

CONTRACT AND FRANCHISE AGREEMENT

This Contract and Franchise Agreement (this "Agreement") is made and entered into as of the 4th day of June, 2020, by and between Hardin County, Kentucky, by and through its duly elected Fiscal Court, hereinafter referred to as the "County" and Red River Waste Solutions LP, a Texas limited partnership, 4004 E US Hwy 290, Dripping Springs, TX 78620, hereinafter referred to as "Franchisee".

WITNESSETH:

WHEREAS, the County has heretofore adopted Ordinance No. 323 Series 2020, AN ORDINANCE RELATING TO THE STORAGE, COLLECTION, PROCESSING, TRANSPORTATION AND DISPOSAL OF SOLID WASTE; and

WHEREAS, responses to the County's RFP NO. 2020-013 were received for these franchising rights therein referred, including Franchisee's proposal dated February 17, 2020; and

WHEREAS, Franchisee was awarded the franchise for the exclusive rights for the collection of Solid Waste of Occupants of Residential Dwelling Units within the territorial limits of the non-incorporated areas of the County pursuant to an Order of the Hardin Fiscal Court entered on April 14, 2020; and

WHEREAS, it is desired of both parties that the rights and obligations and terms and provisions relating to this Agreement be set out herein; and

WHEREAS, County has complied with the Ordinance and Section 164 of the Kentucky Constitution and all applicable statutes concerning the letting of a franchise.

NOW, THEREFORE, for and in consideration of the mutual promises, agreements and covenants contained herein, the Parties do hereby contract, franchise and agree as follows, to wit:

I. DEFINITIONS

For the purpose of this Agreement, the word "shall" is mandatory and not merely directory, and the following terms shall be deemed to have the meaning indicated below:

1.1. Agricultural Use: Operations for the production of agricultural or horticultural crops, including but not limited to livestock, livestock products, poultry, poultry products, grain, hay, pastures, soybeans, tobacco, timber, orchard fruits, vegetables, flowers, or ornamental plants, including provision for dwellings for persons and their families who are engaged in the above agricultural use on their tract.

1.2. Bulky Waste: Non-putrescible solid waste materials from residential dwelling units such as chairs, sofas, mattresses, bed springs, carpet, playground boxes, toys, bicycles, tricycles, plastic swimming pools, plumbing fixtures, water heaters, stoves, washers, dryers, dishwashers, small amounts of lumber and posts that have been cut to less than four (4) feet in length and have been bundled, and refrigerators, freezers and window air conditioners that bear proper certification of prior CFC removal, placed by the resident at the roadside or curbside for collection.

1.3. Collection: Removal of Solid Waste from the designated pick-up location to the transfer vehicle.

1.4. Commercial Solid Waste: Solid Waste produced from any non-residential activity such as: business, commercial, etc.

1.5. County: The County of Hardin, Kentucky.

1.6. Demolition and Construction Waste: Waste resulting from the construction, remodeling, repair, and demolition of structures and roads, and for the disposal of uncontaminated solid waste consisting of vegetation resulting from land clearing and grubbing, utility line maintenance, and seasonal and storm related cleanup.

1.7. Director: The Director of the Solid Waste Management Program of the County shall be the person nominated by the Hardin County Judge/Executive and approved by the Hardin County Fiscal Court.

1.8. Disposal: The discharge, deposit, injection, dumping, spilling, leaking, or placing of any Solid Waste or Hazardous Waste into or on any land or water so that such Solid Waste or Hazardous Waste or any constituent thereof may enter the environment, be emitted into the air or be discharged into any water, including groundwaters.

1.9. Disposable Solid Waste Bag: Disposable plastic or paper bags with capacity up to 50 gallons specifically designed for Storage of Solid Waste that can be closed and/or sealed.

1.10. Franchise Area: The unincorporated areas of Hardin County, Kentucky.

1.11. Hardin County Solid Waste Appeal Board: A board or commission of the Hardin County Fiscal Court consisting of three (3) members nominated by the Hardin County Judge/Executive and approved by the Hardin County Fiscal Court. The three (3) members shall consist of the following: (1) The chairperson of the Solid Waste Committee of the Hardin County Fiscal Court or his or her designee; (2) A representative of Franchisee; and (3) a citizen of the Franchise Area.

1.12. Hazardous Waste: Any discarded material or material intended to be discarded or substance or combination of such substances intended to be discarded, in any form which because of its quantity, concentration or physical, chemical or infectious characteristics may cause, or significantly contribute to an increase in mortality or an increase in serious irreversible, or incapacitating reversible, illness or pose a substantial present or potential hazard to human health or the environment when improperly treated, stored, transported, or disposed of, or otherwise managed.

1.13. Occupant: Any person who, alone or jointly or severally with others, shall be in actual possession of any Residential Dwelling Unit or any other improved real property, either as an Owner or as a tenant.

1.14. Owner: That person or persons, or any other legal entity authorized under Kentucky law to hold title to real property, identified as the title holder to any particular piece of property as determined by the Property Tax Roll listings maintained by the Hardin County Property Valuation Administrator.

1.15. Person: An individual, trust, firm, joint stock company, corporation (including a government corporation), partnership, association, federal agency, state agency, city, commission, political subdivision of the State of Kentucky, or any interstate body.

1.16. Processing: Incinerating, composting, baling, shredding, salvaging, compacting and other processes whereby Solid Waste containers are modified or Solid Waste quantity is reduced.

1.17. Residential Dwelling Unit: A building or portion thereof, room or group of rooms, located within a structure and forming a single habitable unit with facilities used or are intended to be used for living, sleeping, cooking and eating for one (1) person or one (1) family.

1.18. Residential Solid Waste: Solid waste resulting from Residential Dwelling Units.

1.19. Recycling: Means any treatment process for the reclamation of material or energy from waste.

1.20. Sludge: Any solid, semi-solid, or liquid waste generated from a municipal, commercial, or industrial wastewater treatment plant, water supply treatment plant, or air pollution control facility exclusive of the treated effluent from a wastewater treatment plant or any other such waste having similar characteristics and effects.

1.21. Solid Waste: Any garbage, refuse, Sludge, Yard Waste and other discarded material, including solid, liquid, semisolid, or contained gaseous material resulting from any residential use, but does not include industrial, Commercial Solid Waste, mining (including coal mining waste, coal mining by-products, refuse and overburden), Solid Waste resulting from Agricultural Use, Demolition and Construction Waste, and/or Solid Waste from community activities, solid or dissolved material in domestic sewage, or solid or dissolved materials in irrigation return flows or industrial discharges which are point sources subject to permits under Section 402 of the Federal Water Pollution Control Act, as amended (86 Stat. 880), or source, nuclear, or byproduct material as defined by the Atomic Energy Act of 1954, as amended (68 Stat. 923), Recycling material, Hazardous Waste, non-Residential Solid Waste, or any item prohibited by the Ordinance.

1.22. Storage: Keeping, maintaining or storing Solid Waste from the time of its production until the time of its Collection.

1.23. Tote(s): A 96-gallon plastic container with wheels provided by the County to residents for the Storage and Collection of Solid Waste.

1.24. Transfer: The placement of Solid Waste from smaller Collection vehicles into larger vehicles for Transportation to intermediate or final disposal facilities.

1.25. Transportation: The transporting of Solid Waste from the place of Collection or Processing to a Solid Waste Processing facility or permitted Solid Waste disposal site.

1.26. Yard Waste: Grass clippings, shrub trimmings and leaves in Disposable Solid Waste Bags not exceeding fifty (50) pounds each and tree branches bundled under three (3) feet in length not exceeding fifty (50) pounds each (“Bundled Yard Waste”). The total amount of Bundled Yard Waste shall not exceed three (3) per week per Residential Dwelling Unit.

II. GRANT OF FRANCHISE

The County does hereby grant unto the Franchisee the exclusive franchise and right to pick up, collect and transport Solid Waste for Occupants of Residential Dwelling Units (only) residing within the Franchise Area; this franchise and right being subject to all conditions, terms and obligations as hereinbefore and hereinafter set out, and as set out in the Ordinance hereinbefore adopted by the County relating hereto, not inconsistent herewith.

III. STIPULATION CONCERNING RESIDENTIAL SOLID WASTE

It is expressly agreed and understood between the parties hereto that this exclusive franchise and right granted to Franchisee is limited to Residential Solid Waste only.

IV. TERM OF FRANCHISE

The term of this franchise and this Agreement shall be for an eight (8) year period beginning on July 1, 2020 and ending on June 30, 2028, unless terminated prior to the end of the term in accordance with the conditions of this Agreement. The parties hereby agree the term of this Agreement shall automatically renew for an additional eight (8)-year term unless either party provides written notice not less than ninety (90) days prior to the expiration of the then-current term to the other party stating its intention not to renew this Agreement. This Agreement must be rebid prior to July 1, 2040.

V. SCOPE OF SERVICES

5.1 Collection

A. Franchisee shall collect weekly from each Residential Dwelling Unit within the Franchise Area all Residential Solid Waste in Totes at the roadside or curbside within public rights of way. Franchisee may collect Residential Solid Waste during reasonable hours (not prior to 6:00 a.m.) taking efforts to minimize the noise and disturbance to residents. Franchisee shall leave the Tote and property in a clean and neat condition.

B. Franchisee shall collect from each Residential Dwelling Unit within the Franchise Area all Bulky Waste placed at the roadside or curbside. Franchisee shall provide the pick-up for Bulky Waste on an "on-call" basis to be collected on the next scheduled service day, up to once per month per Residential Dwelling Unit. Yard Waste shall be collected if placed at curbside in Disposable Solid Waste Bags not exceeding four (4) per week per Residential Dwelling Unit. Permitted Bundled Yard Waste shall be collected if placed at curbside.

C. Franchisee shall be responsible for determining its Collection routes. The Collection routes identified in the attached Exhibit A shall require the use of two (2)-man tipping teams plus a driver, or a tipper and a driver in a vehicle specifically designed to facilitate quick entry and exit to allow the driver to accomplish tipping functions, for Collection by Franchisee. Franchisee shall communicate to residents their Collection dates and any alteration in Collection dates.

D. To the greatest extent practicable the Collection of Residential Solid Waste and Bulky Waste shall occur on the same day.

E. If a resident places unacceptable or non-conforming waste in a Tote or other container at the curb for Collection, Franchisee must leave behind all unacceptable or non-conforming waste and a statement explaining why the waste cannot be collected.

F. Franchisee shall provide each Residential Dwelling Unit with one (1) Tote which shall be included in the Monthly Fee paid by the Occupant thereof. One (1) additional Tote may be requested by the Occupant and shall be provided by Franchisee at no additional cost to the Occupant. Any Totes in excess of two (2) requested by an Occupant shall be provided at an additional cost of \$6.00 per month.

5.2 Transport

A. Franchisee shall transport all Residential Solid Waste and Bulky Waste it collects under this Agreement in compliance with all federal, state and local statutes and regulations and in such a manner as to prevent the blowing of debris. Franchisee shall use commercially reasonable efforts to prevent debris, liquid or waste from escaping from Collection vehicles.

B. Franchisee shall obtain all necessary federal, state, and local permits to collect and transport Solid Waste. Franchisee shall deliver to the County copies of all permits required for the Collection and transport of Solid Waste and subsequent permit revisions or modifications.

5.3 Disposal

Franchisee shall dispose of all Solid Waste collected in the Franchise Area, collected from contiguous counties (unless a contiguous county has flow control restrictions) and collected from Fort Knox at the Pearl Hollow Landfill. Franchisee shall be required to pay any charges for Disposal as any other landfill customer. In the event this Disposal designation of the franchise is for any reason found illegal, invalid or unconstitutional and the parties are unable to agree on an alternative arrangement after good faith efforts, the County shall have the right to terminate this franchise upon ninety (90) days' written notice to Franchisee.

5.4 Public Education

A. Franchisee shall execute a public education program designed to inform all Residential Dwelling Units within the Franchise Area of the following: Collection schedules, set-out procedures for Residential Solid Waste and Bulky Waste Collection procedures and guidelines, explanatory list of unacceptable or non-conforming items and any other information necessary to inform each Residential Dwelling Unit of accepted procedures.

B. Franchisee shall provide a local customer service telephone line that is staffed at least eight (8) hours per day, five (5) days per week to respond to customer calls and other requests for information. Additionally, an answering machine shall be provided on such customer service telephone line after hours and on weekends and shall be checked for messages with responses, if appropriate, at least every twelve (12) hours.

5.5 Equipment and Personnel

A. Franchisee shall have sufficient personnel and shall have on hand at all times, and in good working order, such equipment and Collection vehicles as necessary to permit Franchisee to adequately and efficiently perform all services described in this Agreement. All equipment shall be kept in good repair, appearance and in a sanitary and clean condition at all times. Equipment and Collection vehicles shall be painted uniformly with the name of Franchisee, business telephone number and vehicle number. All Collection vehicles shall be numbered and

a record kept of the Collection vehicles to which each number is assigned. The age of Collection vehicles shall not exceed seven (7) years during the term of this Agreement; provided that exceptions to the foregoing age limit may be granted by the Director based on past dependability of such Collection vehicles and shall be permitted where Franchisee provides the Director a reasonable basis for continuing such Collection vehicles in-service.

B. Franchisee's supervisory personnel must be available for consultation with the County and/or Occupants of Residential Dwelling Units within a reasonable time after notification of a request for such consultation.

C. Franchisee's employees shall service the public in a courteous, helpful and impartial manner. Care shall be taken to prevent damage to a resident's property including totes, trees, shrubs, landscaping, flowers and other plants.

D. Franchisee's employees shall wear a clean and presentable uniform bearing the company and employee's name.

E. Franchisee shall comply with state, federal and local laws relating to wages, hours and other applicable laws relating to the employment and protection of employees, now or hereafter in effect.

5.6 County Facilities

Franchisee shall provide Collection service to certain County-owned facilities, including the type of service, type of container or tote and frequency of Collection service as described on Exhibit B attached hereto at no charge.

5.7 Recycling

A. Upon request by the County during the term of this Agreement, Franchisee agrees to participate in good faith negotiations to provide curbside recycling collection services upon terms mutually agreed between the parties. Such terms relating to Franchisee providing curbside recycling collection services shall include but not be limited to service areas, equipment, service days, costs, selection of a suitable processor, and service schedule.

- B. Franchisee agrees to provide and service up to nine (9) recycling drop points identified by the County and not limited by the Franchise Area. The County agrees to participate in good faith to secure, rent free, the drop point locations identified by the County. Each drop point location must be serviced weekly. The County agrees to lease its current recycling equipment to Franchisee for one dollar (\$1) per year. Franchisee is responsible for providing all other equipment, providing insurance, maintaining the County's equipment and replacing it if necessary. The recycling material must be delivered to the Meade County Recycling Center except in extraordinary circumstances or due to capacity limitations. All income the County receives from the recycled material will be remitted monthly by the County or processor to Franchisee in full.

VI. FEE STRUCTURE, FRANCHISE FEES AND ENVIRONMENTAL REMEDIATION FEES

6.1 Fee Structure and Franchise Fees

- A. The monthly rate for Collection of Residential Solid Waste authorized herein to be billed to each Residential Dwelling Unit within the Franchise Area regardless of participation shall be **\$19.95** for the service described herein (the "Monthly Fee").
- B. The Monthly Fee shall be billed to each Residential Dwelling Unit by the County pursuant to a third party billing service agreement. Franchisee shall perform a GPS based Occupant/Residential Dwelling Unit inventory no less than quarterly and provide a list to the billing service provider for incorporation into their billing database. Information must include the status of the Residential Dwelling Unit (occupied or vacant), Occupant's name, address and GPS coordinates. The County shall require the billing service provider to use its best efforts to collect the Monthly Fee from all residents, including delinquent bills, which shall bear interest at the rate of twelve percent (12%) per annum until paid. Bills with charges outstanding for greater than ninety (90) days shall be assessed additional delinquent fees and charges each additional billing period. Delinquent bills with charges outstanding for greater than one hundred eighty (180) days shall be subject to any and all costs of collection including court costs and reasonable attorneys' fees both pre and post litigation, and all costs associated with the execution, enforcement, and release and satisfaction of any judgment obtained against such Occupant, in accordance with the terms Ordinance and/or applicable business service agreement. Franchisee acknowledges and

agrees that the County shall deduct eight percent (8%) or \$1.75, whichever is less, from the Monthly Fee collected for such invoicing, collection and billing services and ten percent (10%) of the Monthly Fee collected as a Franchise Fee payable to the County. In the event the County ceases utilization of a billing agency to provide the billing and collection services to the County described herein for any reason, Franchisee agrees to provide such billing and collection services upon the same terms and conditions set forth in the Billing and Collection Service Agreement.

For example:

Actual Collections (for month x)

\$19.95	Monthly Fee
<u>x 14,920</u>	Residential Dwelling Units Paid
\$297,654.00	Gross Collection
\$23,812.32	Retained by County for Billing Service (8% or \$1.75 X 14,920 whichever is less)
\$29,765.40	10% Retained by County for Franchise Fee
\$244,076.28	Net Payment to Franchisee

- C. Franchisee shall be paid by the billing service provider on the 15th and 30th of each month the net Monthly Fee as herein provided.
- D. The Monthly Fee for collection services as provided in paragraph 6.1A shall increase or decrease in accordance with changes in the Consumer Price Index, all urban consumers, all items, unadjusted (1967=100) as published by U.S. Department of Labor, Bureau of Labor Statistics, hereinafter referred to as "CPI", annually beginning April 2022 on a calendar year basis.
- (1) As promptly as practicable after January 1, 2022, and each January thereafter during the term of this franchise, the County shall compute the change, if any, in the cost of living for the preceding one (1)-year period, based upon the CPI.
 - (2) The CPI number for January 2021, and each January thereafter during the term of this franchise shall be the "base index number" and the corresponding CPI number for December 2021 and each December thereafter during the term of this franchise shall be the "current index number" for the first CPI adjustment period.

- (3) The current index number shall be divided by the base index number. From the quotient thereof, there shall be subtracted the integer 1, and any resulting positive or negative number shall be deemed to be the percentage of increase or decrease in the CPI.
- (4) The percentage of increase or decrease multiplied by the Monthly Fee shall be the change required to determine by this paragraph.
- (5) The County shall, within a reasonable time after obtaining the appropriate data necessary for computing such increase or decrease give the Franchisee notice of any increase or decrease so determined, which shall be binding on all parties unless the Franchisee shall, within thirty (30) days after the giving of such notice, notify the County of any claimed error therein.
- (6) The CPI adjusted Monthly Fee for Collection services shall become effective and billed as of April 1 thru March 31.

For illustration purposes:

Assume: (1) January 2021 CPI = 134.00; (2) December 2021 CPI = 139.00; and (3) Monthly Fee for Collection services = \$19.95

$$139.00 \div 134.00 = 1.037 - 1.000 = .037 \text{ or } 3.7\% \text{ increase}$$

\$19.95	Monthly Fee thru March 31, 2022
.74	(3.7% increase)
\$20.69	Monthly Fee effective April 1, 2022 thru March 31, 2023

- E. In the event the actual average monthly Residential Solid Waste collected in a calendar year beginning January 1, 2021 as herein provided exceeds 300 pounds per billed Residential Dwelling Unit the Monthly Fee as provided in paragraph 6.1 A shall be proportionately adjusted as follows:

Actual Residential Solid Waste collected pursuant to this Agreement for the calendar year (in pounds) divided by twelve (12)

Minus (-) 300 pounds times the average monthly billed Residential Dwelling Units for the calendar year

Equals (=) average monthly additional Residential Solid Waste collected (if negative number no adjustment)

Divided by (÷) 300 pounds times the average monthly billed Residential Dwelling Units for the calendar year

Equals (=) percentage of increase

Multiplied by (x) Monthly Fee

Equals (=) adjusted Monthly Fee

- (1) The County shall, within a reasonable time after obtaining the appropriate data necessary for computing such increase or decrease give Franchisee notice of any increase or decrease so determined, which shall be binding on all parties unless Franchisee shall, within thirty (30) days after the giving of such notice, notify the County of any claimed error therein.
- (2) The volume adjusted Monthly Fee for Collection services, if any, shall become effective and billed as of April 1 thru March 31, beginning in 2021.

For illustration purposes:

Assume: (1) actual monthly average Residential Solid Waste collected for January 1, 2021 thru December 31, 2021 = 4,565,520 pounds; (2) average monthly billed Residential Dwelling Units for January 1, 2021 thru December 31, 2021 = 14,920; and (3) Monthly Fee for Collection services = \$19.95

4,565,520	
<u>-4,476,000</u>	(300 x 14,920)
= 89,520	
÷4,476,000	
= .02	or 2% increase
\$19.95	Monthly Fee thru March 31, 2021
<u>+.40</u>	(2% increase)
\$20.35	Monthly Fee effective April 1, 2021 thru March 31, 2022

- F. In the event the County increases the disposal fee charged to the Franchisee at its Pearl Hollow Landfill from the beginning Disposal fee of \$32.38 per ton, exclusive of the remediation fee as described in paragraph 6.2 herein, the Monthly Fee as provided in paragraph 6.1A shall be proportionately adjusted as follows:

Average monthly Solid Waste and Bulky Waste tonnage disposed at the Pearl Hollow Landfill pursuant to this franchise for the twelve (12) full months immediately preceding the Disposal fee increase.

Multiplied by (x) The per ton change in the Disposal fee

Equals (=) Additional per month cost to Franchisee directly caused by an increase of Pearl Hollow Landfill Disposal fee

Divided by (÷) Average monthly Residential Dwelling Units billed pursuant to this Franchise for the preceding twelve (12) months

Equals (=) Monthly increase in the Monthly Fee as provided in paragraph 6.1 A.

For illustration purposes:

Assume: (1) Pearl Hollow disposal fee increase from \$32.38 per ton to \$33.88; (2) average monthly Solid Waste and Bulky Waste for preceding twelve (12) months equal to 1,318 tons; and (3) average monthly Residential Dwelling Units billed for preceding twelve (12) months equal to 14,920

1,318	average tons
x 1.50	change in disposal rate
1,977	additional cost
÷ 14,920	average Residential Dwelling Units billed
= .1300	
= .13	rounded increase to Monthly Fee
\$19.95	Previous Monthly Fee
+ .13	Increase
\$20.08	Modified Monthly Fee

6.2. Environmental Remediation Fee

KRS Chapter 224.43 requires that a \$1.75 per ton fee be paid to the Commonwealth of Kentucky by generators of Solid Waste and collected at waste Disposal facilities such as Pearl Hollow Landfill in addition to all other applicable fees and taxes assessed. Thus, the Franchisee shall be obligated to pay such Environmental Remediation Fee for all Solid Waste collected and disposed of pursuant to this Franchise. The Monthly Fee as provided in paragraph 6.1A (\$19.95) includes such environmental remediation fee and thus no additional charge or fee shall be billed to Residential Dwelling Units covered by this Agreement.

6.3. Persons Exempt from Paying Monthly Fee

A. The Franchisee may exempt from paying the Monthly Fee for the Collection of Solid Waste as provided by this Franchise for a Residential Dwelling Unit Occupant who earns less than the federal poverty level guidelines as determined from time to time by the United States Department of Health and Human Services. Franchisee shall promulgate an

appropriate form supported by verifiable information which shall be submitted by each head of household requesting such exemption. Franchisee shall approve or deny each application. The decision of Franchisee may be appealed to the Hardin County Solid Waste Appeal Board by any interested party. The decision of the Hardin County Solid Waste Appeal Board shall be final. An approved exemption shall be valid for a maximum period of one (1) year unless otherwise modified or revoked by the Director based on a change of circumstances of the applicant. Any approved applicant who has an increase in income is required to report same to the Director within twenty (20) days of receipt of notification of such change of circumstances.

- B. The County may exempt from paying the Monthly Fee for the Collection of Solid Waste as provided by this Franchise for any Residential Dwelling Unit upon presentation of satisfactory proof to the Franchisee that such unit is unoccupied and not generating any Solid Waste. The decision of the Franchisee may be appealed to the Hardin County Solid Waste Appeal Board by any interested party. The Board's decision shall be final unless appealed to a court of competent jurisdiction. It shall be the responsibility of the Owner(s) of such Residential Dwelling Unit to notify the Franchisee within five (5) days of renewed occupancy or generation of any Solid Waste and Monthly Fees shall commence. Occupancy for any part of a month shall constitute occupancy for an entire month.
- C. Any Owner of a Residential Dwelling that is also a sole Owner of a business that utilizes a commercial solid waste collection/disposal licensed service may file an application with Franchisee for a special permit exempting all or part of the applicant's Solid Waste from the provisions of this Franchise. Franchisee shall promulgate an application form, which shall require the applicant to certify the following:
 - (1) The name, address or employer identification number of the Occupant;
 - (2) The volume and content of the Solid Waste generated by the applicant;
 - (3) A description of the Disposal method proposed to be utilized by the applicant;
 - (4) The name, address, driver's license number or employer identification number of the person or entity to be responsible for the Disposal of the applicant's Solid

Waste, including a notarized statement from the person or entity acknowledging responsibility, term and method of Disposal of the applicant's Solid Waste; and

(5) Any other information reasonably necessary to review the application as determined by Franchisee.

D. Any Person properly exempted from paying the Monthly Fee as provided in 6.3 A, B or C shall not be counted in the computation in the payment to Franchisee or the Collection of the County as provided in 6.1. All exemptions shall be provided to the Director on a weekly basis during the enrollment period for quality assurance and control.

VII. RECORDS

Franchisee shall keep records of all Occupants served pursuant to this franchise and shall provide to the County such information and reports as reasonably necessary and to facilitate future Collection services. The Occupant list (names and addresses) accumulated pursuant to this franchise shall not constitute propriety information of Franchisee. The County shall have the right to inspect or audit such records upon written request to Franchisee. Franchisee shall provide accounting records and/or documents as required and within fifteen (15) calendar days upon request by the County.

VIII. REQUIRED INSURANCE

Franchisee shall purchase and maintain insurance with insurance companies licensed to do business in the Commonwealth of Kentucky at all times during the term of this Agreement. Franchisee shall provide said insurance at its own expense. Such insurance shall be provided and will protect Franchisee from claims which may arise out of or result from Franchisee's execution of the work by Franchisee, its employees, agents, contractors, officers, or anyone for whose acts any of them may be liable. All insurance policies shall name County as an additional insured shall provide a thirty (30) day notice to the County in the event of a material alteration or cancellation of any coverage prior to the effective date of said alteration or cancellation. The County requires a current valid certificate or binder be delivered by Franchisee to the Director showing the required coverage as follows:

Commercial General liability	\$1,000,000 each occurrence
Professional Liability (E&O)	\$1,000,000 each occurrence

Automobile Liability	\$1,000,000 combined single limit
Workers' Compensation	Part A-Statutory limits, Part B-\$1,000,000
Umbrella Liability	\$5,000,000 each occurrence
Contractor's Pollution and Professional Liability	\$10,000,000

IX. INDEMNIFICATION, DUTY TO DEFEND, RELEASE & WAIVER

9.1 Indemnification.

Franchisee hereby agrees to indemnify and hold harmless the County and its officials, officers, employees, agents, and representatives (collectively, "County Indemnified Parties") for all claims, losses, damages, costs and expenses, including costs of defense and reasonable attorneys' fees which arise from the activities of the Franchisee under the terms of this Agreement, except to the extent arising from acts or omissions of the County or County Indemnified Parties. Franchisee specifically agrees that it will pay all damages and penalties which the County, or County Indemnified Parties are legally required to pay as a result of the performance of activities of the Franchisee under the terms of this Agreement. Such damages and penalties shall include but not be limited to damages arising out of liability suits, regulatory enforcement actions, and other damages arising out of Collection, transport, Processing and Disposal of Residential Solid Waste, residential Yard Waste and Collection of Bulky Waste by Franchisee under the terms of this Agreement. Franchisee's obligations shall continue beyond the term of this Agreement to the extent losses, damages, costs and expenses are incurred by the County or County Indemnified Parties after the termination of this Agreement related to activities of Franchisee during the term of this Agreement.

9.2 Duty to Defend and Hold Harmless.

If a claim is asserted or a lawsuit is filed against the County, either independently or jointly with Franchisee which relate to Franchisee's activities under the terms of this Agreement, Franchisee shall, upon written notice to it, defend the County or County Indemnified Parties against the action. Subject to the written approval of the County, which approval shall not unreasonably be withheld, Franchisee shall be permitted to appoint counsel to defend the County or County Indemnified Parties. Franchisee may elect to settle any action filed against

Franchisee, independently or jointly with the County, with respect to the franchise or this Agreement upon the terms and conditions acceptable to Franchisee in its sole discretion so long as Franchisee shall be responsible for any and all settlement costs, including reasonable attorneys' fees, and hold the County and County Indemnified Parties harmless therefrom. This duty to defend shall continue beyond the term of this Agreement should a claim or lawsuit be asserted or continue beyond the term of this Agreement related to activities of Franchisee during the term of this Agreement. In the event of a final judgment being obtained against the County, either independently or jointly with Franchisee, Franchisee shall pay said judgment and all costs, including reasonable attorneys' fees, and hold the County and County Indemnified Parties harmless therefrom.

9.3 Environmental Indemnity.

Should any court or regulatory agency, state or federal, having jurisdiction over the actions of Franchisee hereunder ever seek to establish liability against the County or County Indemnified Parties for the cost of an environmental clean-up, recovery or other corrective action, or criminal or civil penalty provided by applicable law in connection with the Collection, transport and/or Disposal of Solid Waste and Bulky Waste collected by Franchisee under this Agreement, Franchisee hereby agrees to defend the County upon written notice, and indemnify the County for any and all fines, losses, costs or expenses, including attorneys' fees arising out of Franchisee's activities under the terms of this Agreement. It is the intention of the parties that this obligation of Franchisee to defend and indemnify the County extends only to Solid Waste and Bulky Waste that Franchisee collects, transports and/or disposes of pursuant to this Agreement and does not extend to Solid Waste or Bulky Waste collected, transported and/or disposed of in the County by Persons other than Franchisee. Subject to the approval of the County, which approval shall not be unreasonably withheld, Franchisee shall be allowed to appoint counsel to defend the County and County Indemnified Parties against the action.

9.4 Force Majeure.

Except for the County's obligation to pay amounts due to Franchisee, neither Franchisee nor the County shall be liable for the failure to perform their duties pursuant to this Agreement, nor for any resultant damage, loss, etc., if such failure is caused by a Force Majeure Event and shall not constitute a Breach of this Agreement, but shall entitle the affected party to be relieved

of performance at the current pricing levels under this Agreement during the period of any such Force Majeure Event and for a reasonable time thereafter. A "Force Majeure Event" shall mean, a catastrophe, riot, war, sabotage, insurrection, compliance with applicable law or governmental order or regulation, epidemic, pandemic, terrorist acts, floods, fires, or other casualties, ice, wind, tornadoes, hurricanes, cyclones, acts of God, a weather emergency or other similar act beyond the reasonable control of Franchisee or the County. If such circumstances persist for more than fourteen (14) consecutive days or if after their cessation Franchisee is unable to render full or substantial performance pursuant to the terms of this Agreement, Franchisee or the County may terminate this Agreement upon thirty (30) days prior written notice to the other party.

X. MODIFICATIONS AND TRANSFERS

10.1 Modification

Either party may seek a modification of this Agreement. All requests for modifications shall be made in writing to each party's designated representative. Franchisee shall furnish, upon the County's request, information, documents, data and other applicable items pertaining to its request. Any and all modifications shall comply with the Kentucky Constitution, applicable statutory bid restrictions and the county's administrative code bid requirements.

10.2 Transfers

- A. Franchisee shall not assign, transfer, or convey this Agreement, or its rights, duties or obligations hereunder, without prior written consent of the County. Any attempt to assign, transfer, or convey any part of this Agreement without the approval of the County shall render such assignment or transfer void.
- B. Any change in ownership of the Franchisee which differs materially from that described by Franchisee in its proposal shall be considered an assignment, transfer or conveyance of this Agreement, requiring approval from the County. Notwithstanding the foregoing, Franchisee may assign its rights under this Agreement to any corporation, partnership, limited liability company or entity that (1) is controlled directly or indirectly (through one or more subsidiaries) by Franchisee; (2) is the successor or surviving entity by merger or consolidation of Franchisee pursuant to applicable law; or (3) acquires all or substantially

all of the assets of Franchisee. "Control" used herein means the possession of the right through the ownership of fifty percent (50%) or more of the shares or interest with voting rights to effectively direct the business decisions of the entity.

- C. Franchisee may not subcontract with a separate entity to perform any service encompassed by this Agreement without the approval of the County. Any attempt to subcontract with a separate entity to perform service encompassed by this Agreement without County approval shall render such assignment voidable.
- D. When seeking the County's approval for a transfer, assignment or conveyance of this Agreement, or approval of a subcontract, Franchisee must provide, upon the County's request, information relating to the contemplated transfer, assignment, conveyance or subcontract.

XI. BREACH AND REMEDIES

11.1 Breach

As used in this Agreement, "Breach" shall mean:

- (1) The failure of a party to perform or observe any material term, provision or requirement of this Agreement;
- (2) The failure of Franchisee to provide the required services consistent with customary industry standards, substantially meet industry standard accounting procedures, or materially comply with any and all applicable permits by state and federal regulators under which the Franchisee operates or performs services under this Agreement; or
- (3) The failure of a party to pay any amounts required to be paid under this Agreement, including but not limited to franchise fees, Monthly Fee, etc.

11.2 Notice and Cure

No failure described in Section 11.1 shall be deemed a Breach unless and until such failure continues after thirty (30) days' written notice describing such failure from the non-failing party (or, if the failure cannot reasonably be cured within thirty (30) days, such

additional time as is reasonable, provided the party notified of the failure shall have commenced to cure the failure within said thirty (30) days and diligently acts to cure such failure).

11.3 Remedies

- A. In the event of a Breach by Franchisee that remains uncured following applicable notice and cure periods, the County shall have the right to take such action as is reasonably necessary to safeguard its rights and interests as set forth in this Agreement, in the County's opinion.
- B. The remedies available to the County include and are not mutually exclusive of one another:
 - (1) termination of the Franchise and this Agreement after providing ninety (90) days' prior written notice;
 - (2) the right to seek performance of the collection of residential solid and bulky waste from another entity;
 - (3) the right to bring any legal proceeding in the nature of injunction, specific performance or other equitable remedy. The Franchisee hereby acknowledges that any breach of this Agreement will cause irreparable harm to the County, and that damages at law are an inadequate remedy for a breach of this Agreement;
 - (4) any other remedy provided by this Agreement;
 - (5) any other remedy allowed by applicable law.
- C. In the event of a Breach by the County that remains uncured following applicable notice and cure periods, Franchisee may, at its option: (1) declare this Agreement cancelled and terminated; and/or (2) obtain all remedies available at law, under contract or in equity
- D. Remedies Cumulative. Each right, power and remedy provided in this Agreement or now or hereafter existing at law, in equity, by statute, or otherwise shall be cumulative and concurrent, and shall be in addition to every other such right, power or remedy. The

exercise, or the beginning of the exercise, or the forbearance of the exercise, by a party of any one (1) or more of such rights, powers or remedies shall not preclude the simultaneous or later exercise by such party of any or all such rights, powers or remedies available.

- E. Failure to insist upon strict performance of any covenant, obligation, term or requirement of this Agreement by a party shall not be a waiver of a right to demand strict performance in the future.
- F. Under no circumstances shall either party be liable to the other hereunder for incidental, consequential, indirect, special, or punitive damages, even if such damages were foreseeable or if either party has been advised of the possibility of such damages.

XII. INTERPRETATION AND CONSTRUCTION OF THIS AGREEMENT

12.1 Complete Agreement

- A. This Agreement, along with Solid Waste Ordinance No. 323, Series 2020, constitute the entire agreement and understanding between the parties hereto, and replaces, cancels and supersedes any prior agreements and understandings relating to the subject matter hereof. Franchisee and the County agree and warrant that there is no agreement, representation or other inducement for the execution of this Agreement other than the consideration recited herein.
- B. The Contract and Franchise Agreement between the County and Franchisee executed August 12, 2014, as amended by Extension of Contract and Franchise Agreement For Waste Collection and Disposal in Hardin County approved by the Hardin County Fiscal Court on April 27, 2017 (as amended, the "Prior Agreement"). extending the term of the Prior Agreement to September 20, 2020, shall be terminated and of no further force and effect as of the effective date of this Agreement. Notwithstanding the termination of the Prior Agreement, Franchisee shall credit the County for the amount equal to any pre-payments it received for pick-up services during the term of the Prior Agreement.

12.2 Governing Law

This Agreement is executed in the Commonwealth of Kentucky and all matters pertaining to the validity, construction, interpretation and effect of this Agreement shall be governed by the laws of the Commonwealth of Kentucky.

12.3 Construction

Should any provision of this Agreement require interpretation or construction, it is agreed by the parties hereto that the Court, administrative body or other entity interpreting or constructing this Agreement shall not apply a presumption that the provisions hereof shall be more strictly construed against one party than another by reason of the rule of construction that a document is to be more strictly construed against the party who itself or through its agent prepared the same. The headings or sections and subsections are for convenience only and shall not affect or control the meaning or construction of any of the provisions of this Agreement.

12.4 Notices

- A. All notices, requests, demands or other communications required under this Agreement shall be made in writing and shall be served by hand delivery or by placing such in the United States Mail, certified mail, return receipt requested and bearing adequate postage. Each notice shall be effective upon receipt. Rejection, refusal to accept or the inability to deliver because of changed address or status shall be deemed to be receipt of the notice sent.
- B. Franchisee shall notify the Director of any change of address or change of personnel to whom all notices, requests, demands or other communications should be directed.

12.5 Severability

In the event that any term, provision, or covenant hereunder shall be held invalid or unenforceable by a court of competent jurisdiction, the remainder of this Agreement shall remain valid and enforceable by any party, and the invalid or unenforceable covenant shall automatically be deemed modified and amended to provide for the maximum rights available under applicable law to the party who is the beneficiary of the covenant in question.

12.6 Third Parties

Nothing in this Agreement, express or implied, is intended to confer any right or remedies on any Person other than the parties expressly named herein and their respective successors, assigns and legal representatives.

12.7 Authority of Parties

The individuals who have executed this Agreement on behalf of the respective parties expressly represent and warrant that they are authorized to sign on behalf of such entities for the purpose of binding such entities to this Agreement.

12.8 Not a Public Utility or Facility

Franchisee acknowledges and understands that the award of this franchise from the County DOES NOT confer on Franchisee any immunity from any zoning regulations; DOES NOT confer on any facilities owned or operated by Franchisee the status of "Public Facility" as defined in KRS 100.111 (19); and DOES NOT confer on Franchisee any special status equal to, or as a subdivision of, the County or any other governmental status.

(Signatures on following page)

IN TESTIMONY WHEREOF, the County has caused this Agreement to be executed for and on its behalf by its duly authorized Judge/Executive and attested by the Fiscal Court Clerk and Franchisee has caused this instrument to be executed by Weldon James Smith, President of Red River Waste Solutions LP.

Hardin County, Kentucky

Attest by:

By:

[Signature]
Harry L. Berry
Hardin County Judge/Executive

[Signature]
Debbie Donnelly
Hardin County Court Clerk

**Red River Waste Solutions, L.P., a Texas
limited partnership**

By: Red River Waste Solutions, G.P., LLC,
a Texas limited liability company,
its general partner

By:

[Signature]
Weldon James Smith
President/CEO *COO*

STATE OF TEXAS)

COUNTY OF HAYS)

THIS INSTRUMENTN WAS ACKNOWLEDGED BEFORE ME ON 7/29, 2020 BY WELDON JAMES SMITH, PRESIDENT AND CEO OF RED RIVER WASTE SOLUTIONS, G.P., LLC, A TEXAS LIMITED LIABILITY COMPANY, ON BEHALF OF THE LIMITED LIABILITY COMPANY, THE GENERAL PARTNER OF RED RIVER WASTE SOLUTIONS, L.P., A TEXAS LIMITED PARTNERSHIP, THE WITHIN NAMED BARGAINOR, ON BEHALF OF SAID LIMITED PARTNERSHIP.

[Signature]
NOTARY PUBLIC

My Commission Expires: 9/11/2023
ID# 130364602

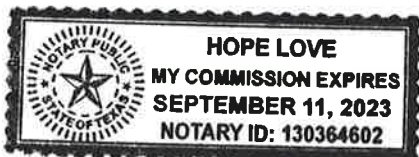


EXHIBIT A

Roads/Highways Requiring Two (2)-Man Waste Collection Team

KY 434

KY 251

KY 210

KY 222

KY 220

KY 86

KY 1680

KY567

KY 1357

US 62 E & W

US 31 N & S

CR # 1031 Springfield Road

CR # 1073 Deckard School Road

CR # 1074 Ireland School Road

CR # 1423 Red Hill Road

EXHIBIT B

Hardin County Government Offices-Collection Services

Hardin Co. Detention Center

100 Lawson Drive

- 4- 8yd – M-W-F
- 1- 30 yd as needed
- 1- 96-gallon tote – M-W-F

Hardin Co. Ambulance & EMS

- 4 yd – M
- 96-gallon totes – M-W-F

Hardin Co. Animal Shelter

220 Peterson Dr.

- 1- 4yd – W & F
- 1- 2yd – W & F

SAP Program bldg. for Men

- 6- 96-gallon totes – M-W-F

Hardin Co. Road Dept.

501 Bacon Creek Rd.

- 1- 6-yd – M & Th
- 1- 30 yd roll-off as needed

Hardin Co. Public Library

100 Jim Owen Dr.

- 1- 4yd - W

History Museum

Dixie Hwy

- 2-96-gallon totes-M

Hardin Co. Government Bldg.

150 N. Provident Way

- 1- 8 yd – M-W-F

Hardin Co. Courthouse (County Attny)

100 Public Square

- 4-96-gallon totes M-W-F