form provided by the CITY, that it is not on the Scrutinized Companies that Boycott Israel List, created pursuant to Florida Statutes, Section 215.4725, and that it is not engaged in a boycott of Israel.

B. As required by Florida Statutes, Section 287.135(5), for contracts of \$1,000,000.00 or more, when submitting a bid or proposal, and prior to entering into a contract with the CITY, every person or entity shall certify on a form provided by the CITY, that all of the following are true:

1. It is not on the Scrutinized Companies that Boycott Israel List, created pursuant to Florida Statutes, Section 215.4725, and that it is not engaged in a boycott of Israel; and
2. It is not on the Scrutinized Companies with Activities in Sudan list or the Scrutinized Companies with Activities in Iran Petroleum Energy Sector list, created pursuant to Florida Statutes, Section 215.473; and
3. It is not engaged in business operations in Cuba or Syria.

C. PENALTY:

1. If a false certification is submitted or the person or entity has been placed on one of the above-noted Lists of Scrutinized Companies or has engaged in business operations in Cuba or Syria, the person or entity will be in breach of the Agreement terms and the CITY may terminate the Agreement
2. A person or entity that has been found to have provided a false certification may be subject to a civil penalty equal to the greater of \$2 million or twice the amount of the Agreement, plus all reasonable attorney's fees and costs, including any costs for investigations that led to the finding of the false certification; and
3. A person or entity that has been found to have provided a false certification shall be ineligible to bid on any contract with the CITY for three (3) years after the date the CITY determined that a false certification has been submitted.

IN WITNESS WHEREOF, the parties have executed this Agreement as of the date identified below.

FOR SINGLE STREAM RECYCLERS, LLC:

Print: John Hansen

Title: Member

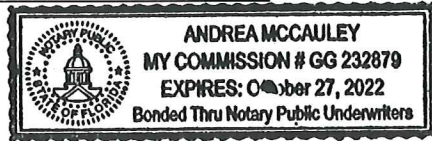
Sign: _____

Date: 7-3-19

STATE OF FLORIDA

COUNTY OF Sarasota

The foregoing instrument was acknowledged before me this 3rd day of July, 2019, by John Hansen, who is personally known to me or who produced _____ as identification.



Andrea McCauley
Notary Public

ATTEST:

Kathryn Wong, City Clerk

FOR CITY OF NORTH PORT, FLORIDA:

By: _____
Peter D. Lear, CPA, CGMA, CITY MANAGER

APPROVED AS TO FORM AND CORRECTNESS:

By: _____
Amber L. Slayton, City Attorney

RECYCLABLE MATERIALS PROCESSING AND MARKETING SERVICES

EXHIBIT A

FEE SCHEDULE

PROSSESING FEE

1. The CONTRACTOR'S Processing Fee is \$102.00 per ton.
2. The CONTRACTOR'S Processing Fee shall cover all operational, fiscal, administrative, legal, and managerial obligations for the delivery of the required services.
3. Processing Fee Price Adjustments.
 - a. The CITY will allow one (1) price adjustment to the processing fee in the second year of the initial Agreement and one (1) price adjustment to the processing fee in the third year of the initial Agreement. Price adjustments to the processing fee will be made on the anniversary date of the Agreement.
 - b. The processing fee price adjustment, capped at 3% or -3%, shall be based on the percentage increase or decrease in the CPI for the twelve (12) month period ending two (2) months prior to the anniversary date. "CPI" means Consumer Price Index - All Urban Consumers (CPI-U), Water, Sewer and Trash Collection (WST), (Not Seasonally Adjusted, 12-month rolling average) as published by the United States Department of Labor, Bureau of Labor Statistics. In the event this CPI is no longer viable or no longer reflective of consumer prices in the CITY'S geographic region, another consumer pricing index or method of adjustment may be used as a replacement for the CPI, subject of the mutual agreement of the parties.
 - c. If there is a decrease in the CPI, the CITY shall deliver a written request to the CONTRACTOR one (1) month prior to the Agreement anniversary date for the processing fee to be adjusted downward. If there is an increase in the CPI, the CONTRACTOR shall deliver a written request to the CITY one (1) month prior to the Agreement anniversary date for the processing fee to be adjusted upward. There shall be no processing fee price adjustment unless a written request is received and no "catch up" adjustment shall be made to the processing fee in future years to off-set or mitigate the effect of failing to request the adjustment.

RECYCLING REVENUE

1. The initial composition of Recyclable Materials will be as reflected below. Any new composition study values will replace the previous composition values. The CITY and the CONTRACTOR both have the right to be present for composition studies. No more than one (1) composition study per entity per year shall be conducted. Any study protocol and process must be mutually agreed upon in writing.

Initial Composition

<u>Material</u>	<u>Index Description</u>	<u>Material %</u>
Newspaper	PS 56 Sorted Residential Papers (SRNP)	7.25%
Corrugated Containers	PS 11 Corrugated Containers	14.90%
Mixed Paper	PS 54 Mixed Paper (MP)	25.50%
Aluminum Cans	SMP Metals Aluminum Cans (Sorted, Baled, c/lb, picked up)	1.80%
Steel Cans	SMP Metals Steel Cans (Sorted, Baled, \$/Gross ton, picked up)	2.60

PET	SMP Plastics PET (Baled, c/lb, picked up)	6.50
Natural HDPE	SMP Plastics Natural HDPE (Baled, c/lb, picked up)	1.50
Colored HDPE	SMP Plastics Colored HDPE (Baled, c/lb, picked up)	1.70
Plastics #3-#7	SMP Plastics Commingled (#3-#7, Baled, c/lb, picked up)	1.90
Glass (Mixed)	SMP Glass 3 Mix (\$/ton del. As recyclable or disposable)	26.25
Polycoated Cartons	\$0.00	0.25
Contamination (up to 10%)	\$0.00	9.85
		100.00%

2. **Blended Value.** Each month CONTRACTOR must calculate the Average Market Value ("AMV") of North Port Recyclables by category (Commingled Material, Paper Products and OCC), defined as the sum of the Southeast USA regional average commodity prices (U.S. Dollars per Ton) first posted in the month for which payment is being made in RecyclingMarkets.net multiplied by the composition percentages. The resulting AMV total is the Blended Value per ton of Recyclables.

EXAMPLE:

Material	Market Value (\$/Ton)	Material %	AMV (\$/Ton)
Newspaper	\$ 32.50	7.25%	\$ 2.36
Corrugated Containers	\$ 85.00	14.90%	\$ 12.67
Mixed Paper	\$ 2.50	25.50%	\$ 0.64
Aluminm Cans	\$ 1,370.00	1.80%	\$ 24.66
Steel Cans	\$ 142.50	2.60%	\$ 3.71
PET	\$ 320.00	6.50%	\$ 20.80
Natural HDPE	\$ 820.00	1.50%	\$ 12.30
Colored HDPE	\$ 365.00	1.70%	\$ 6.21
Plastics #3-#7	\$ (30.00)	1.90%	\$ (0.57)
Glass (3 Mix)	\$ (22.50)	26.25%	\$ (5.91)
Polycoated Cartons	\$ -	0.25%	\$ -
Contamination (up to 10%)	\$ -	9.85%	\$ -
Blended Value per ton of Recyclables		100.00%	\$ 76.85

Note: The AMV values are used for illustrative purposes only and are subject to fluctuation.

3. **Contamination.**
- The contamination fee per ton for material delivered by or on behalf of the CITY that contains up to 10% contamination will be \$0.00 per ton. The AMV will be calculated on all material in loads containing up to 10% contamination.
 - The contamination fee per ton for material delivered by or on behalf of the CITY that contains between 10.1% and 20% contamination will be \$80.00 per ton. The AMV will be calculated on all material in loads containing between 10.1% and 20% contamination.
 - The contamination fee per ton for material delivered by or on behalf of the CITY that contains more than 20% contamination will be \$80.00 per ton. The AMV will NOT be calculated on any material in loads that contains more than 20% contamination

RECYCLABLE MATERIALS PROCESSING AND MARKETING SERVICES
EXHIBIT B
SPECIFICATIONS

RECYCLABLE MATERIALS

1. Acceptable Recyclable Materials must be dry, loose (not bagged), and include only the following:
 - a. Aluminum cans. Any food or beverage container constructed entirely of aluminum, empty.
 - b. Aluminum foil. Clean aluminum sheets or wrap commonly used in food preparation whether in sheets or formed into flexible containers.
 - c. Glass. Any food or beverage container constructed of glass of any color, empty, and rinsed.
 - d. Polycoated paper cartons. Aseptic boxes and gable top containers such as juice boxes, brick packs, milk and juice cartons.
 - e. Recyclable plastics (empty). The following plastic bottles or rigid containers as coded and labeled on the item by a number placed inside a triangle and letters placed below the triangle pursuant to F.S. § 403-708(7), as amended.
 - i. Polyethylene terephthalate bottles (coded and labeled PET, 1), with screw tops only.
 - ii. High-density polyethylene bottles (coded and labeled HDPE, 2).
 - iii. Vinyl (coded and labeled V, 3).
 - iv. Low-density polyethylene (coded and labeled LDPE, 4).
 - v. Polypropylene (coded and labeled PP, 5).
 - vi. Other resin (coded and labeled OTHER, 7).
 - f. Steel and tin cans. Empty food or beverage containers which consist primarily of ferrous metals, commonly called tin cans and steel jar lids, and empty aerosol containers.
 - g. Corrugated cardboard. Cardboard with folds, ridges, grooves or wrinkles placed between flat paper surfaces and commonly used for cartons or boxes.
 - h. High-grade and other mixed paper. Magazines, catalogs composed of glossy paper, white or colored bond paper, book paper, telephone books, computer paper, cotton fiber, content paper, duplicator paper, manifold business forms, mimeo paper, office paper, printing paper, stationery, writing paper, photocopy or copy machine paper, laser paper, paper envelopes with or without plastic windows, carbonless (NCR) paper, brown Kraft paper, paper grocery bags, tabulating cards, facsimile paper, and manila folders but excludes paper coated or contaminated with metallics, plastic, wax, carbon, ammonia or non-soluble glue.
 - i. Newspapers. Dry newsprint including advertising.
 - j. Paperboard/chipboard. Flat, pressed, stiff paper including cereal boxes, shoe boxes, paper cartons and protective paper packaging for dry foods.
2. Title to Recyclables provided by CITY to CONTRACTOR is transferred to CONTRACTOR under CONTRACTOR'S receipt or collection unless otherwise provided in this Agreement or applicable law.
3. Upon mutual written agreement, additional items may be added as Recyclable Materials to this exhibit.

NON-RECYCLABLE MATERIALS

1. Non-Recyclable Material delivered by or on behalf of the CITY will be considered contamination and includes, but is not limited to the following:

- a. Plastic bags and bagged materials, even if containing Recyclable Materials.
 - b. Mirrors, windows, and auto glass.
 - c. Light bulbs.
 - d. Porcelain and ceramics.
 - e. Expanded polystyrene.
 - f. Glass and metal cookware/bakeware.
 - g. Hoses, cords, and wires.
 - h. Flexible plastic or film packaging and multi-laminated materials.
 - i. Microwaveable trays.
 - j. Un-numbered plastics.
 - k. Coat hangers.
 - l. Household appliances and electronics.
 - m. Yard waste, construction debris, and wood.
 - n. Needles, syringes, IV bags, and other medical supplies.
 - o. Food waste, liquids, and containers containing such items.
 - p. Any Recyclable Materials or pieces of Recyclable Materials less than four inches (4") in size, in any dimension.
 - q. Textiles, cloth, or any fabric.
 - r. Napkins, paper towels, tissue, paper plates, paper cups, and plastic utensils.
 - s. Propane tanks.
 - t. Batteries.
2. Title to Non-Recyclable Material provided by CITY to CONTRACTOR is transferred to CONTRACTOR under CONTRACTOR'S receipt or collection unless otherwise provided in this Agreement or applicable law.

EXCLUDED MATERIALS

1. Recyclable Material delivered by or on behalf of the CITY may not knowingly contain Excluded Materials.
2. "Excluded Materials" means tires, radioactive, volatile, corrosive, flammable, explosive, biomedical, infectious, biohazardous or toxic substance or material, or regulated medical or hazardous waste as defined by, characterized or listed under applicable federal, state, or local laws or regulations, materials containing information (in hard copy or electronic format, or otherwise) which information is protected or regulated under any local, state or federal privacy or data security laws, including, but not limited to the Health Insurance Portability and Accountability Act of 1996, as amended, or other regulations or ordinances.
3. Title to Excluded Materials shall remain with the CITY at all times.