

CONTRACT FOR SERVICES

This Contract for Services (this "Contract") is made and entered into this ____ day of _____, 2022 ("Effective Date") between The Town of Weddington ("Town") and Active Waste Solutions, LLC ("Contractor").

For and in consideration of the mutual promises set forth in this Contract, the parties do mutually agree as follows:

1. Obligations of Contractor. The Contractor agrees to provide for the collection and disposal of Solid Waste, Recyclables, Bulk/E-Waste, Yard Waste, and Storm Debris and other additional collection and disposal Services (collectively the "Services"), as more particularly described and in accordance with the terms and conditions stated herein including the Summary of Services and Prices attached hereto and incorporated herein by reference as Exhibit 1, the Request for Proposals For Solid Waste Collection Services (the "RFP") a copy of which is attached hereto and incorporated herein by reference as Exhibit 2, and Active Waste Solutions Response to RFP a copy of which is attached hereto and incorporated herein by reference as Exhibit 3. In the event of any conflict between any terms and conditions of the Contract, the terms and conditions most favorable to Town shall control. The Contractor shall begin collection Services on January 1, 2023.

The Term of this Contract is set forth below.

The Contractor agrees to perform the Services in a timely, complete, and professional manner and in accordance with the terms and conditions of this Contract. Furthermore, the Contractor represents and warrants that (i) it is duly qualified and licensed to provide the Services and has the qualifications submitted to the Town in its proposal, (ii) it will provide the Services in a manner consistent with the level of care and skill ordinarily exercised by Contractors providing similar services under similar conditions, (iii) it possesses sufficient experience, personnel, and resources to complete the Services, (iv) it shall perform the Services in compliance with applicable laws, statutes, ordinances, codes, orders, rules and regulations, and (v) its reports, if any, shall be complete, accurate, and unambiguous.

2. Obligations of Town. Town agrees to pay the Contractor for the Services in accordance with the Price and Scope Summary. The parties acknowledge that Town operates on a July 1-June 30 fiscal year and that operating funds are made available to Town on a year to year basis.

Accordingly, see Section 14 of the Standard Terms and Conditions.

3. Initial Term and Town Options to Extend. The term of this Agreement and performance shall commence on the Effective Date and terminate on December 31, 2028 (the "Initial Term") unless this Contract is terminated earlier by Town as herein provided. This Contract may be renewed by the Town for two (2), additional two-year terms under the terms set forth herein, renewable one term at a time. The decision to renew will be solely the Town's. Notice of the intent to renew will be made at least sixty (60) days prior to the expiration of the initial term or the then current renewal term. In the event the Town does not opt to renew the Contract or the Town and Contractor are unable to reconfirm or renegotiate unit rates for another term, the Town shall have the option of extending this Contract under the terms set forth herein for a period of six months total for the purpose of completion of Services started prior to current Contract expiration or until a new Contract can be established.

4. Fuel Surcharge. The section titled “Fuel Surcharge” on page 20 of the Solid Waste Services Request for Proposals is hereby deleted in its entirety and replaced with the following:

Fuel Cost is based on \$4.00 per gallon

If the fuel cost changes more than 10% in a six month period to include the time between the contract award and the contract start date, the Town of Weddington and Active Waste Solutions will verify and make any adjustment to the fuel cost listed above prior to the contract start date. The 10% adjustment for fuel surcharges shall apply to both increases and decreases in fuel costs.

5. Liquidated Damages. The section titled “Liquidated Damages/Negative Adjustments” on page 21 of the Solid Waste Services Request for Proposals is hereby deleted in its entirety and replaced with the following:

Liquidated Damages: Quality customer service is of the utmost importance to the Town. It is the intent of the parties that the Contractor shall provide high quality collection services to the Town. To that end, the Contractor shall cure all failures to provide service in accordance with and within the time limits set forth in the contract. If the Contractor fails to remedy such failures, provided such failure is not caused by action or inaction by the Town, the Town, without waiving other remedies it may have under the contract, at law, or in equity, may deduct from any amounts otherwise payable to the Contractor as liquidated damages according to the following schedule. The amount of the liquidated damages set forth below is not intended as a penalty and is reasonably calculated based upon the Town's potential costs in completing the work or otherwise interfering with the Town's operations and resident services.

Liquidated Damages may be deducted from the monthly payment to the Contractor.

Liquidated Damages

#	Incident	Cost Schedule
1.	Failure to complete any route within 24 hours of the regular service day, without notification to Town's authorized representative.	\$500 per route
2.	Failure to deliver any residential solid waste, yard waste or recyclables to a designated facility.	\$1,000 per incident
3.	Collection and disposal of recyclables as if solid waste or trash.	\$1,000 per incident
4.	Failure to clean spillage (oil, hydraulic fluid, garbage, trash, recyclables, etc.) within 24 hours of written notice of such spillage is received provided by the Town, subject to any clearance by the fire department.	\$3,000 per incident
5.	Failure to correct deficiencies in cleanliness, safety, or sanitation of equipment within 48 hours of written request.	\$100 per incident
6.	Failure to deliver container for new service, or replace lost, stolen or damaged container within two (2) business days of request. If extenuating circumstances exist that may prohibit a new cart, a temporary cart will be allowed upon written request from the Town representative but under no circumstances shall a used cart be allowed more than 3 months.	\$100 per incident
7.	Failure to repair damage to customer property upon written notice from respective Town and determination of Proposer's liability.	\$100 per incident

8.	<i>Failure to repair equipment that is breaking down, leaking fluids, or discharging debris after receiving notice of the same from the Town. failure to notice Town of emergency unload.</i>	<i>\$500 per incident</i>
9.	<i>Failure to properly display Proposer's name, phone number, on collection vehicles and service vehicles.</i>	<i>\$100 per incident</i>
10.	<i>Misrepresentation by Contractor in records or reporting.</i>	<i>\$1500 per incident</i>
11.	<i>Failure to notify Town of emergency unload or other emergency situation.</i>	<i>\$500 per incident</i>
12.	<i>Failure to collect and clean-up emergency unload on day of incident upon fire department clearance.</i>	<i>\$3000 per incident</i>

In addition to the liquidated damages provided above, the Town reserves the right to exercise any and all remedies it may have with respect to these and other violations and breaches including the right to pursue actual damages if easily calculable and to terminate the Contract.

6. Project Coordinator. **Karen Dewey, Town Administrator**, is designated as the Project Coordinator for the Town. The Project Coordinator shall be the Town's representative in connection with the Contractor's performance under this Contract. The Town has complete discretion in replacing the Project Coordinator with another person of its choosing. The Town may change the Project Coordinator by providing written notice to the Contractor.
7. Contractor Supervisor. **Heather Hamilton** is designated as the Contractor Supervisor for the Contractor. The Contractor Supervisor is fully authorized to act on behalf of the Contractor in connection with this Contract. The Contractor Supervisor may change the Contractor Supervisor by providing written notice to the Town.
8. Methods of Payment. Town will make payment after invoices are approved on a net 30-day basis. Promptly after the Effective Date, and in no event later than thirty (30) days of the Effective Date, the Contractor shall submit copies of standard billing forms and coordinate with the Town's Finance Department to establish mutually acceptable billing documents. The Town will retain full auditing rights of Contractor's accounting records as they pertain to the Town's Contract. Town will not pay for any Services in advance without the prior approval of the Finance Officer. After commencement of collection Services, Contractor shall submit invoices monthly on the following schedule: by the thirtieth day of the month, beginning January 30, 2023.
9. Notice.

Town of Weddington
Attn: Town Administrator
1924 Weddington Road
Weddington, NC 28104
Email: kdewey@townofweddington.com
Phone: 704.846.2709

To Contractor: Active Waste Solutions, LLC.
Name: Heather Hamilton
Address: PO Box. 10 Waxhaw, NC, 28173
Email: hhamilton@activewastesolutions.com
Phone:(704)303-3234
10. Standard Terms and Conditions: Contractor agrees to the Standard Terms and Conditions set forth as Attachment A, attached hereto and incorporated herein by reference.
11. Counterpart Execution. This Contract may be executed and recorded in two or more counterparts,

each of which shall be deemed an original and all of which, when taken together, shall constitute one and the same instrument. Each party shall be entitled to rely upon executed copies of this Contract transmitted by facsimile or electronic "PDF" to the same and full extent as the originals.

Exhibit/Attachment List:

Attachment A: Standard Terms and Conditions

Exhibit 1: Summary of Services and Prices

Exhibit 2: Request for Proposals For Solid Waste Collection Services

Exhibit 3: Active Waste Solutions Response to RFP

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ON NEXT PAGE]**

ATTACHMENT A

Standard Terms and Conditions


1. Entire Agreement. The terms and provisions set forth in the Contract, the Summary of Services and Prices, these Standard Terms and Conditions, the RFP, and the Active Waste Solutions, LLC. Response to RFP (collectively, the "Contract Documents") shall constitute the entire agreement between Contractor and Town with respect to the purchase by Town of the Services provided or work performed as described in the Contract Documents. The agreements set forth in the Contract Documents are sometimes referred to herein as the "Contract." In the event of any conflict between any terms and conditions of the Contract Documents, the terms and conditions most favorable to Town shall control. No additional or supplemental provision or provisions in variance herewith that may appear in Contractor's quotation, acknowledgment, invoice, or in any other communication from Contractor to Town shall be deemed accepted by or binding on Town. Town hereby expressly rejects all such provisions which supplement, modify or otherwise vary from the terms of the Contract Documents, and such provisions are superseded by the terms and conditions stated in the Contract Documents, unless and until Town's authorized representatives expressly assent, in writing, to such provisions. Stenographic and clerical errors and omissions by Town are subject to correction.
2. Invoices. It is understood and agreed that Services will be provided at the established Contract prices in effect on dates orders are placed. Invoicing at variance with this provision may subject the Contract to cancellation. Applicable North Carolina sales tax shall be invoiced as a separate item. Invoices shall be sent to Town's accounts payable department with a copy to the Town Project Coordinator.
3. Compliance with All Laws. Contractor warrants that all performance hereunder shall be in accordance with all applicable federal, state and local laws, regulations and orders.
4. Nondiscrimination. During the performance of the Contract, Contractor shall not discriminate against or deny the Contract's benefits to any person on the basis of sexual orientation, national origin, race, ethnic background, color, religion, gender, age or disability.
5. Conflict of Interest. Contractor represents and warrants that no member of Town or any of its employees or officers who may obtain a direct benefit, personal gain or advantage for themselves or a relative or associate as a result of the Contract, subcontract or other agreement related to the Contract is in a position to influence or has attempted to influence the making of the Contract, has been involved in making the Contract, or will be involved in administering the Contract. Contractor shall cause this paragraph to be included in all Contracts, subcontracts and other agreements related to the Contract.
6. Gratuities to Town. The right of Contractor to proceed may be terminated by written notice if Town determines that Contractor, its agent or another representative offered or gave a gratuity to an official or employee of Town in violation of policies of Town.
7. No Kickbacks to Contractor. Contractor shall not permit any kickbacks or gratuities to be provided, directly or indirectly, to itself, its employees, subcontractors or subcontractor employees for the purpose of improperly obtaining or rewarding favorable treatment in connection with a Town Contract or in connection with a subcontract relating to a Town Contract. When Contractor has grounds to believe that a violation of this clause may have occurred, Contractor shall promptly report to Town in writing the possible violation.
8. E-Verification. Contractor shall comply with the requirements of Article 2 of Chapter 64 of the North Carolina General Statutes.
9. Indemnification. Contractor shall indemnify and hold harmless Town, its officers, agents, employees and assigns from and against all claims, losses, costs, damages, expenses, attorneys' fees and liability that any of them may sustain (a) arising out of Contractor's failure to comply with any applicable law, ordinance, regulation, or industry standard or (b) arising directly or indirectly out of Contractor's breach of the terms and conditions of the Contract. In the event Contractor, its employees, agents, subcontractors and or lower-tier subcontractors enter premises occupied by or under the control of Town in the performance of the Contract Documents, Contractor agrees that it will indemnify and hold harmless Town, its officers, agents, employees and assigns, from any loss, costs, damage, expense or liability by reason of property damage or personal injury of whatsoever nature or kind arising out of, as a result of, or in connection with such entry.
10. Insurance. Insurance requirements are specifically set forth in the RFP, a copy of which is attached hereto and incorporated herein by reference as Exhibit 2.

11. Termination for Convenience. In addition to all of the other rights which Town may have to cancel this Contract, Town shall have the further right, without assigning any reason therefore, to terminate the Contract, in whole or in part, at any time at its complete discretion by providing 180 days' notice in writing from Town to Contractor. If the Contract is terminated by Town in accordance with this paragraph, Contractor will be paid for Services actually performed through the date of termination.
12. Termination for Default. Town may terminate the Contract, in whole or in part, immediately and without prior notice upon breach of the Contract by Contractor. In addition to any other remedies available to Town law or equity, Town may procure upon such terms as Town shall deem appropriate, Services substantially similar to those so terminated, in which case Contractor shall be liable to Town for any excess costs for such similar goods, supplies, or Services and any expenses incurred in connection therewith.
13. Transition in Service. In the event Services are terminated under this Agreement, either by reason of convenience, default or end of term, Contractor agrees to comply with all reasonable requests of the Town intended to affect a smooth transition of Services and minimal inconvenience to customers served.
14. Contract Funding. It is understood and agreed between Contractor and Town that Town's obligation under the Contract is contingent upon the availability of appropriated funds from which payment for Contract purposes can be made. No legal liability on the part of Town for any payment may arise until funds are made available to Town's Finance Officer and until Contractor receives notice of such availability. Should such funds not be appropriated or allocated, the Contract shall immediately be terminated. Town shall not be liable to Contractor for damages of any kind (general, special, consequential or exemplary) as a result of such termination.
15. Accounting Procedures. Contractor shall comply with any accounting and fiscal management procedures prescribed by Town to apply to the Contract and shall assure such fiscal control and accounting procedures as may be necessary for proper disbursement of and accounting for all project funds.
16. Improper Payments. Contractor shall assume all risks attendant to any improper expenditure of funds under the Contract. Contractor shall refund to Town any payment made pursuant to the Contract if it is subsequently determined by audit that such payment was improper under any applicable law, regulation or procedure. Contractor shall make such refunds within 30 days after Town notifies Contractor in writing that a payment has been determined to be improper.
17. Contract Transfer. Contractor shall not assign, subcontract or otherwise transfer any interest in the Contract without the prior written approval of Town.
18. Contract Personnel. Contractor agrees that it has, or will secure at its own expense, all personnel required to provide the Services set forth in the Contract.
19. Contract Modifications. The Contract may be amended only by written amendment duly executed by both Town and Contractor.
20. Relationship of Parties. Contractor is an independent contractor and not an employee of Town. The conduct and control of the work will lie solely with Contractor. The Contract shall not be construed as establishing a joint venture, partnership or any principal-agent relationship for any purpose between Contractor and Town. Employees of Contractor shall remain subject to the exclusive control and supervision of Contractor, which is solely responsible for their compensation.
21. Advertisement. The Contract will not be used in connection with any advertising by Contractor without prior written approval by Town.
22. Financial Responsibility. Contractor is financially solvent and able to perform under the Contract. If requested by Town, Contractor agrees to provide a copy of its latest audited annual financial statements or other financial statements as deemed acceptable by Town's Finance Officer. In the event of any proceedings, voluntary or involuntary, in bankruptcy or insolvency by or against Contractor, the inability of Contractor to meet its debts as they become due or in the event of the appointment, with or without Contractor's consent, of an assignee for the benefit of creditors or of a receiver, then Town shall be entitled, at its sole option, to cancel any unfilled part of the Contract without any liability whatsoever.
23. No Pre-Judgment or Post-Judgment Interest. In the event of any action by Contractor for breach of contract in connection with the Contract, any amount awarded shall not bear interest either before or after any judgment, and Contractor specifically waives any claim for interest.
24. Background Checks. At the request of Town's Project Coordinator, Contractor (if an individual) or any individual employees of Contractor shall submit to Town criminal background check and drug testing procedures.
25. Mediation. If a dispute arises out of or relates to the Contract, or the breach of the Contract, and if the dispute cannot be settled through negotiation, the parties agree to try in good faith to settle the dispute

- by mediation administered by the American Arbitration Association under its Commercial Mediation Rules before resorting to litigation.
26. **No Third-Party Benefits.** The Contract shall not be considered by Contractor to create any benefits on behalf of any third party. Contractor shall include in all contracts, subcontracts or other agreements relating to the Contract an acknowledgment by the contracting parties that the Contract creates no third-party benefits.
 27. **Force Majeure.** If Town is unable to perform its obligations or to accept the Services because of Force Majeure (as hereinafter defined), the time for such performance by Town or acceptance of Services will be equitably adjusted by allowing additional time for performance or acceptance of Services equal to any periods of Force Majeure. "Force Majeure" shall mean any delays caused by acts of God, riot, war, terrorism, inclement weather, labor strikes, material shortages and other causes beyond the reasonable control of Town.
 28. **Strict Compliance.** Town may at any time insist upon strict compliance with these terms and conditions notwithstanding any previous course of dealing or course of performance between the parties to the contrary.
 29. **General Provisions.** Town's remedies as set forth herein are not exclusive. Any delay or omission in exercising any right hereunder, or any waiver of any single breach or default hereunder, shall not be deemed to be a waiver of such right or of any other right, breach, or default. If action be instituted by Contractor hereunder, Town shall be entitled to recover costs and reasonable attorney's fees. Contractor may not assign, pledge, or in any manner encumber Contractor's rights under this Contract or delegate the performance of any of its obligations hereunder, without Town's prior, express written consent.
 30. **Contract Situs.** All matters, whether sounding in contract or tort relating to the validity, construction, interpretation and enforcement of the Contract, will be determined in Union County, North Carolina. North Carolina law will govern the interpretation and construction of the Contract. Nondiscrimination. During the performance of the Contract, Contractor shall not discriminate against or deny the Contract's benefits to any person on the basis of sexual orientation, national origin, race, ethnic background, color, religion, gender, age or disability.
 31. **Monitoring and Evaluation.** Contractor shall cooperate with Town, or with any other person or agency as directed by Town, in monitoring, inspecting, auditing or investigating activities related to the Contract. Contractor shall permit Town to evaluate all activities conducted under the Contract. Town has the right at its sole discretion to require that Contractor remove any employee of Contractor from Town Property and from performing Services under the Contract following provision of notice to Contractor of the reasons for Town's dissatisfaction with the Services of Contractor's employee.
 32. **Governmental Restrictions.** In the event any governmental restrictions are imposed which necessitate alteration of the material, quality, workmanship or performance of the item offered prior to their delivery, it shall be the responsibility of the Contractor to notify, in writing, the issuing purchasing office at once, indicating the specific regulation which required such alterations. Town reserves the right to accept any such alterations, including any price adjustments occasioned thereby, or to cancel the Contract.
 33. **Inspection at Contractor's Site.** Town reserves the right to inspect, at a reasonable time, the equipment/item, plant or other facilities of a prospective contractor prior to Contract award, and during the Contract term as necessary for Town determination that such equipment/item, plant or other facilities conform with the specifications/requirements and are adequate and suitable for the proper and effective performance of the Contract.

IN WITNESS WHEREOF, the Town and the Contractor have executed this Contract on the day and year first written above.

ACTIVE WASTE SOLUTIONS, LLC.



Signature of Authorized Representative

Date

46-4336291

Contractor's Federal Identification #
[if Contract is with Organization or Social Security Number if individual]

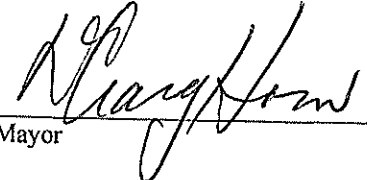
TOWN OF WEDDINGTON



Town Administrator

8/8/2022

Date




Mayor

8/8/2022

Date

This instrument has been preaudited in the manner required by the Local Government Budget and Fiscal Control Act.



Town Finance Officer

8/8/22

Date

EXHIBIT 1

Summary of Services and Prices

Services below are billed directly to the Town

Weekly Curbside Residential for One (1) 96 GL Rollout Household Trash	\$10.15 Per Household Per Month
Residential for One (1) 96GL rollout every other week single stream recycling	\$4.80 Per Household Per Month
One (1) 45GL Rollout for every other week Glass Recycling	\$2.46 Per Household Per Month

Services below billed directly to Residents

Extra Carts	96 GL Rollout Household Trash:\$30 delivery/\$10 per month for weekly service 96 GL Rollout Recycling: 45 GL Rollout Glass Recycling:
Bulk Pick-up	\$18.00 service fee plus cost of item
Acceptable Bulk Waste Items:	<ul style="list-style-type: none"> ▪ Air conditioners - Window units only not to exceed 45 lbs. -\$75.00 ▪ Appliances (residential stoves, microwaves, dishwashers, washer, dryer); must be empty; refrigerators/freezers- remove doors -\$125.00 per item ▪ Basketball goal (portable) - Remove concrete base & dismantle; concrete will not be collected - \$85.00 per item ▪ Bed and bed frames - Dismantle. \$50.00 per item ▪ Bicycles \$25.00 per item ▪ Carpet/floor coverings- Roll & cut no longer than 4 ft.; Up to 4- rolls accepted (max. 25-lbs each) \$35.00 ▪ Couches/Chairs \$125.00 per item ▪ Computers \$25.00 per item ▪ China cabinet hutches - Empty; tape any glass - \$120.00 per item ▪ Desks/Dressers - Empty. \$50.00 per item ▪ Entertainment centers - Empty; tape any glass - \$60.00 per item ▪ Fencing – wood fencing only, no metal fences. Remove or flatten protruding nails; limited to 45 lbs. \$35.00 for one bundle ▪ Fireplace inserts - Remove bricks; no bricks collected. \$25.00 per insert

	<ul style="list-style-type: none"> ▪ Garbage cans - Tag with a note indicating to take the can \$10.00 per can ▪ Glass doors, windows, table inserts - Using tape, make an X over the glass and place at curbside \$40.00 per item. ▪ Grills - Remove propane tanks; 45 lbs. or less; no commercial grills. \$35.00 per item ▪ Gutters - 4 ft. or less. \$25 per bundle of 5 4 ft pieces ▪ Lawnmowers - Remove gasoline and battery, if applicable. \$35.00 per item ▪ Linoleum - Roll & cut no longer than 4 ft.; Up to 4- rolls accepted (max. 10-lbs each) \$50.00 ▪ Mattresses – can be rejected upon sight of any contamination or not accepted at all based on regulation at landfills \$100.00 per mattress ▪ Patio furniture - \$40.00 per item ▪ Pianos or organs - 45 lbs. or less; dismantle. \$50.00 per item ▪ Play sets/swing sets- Remove concrete base and dismantle, remove or flatten nails - \$125.00 per item ▪ Plumbing materials - \$20 per item ▪ Plywood & paneling - No larger than 1 in. thick x 4 ft. x 4 ft. - \$50.00 ▪ Pool Covers - Folded; only folded cover; 45 lbs. or less will be collected. \$75.00 ▪ Space heaters, oil and kerosene heaters; Must be emptied -\$50 per item ▪ Televisions - no consoles – weight limit 45 lbs. \$50.00 per item ▪ Toys (large) \$10 per toy ▪ Windows- Tape and all glass – not to exceed 45 lbs. \$40.00 per item
Yard Waste	<p>\$12.00 for 5 25 gallon clear plastic bags \$2.00 for Each additional bag</p>