

LEASE AGREEMENT

BETWEEN

**THE CITY OF LEE'S SUMMIT, MISSOURI,
as Lessor**

and

**SUMMIT TRANSFER, LLC
as Lessee**

**For the
LEE'S SUMMIT SOLID WASTE PROCESSING FACILITY**

_____, 2022

LEASE AGREEMENT

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LEASE AGREEMENT

THIS LEASE AGREEMENT (the “**Lease**”), dated as of _____, 2022 (the “**Effective Date**”), is between the **CITY OF LEE’S SUMMIT, MISSOURI**, a constitutional charter city and municipal corporation duly organized and existing under the laws of the State of Missouri, as lessor (the “**City**”), and **SUMMIT TRANSFER, LLC**, a Missouri limited liability company organized and existing under the laws of the State of Missouri, as lessee (the “**Company**”) (the City and Company are each a “**Party**” and together are the “**Parties**”);

RECITALS:

1. The City operates the Public Disposal Area that is located at the City’s Resource Recovery Park. The City operates the Public Disposal Area for the purpose of receiving specifically enumerated household solid waste products for the benefit of the residents of Lee’s Summit.

2. In November 2018, the City issued Request for Proposals No. 2019-032 which solicited proposals for operation of the Public Disposal Area for the City at the Resource Recovery Park. As a result of this RFP, the City executed Agreement No. 2019-032 with the Company on April 5, 2019 to provide for the operations of the Public Disposal Area, which allows residential customers in the Lee’s Summit with solid waste services that are convenient by allowing use of areas of the Resource Recovery Park for drop-off of residential customers’ solid waste, yard waste, and household hazardous waste.

3. As part of the Public Disposal Area, the City is authorized to operate a solid waste processing facility. The City issued Request for Proposals No. 2021-016 (the “**RFP**”) which sought statements of qualifications from qualified companies to design, construct, permit and operate a solid waste processing facility and associated programs. A stated goal of this RFP was to identify and select a partner to provide solid waste disposal services through a processing facility and continue associated environmental programs to serve residents and businesses by providing a convenient drop off location for municipal solid waste.

4. In response to the RFP, KC Dumpster, LLC submitted a statement of qualifications that was selected by the City as the best and most responsive applicant. Thereafter, the City negotiated an Agreement for Construction and Operation of a Processing Facility which was approved through the adoption of Ordinance No. ___ on ___, 2022, and which was executed on ___, 2022 (the “**Operations Agreement**”).

5. On ___, 2021, KC Dumpster, LLC, in coordination with the City’s consultants, submitted an application with MDNR to receive a Solid Waste Processing Facility Permit. That permit application is still pending on the Effective Date of this Lease, and will be completed by the Company and City to facilitate the Project.

6. The City now desires to lease certain property in the Public Disposal Area to the Company for the operation of the Solid Waste Processing Facility. The leased premises are legally described in **Exhibit A** and illustrated by the dashed blue line on the diagram which is included in **Exhibit A** (the “**Property**” or “**Project Site**”).

7. The Company will cause the construction of certain improvements for operation of the Project on the Project Site which are described in **Exhibit B** (the “**Project Improvements**”). The Project Improvements will be operated by the Company during the Lease Term. The Company may incur one or more loans with a Lender to finance the construction of the Project Improvements. It is the intention of the

Parties that the City will own the land and the Project Improvements, unless specifically stated otherwise, and both the land and the Project Improvements will be leased to the Company pursuant to this Lease.

8. Ordinance No. ___ was adopted by the City Council on April 12, 2022 to approve this Lease, and the City is authorized to enter into this Lease for the purpose of leasing property to the Company to facilitate the construction and operation of the Solid Waste Processing Facility by the Company (collectively, such construction and operation is called the “**Project**”) in consideration of rental payments and other public benefits that are provided by the Company to the City and its citizens.

9. Pursuant to the foregoing, the City desires to lease the Property to the Company and the Company desires to lease the Property from the City, for the rentals and upon the terms and conditions hereinafter set forth.

NOW, THEREFORE, in consideration of the premises and the mutual representations, covenants and agreements herein contained, the receipt and sufficiency of which are hereby acknowledged, the City and the Company do hereby represent, covenant and agree as follows:

ARTICLE I

DEFINITIONS

Section 1.1. Definitions of Words and Terms. Words and terms that are not otherwise defined in this Lease but are defined in the Operations Agreement shall have the meanings assigned to them in the Operations Agreement and such definitions are incorporated into this Lease by reference as if fully set forth herein. In addition to any words and terms defined in the Operations Agreement, the following words and terms as used in this Lease shall have the following meanings:

“**Monthly Rent**” means the rental described in **Section 5.1** of this Lease.

“**Commencement Date**” means the date that the Construction Period ends and the Lease Term commences in accordance with the terms of this Lease, which shall be the later of (1) completion of construction or (2) the date that MDNR issues the permit for the facility.

“**Company**” means Summit Transfer, LLC, a Missouri limited liability company, and its successors or assigns.

“**Completion Date**” shall have the meaning set forth in **Section 4.3** of this Lease.

“**Construction Period**” means the period of time starting on the Effective Date and ending on the Commencement Date, during which the Company will construct the Project Improvements in accordance with the Plans and Specifications.

“**Development Schedule**” means the schedule attached as **Exhibit C** this Lease.

“**Effective Date**” shall have the meaning set forth on page 1 of this Lease.

“**Extension Term**” shall have the meaning set forth in **Section 3.2**.

“HHW Program” means the Household Hazardous Waste Program that is operated by the Company in compliance with the terms of the PDA Agreement until terminated, and then pursuant to the Operations Agreement and this Lease.

“Lease Term” means the period from the Commencement Date until the date that is twenty (20) years after the Commencement Date as provided in **Section 3.2** hereof, unless the Lease is sooner terminated pursuant to the express provisions of this Lease, plus any Extension Terms.

“Lender” means any person who, from time to time, has made a loan to Company which is secured by a Mortgage.

“MARC” means the Mid-America Regional Council.

“MARC Agreement” shall have the meaning set forth in **Section 5.3**.

“MDNR” means the Missouri Department of Natural Resources.

“Mortgage” means any mortgage or deed of trust (together with all related loan documents and security agreements) relating to construction of the Project Improvements, as permitted pursuant to the provisions of **Section 10.3** hereof.

“Net Proceeds” means, when used with respect to any insurance or condemnation award with respect to the Project, the gross proceeds from the insurance or condemnation award with respect to which that term is used remaining after payment of all expenses (including attorneys’ fees and any extraordinary expenses of the City, if permitted or allowed pursuant to this Lease) incurred in the collection of such gross proceeds.

“Operations Agreement” shall have the meaning assigned in the Recitals above.

“PDA Agreement” means the agreement regarding Operation of the Public Disposal Area for the City of Lee’s Summit Resource Recovery Park between KC Dumpster, LLC, as assigned, and the City dated April 5, 2019 which is Contract No. 2019-032.

“Permitted Encumbrances” means, as of any particular time, as the same may encumber the Project Site (a) this Lease and (b) any Mortgage in favor of a Lender in connection with any Mortgage.

“Plans and Specifications” means the plans and specifications for the Project based on final construction and engineering documents which are approved by the City and which are based on the approved Special Use Permit that is granted by the City pursuant to the UDO and any related land-use approvals granted by the City.

“Project” shall have the meaning assigned in the Recitals above.

“Project Costs” means all cost incurred by the Company pursuant to the requirements of this Lease to construct the Project and the Project Improvements.

“Project Improvements” shall have the meaning assigned in the Recitals above.

“**Property**” shall have the meaning assigned in the Recitals above.

“**Project Site**” shall have the meaning assigned in the Recitals above.

“**Residual Payment**” shall have the meaning set forth in **Section 10.7**.

“**UDO**” means the City’s Unified Development Ordinance as set forth in Chapter 33, as amended from time to time.

Section 1.2. Rules of Interpretation.

(a) Words of the masculine gender shall be deemed and construed to include correlative words of the feminine and neuter genders.

(b) Unless the context shall otherwise indicate, words importing the singular number shall include the plural and vice versa, and words importing Persons shall include firms, associations and corporations, including governmental entities, as well as natural Persons.

(c) Wherever in this Lease it is provided that either party shall or will make any payment or perform or refrain from performing any act or obligation, each such provision shall, even though not so expressed, be construed as an express covenant to make such payment or to perform, or not to perform, as the case may be, such act or obligation.

(d) All references in this instrument to designated “Articles,” “Sections” and other subdivisions are, unless otherwise specified, to the designated Articles, Sections and subdivisions of this instrument as originally executed. The words “herein,” “hereof,” “hereunder” and other words of similar import refer to this Lease as a whole and not to any particular Article, Section or other subdivision.

(e) The Table of Contents and the Article and Section headings of this Lease shall not be treated as a part of this Lease or as affecting the true meaning of the provisions hereof.

(f) Whenever an item or items are listed after the word “including,” such listing is not intended to be a listing that excludes items not listed.

Section 1.3. Acceptance of Operations Agreement. The City and Company each acknowledge that they have received an executed copy of the Operations Agreement and that they are familiar with the terms and conditions of the Operations Agreement. The City and Company further covenant that they will comply with all the conditions and covenants contained in the Operations Agreement relating to the Project, and the City and Company, as applicable to such party, and that they will not take any action which would cause a default thereunder or jeopardize the rights of the other party.

ARTICLE II

REPRESENTATIONS

Section 2.1. Representations by the City. The City makes the following representations as the basis for the undertakings on its part herein contained:

(a) The City is a constitutional charter city and municipal corporation duly organized and validly existing under the laws of the State of Missouri. The City has lawful power and authority to enter into the transactions contemplated by this Lease and to carry out its obligations hereunder. By proper action of its governing body, the City has been duly authorized to execute and deliver this Lease, acting by and through its duly authorized officers;

(b) As of the date of delivery hereof, the City owns the Project Site and agrees to allow the construction of the Project Improvements. The City agrees to lease the Project to the Company for the purpose of furthering the public purposes of providing waste disposal services to the citizens of the City;

(c) The purchase, construction, extension and improvement of the Project and the leasing of the Project by the City to the Company will serve a municipal public purpose;

(d) To the City's knowledge, no member of the City Council or any other officer of the City has any significant or conflicting interest, financial, employment or otherwise, in the Company or in the transactions contemplated hereby;

(e) The City will not knowingly take any affirmative action that would permit a lien to be placed on the Project except with the written consent of an authorized Company representative;

(f) the City shall meet its obligations as set forth in this Lease and the Operations Agreement;

(g) The execution and delivery of this Lease, the consummation of the transactions contemplated hereby, and the performance of or compliance with the terms and conditions of this Lease by the City will not, to the best of the City's actual knowledge, conflict with or result in a breach of any of the terms, conditions or provisions of, or constitute a default under, any agreement or instrument to which the City is a party or by which it or any of its property is bound, or any order, rule or regulation applicable to the City or any of its property or constitute a default under any of the foregoing.

(h) To the best of City's knowledge, after reasonable investigation, there is no Claim, at law or in equity, before or by any court or Governmental Authority, Third Party, commission, board, agency or instrumentality decided, pending or threatened against City wherein an unfavorable decision, ruling or finding, in any single case or in the aggregate, would materially adversely affect the performance by City of its obligations hereunder or which, in any way, would adversely affect the validity or enforceability of this Lease or which would have a material adverse effect on the financial condition of City with the exception of obtaining regulatory approvals for the operations contemplated hereunder.

(i) To the best of City's knowledge, after reasonable investigation, there is no judicial decision that affects the validity of this Lease or subject this Lease to legal challenge; and

(j) To the extent any performance of any obligation by City is reliant on an expenditure of City funds, it is subject to annual appropriation by Council. Failure to appropriate funds shall not be deemed a breach of this Agreement or the Lease.

Section 2.2. Representations by the Company. The Company makes the following representations as the basis for the undertakings on its part herein contained:

(a) The Company is a limited liability company duly organized, validly existing and in good standing under the laws of the State of Missouri and is authorized to conduct business in the State of Missouri;

(b) The Company has lawful power and authority to enter into this Lease and to carry out, or caused to be carried at, its obligations hereunder and by proper action of its members the Company has been duly authorized to execute and deliver this Lease, acting by and through its duly authorized officers and representatives;

(c) The execution and delivery of this Lease, the consummation of the transactions contemplated hereby, and the performance of or compliance with the terms and conditions of this Lease by the Company will not, to the best of the Company's actual knowledge, conflict with or result in a breach of any of the terms, conditions or provisions of, or constitute a default under, any mortgage, deed of trust, lease or any other restrictions or any agreement or instrument to which the Company is a party or by which it or any of its property is bound, or the Company's organizational documents, or any order, rule or regulation applicable to the Company or any of its property of any court or governmental body, or constitute a default under any of the foregoing, or result in the creation or imposition of any prohibited lien, charge or encumbrance of any nature whatsoever upon any of the property or assets of the Company under the terms of any instrument or agreement to which the Company is a party;

(d) The estimated costs of the construction and improvement of the Project are in accordance with sound engineering and accounting principles;

(e) The Project will comply in all material respects with all presently applicable building and zoning, health, environmental and safety orders and laws and all other Applicable Laws, rules and regulations;

(f) The Project is located wholly within the corporate limits of the City of Lee's Summit, Missouri; and

(g) The Company shall meet its obligations as set forth this Lease and in the Operations Agreement.

ARTICLE III

GRANTING PROVISIONS

Section 3.1. Possession of Property and Granting of Leasehold Estate.

(a) All rights and obligations of the Parties shall commence upon the Effective Date. After the Effective Date, the two time periods that this Lease is in effect will consist of (1) the Construction Period

and (2) the Lease Term. Company will take possession of the Property under the leasehold estate on the Effective Date and thereafter commence construction of the Project as set forth in this Lease.

(b) Pursuant to this Lease, the City hereby exclusively rents, leases and lets the Project to the Company, and the Company hereby rents and leases the Property and the Project from the City, subject to Permitted Encumbrances existing as of the date of the execution and delivery hereof, for the rentals and upon and subject to the terms and conditions herein contained. The Lease Term will commence on the Commencement Date at the end of the Construction Period.

Section 3.2. Lease Term.

(a) This Lease shall become effective upon its full execution and delivery and, subject to sooner termination pursuant to the provisions of this Lease, shall have a Lease Term commencing as of the Commencement Date and with a termination date that is twenty years from the Commencement Date, unless further extended according to the provisions of this Lease.

(b) On a date not less than one year prior to the end of the initial 20-year Lease Term or an Extension Term, either the City or Company may propose an additional five-year extension of the Lease Term. Both City and Company must mutually agree to each such five-year extension (each an “**Extension Term**”). Either the City or Company may propose an extension and the other Party can accept or decline any requested extension in its sole discretion.

Section 3.3. Possession and Use of the Project.

(a) The City covenants and agrees that as long as the City has not exercised any of the remedies set forth in **Section 10.2** following the occurrence and continuance of an Event of Default, subject to any applicable grace, notice and/or cure period, the Company shall have sole and exclusive possession of the Property and the Project Site, subject to Permitted Encumbrances and the City’s right of access and usage pursuant to **Section 9.2** and **Section 5.4** hereof and shall and may peaceably and quietly have, hold and enjoy the Project during the Lease Term.

(b) Subject to the provisions of this Section, the Company shall have the right to use the Property for the Project. The Company will not use the Property for any purposes that are not reasonably related to the Project, including the long-term storage of vehicles, personal property and equipment that are not reasonably related to the Project. The Company will not conduct Company business on the Property that is not reasonably related to the Project. The Company shall comply in all material respects with all Applicable Laws now or hereafter applicable to the Project or to any adjoining public ways, as to the manner of use or the condition of the Project or of adjoining public ways. In the event of demonstrated noncompliance with such Applicable Laws, the Company will take all reasonable steps to comply with such Applicable Laws. The Company shall also comply with the mandatory requirements, rules and regulations of all insurers under the policies carried under the provisions of **Article VII** hereof. Subject to Article IV and Article X, the Company shall pay all costs, expenses, claims, fines, penalties and damages that may in any manner arise out of, or be imposed as a result of, the failure of the Company to comply with the provisions of this Section. Notwithstanding any provision contained in this Section, however, the Company shall have the right, at its own cost and expense, to contest or review by legal or other appropriate procedures the validity or legality of any such Applicable Laws, and during such contest or review the Company may refrain from complying therewith to the extent allowed by a court of competent jurisdiction.

Section 3.4. Title to the Project. The City shall be the sole owner of the Property and the Project during the Construction Period and the Lease Term.

Section 3.5. Ownership and Use of City Equipment. The City will provide written notice of all equipment owned by the City on the Property on the Effective Date. All equipment owned by the City on the Property, such as tools and landscaping implements, will be included for use with the Lease and may be used by Company. Certain specialized equipment, including the scale and the computer system to run the scale, if any, are include with the leasehold estate. In Company's discretion, it may replace City-owned equipment as set forth in **Section 3.6** when such equipment becomes obsolete, outdated or is deemed no longer for efficient for operation of the Project, and Company will thereafter own all equipment purchased by Company. At the termination of the Lease, all City-owned equipment will remain in City ownership on the Property, and all Company-owned equipment will remain under the control and possession of Company.

Section 3.6. Personal Property.

(a) The City will provide written notice of all other personal property owned by the City on the Property on the Effective Date. All other personal property owned by the City on the Effective Date will continue to be owned by City and used by Company as described in **Section 3.5**. Such personal property owned by the City includes six 40-yard roll off boxes that are intended to be used in the operations of the Project. Company may not replace these roll off boxes without the written consent of the Director of Public Works.

(b) All personal property acquired for the Project by Company shall remain in Company ownership at all times. All vehicles acquired by Company for use on the Project shall be owned and maintained by Company, and shall remain in Company ownership and control at the termination of the Lease. City shall receive written notice regarding the purchase of vehicles for the Project as required by the Operations Contract. In the event of turnover in the entity serving as Company under the Lease, the same rules of ownership for personal property shall apply to such successor Company, and the initial Company and all successor Companies shall separately arrange for ownership of personal property upon a change of entity serving as the Company.

ARTICLE IV

CONSTRUCTION AND IMPROVEMENT OF THE PROJECT

Section 4.1. Construction and Improvement of the Project. The City and the Company agree that the Company, as the agent of the City, shall construct and improve the Project as follows:

(a) Company will take possession of the Property under the leasehold estate on the Effective Date. Subject to approvals by the City and by MDNR, as may be required, Company shall commence construction of the Project Improvements promptly after the Effective Date and in a manner materially consistent with the description of the Project Improvements included in **Exhibit B** to this Lease, which shall start the Construction Period. Company shall diligently and reasonably pursue completion of construction in accordance with the Development Schedule which is attached as **Exhibit C**. The City understands and acknowledges that during the Construction

Period, certain approvals may be required from MDNR. Subject to the express terms herein, failure to diligently and reasonably pursue construction during the Construction Period shall be a breach of the Lease. It shall not be considered a breach should local, state or national government orders (e.g. stay-at-home orders, government shutdowns, etc.), or material supply shortages, serve to restrict, delay or prohibit diligent completion of construction.

(b) Revisions to the Plans and Specifications that would materially alter the intended purpose of the Project may be made only pursuant to the UDO processes governing the preliminary development plan and special use permit for the Project. The Company agrees that the aforesaid construction and Project Improvement will result in facilities suitable for use by the Company for the Project. The provisions of this paragraph are in addition to and do not supersede the provisions of **Section 8.2**.

(c) Company shall not permit others to take any actions related to construction that are not in compliance with the Plans and Specifications and all required City approvals. Company shall pay prevailing wage on this Project as required by law, with such determination to be made by the Company, and Company shall defend and indemnify the City for any claims or lawsuits arising out of Company's failure to pay prevailing wages. Company, in its discretion, may undertake construction itself for various portions of the Project, subject to the City approvals

Section 4.2. Payment for Project Costs. All Project Costs associated with the construction of the Project as specified in **Section 4.1** hereof shall be paid by the Company.

Section 4.3. Establishment of Completion Date and Commencement Date.

(a) The date that the Project Improvements have been completed (the "**Completion Date**") shall be evidenced to the City by a certificate signed by an authorized Company representative stating (1) the Project Improvements have been completed, (2) the construction and improvement of the Project has been completed in accordance with the Plans and Specifications, and (3) lien waivers have been provided for all persons performing work on the Property which prove that all costs and expenses incurred in the construction and improvement of the Project have been paid except costs and expenses the payment of which is not yet due or is being retained or contested in good faith by the Company. Notwithstanding the foregoing, such certificate shall state that it is given without prejudice to any rights against third parties which exist at the date of such certificate or which may subsequently come into being.

(b) Upon receipt of the certificate of the Completion Date from the Company, the City shall review the same and determine if the City agrees with such certification. Upon such acceptance, the Commencement Date shall be memorialized by the City delivering written notice of such date and Company countersigning the notice.

Section 4.4. Project Property of City. Subject to Section 4.5, the Project Site and the Project Improvements, including all work and materials on the Project Improvements as such work progresses, and all additions or enlargements thereto or thereof, the Project as fully completed, anything under this Lease which becomes, is deemed to be, or constitutes a part of the Project, and the Project as repaired, rebuilt, rearranged, restored or replaced by the Company under the provisions of this Lease, except as otherwise specifically provided herein, shall immediately when erected or installed become the absolute property of the City, subject only to this Lease and any Permitted Encumbrances.

Section 4.5. Machinery and Equipment Property of the Company. Any machinery or equipment which do not constitute part of the Project Improvements and which are purchased by the Company shall be the property of the Company and shall not constitute a part of the Project. Such machinery and equipment may be subject to taxation, to the extent provided by law.

Section 4.6. Environmental Matters.

(a) The Company acknowledges that it is responsible for maintaining the Project in compliance with all Environmental Laws. In the event that the Company fails to undertake to comply with any final, non-appealable order issued by any local, state or federal authority under applicable Environmental Law, the City, immediately after notice to the Company and the Company's failure to cure the default within the time frames prescribed by this Lease, may elect (but shall not be required) to undertake such compliance.

(b) In the event that the Company receives any notice demanding the compliance with any Environmental Law, or received notice of the failure to comply with any Environmental Law, the same shall promptly be reported to the City. In the event that the City receives any notice demanding the Company's compliance with any Environmental Law, or receives notice of the Company's failure to comply with any Environmental Law, the same shall be promptly reported to the Company. After the occurrence of any of these events, the Company shall have a reasonable period of time, as dictated by such notice but not to exceed thirty (30) days, to commence actions that bring the Company into compliance with such Environmental Law. Upon the Company's failure to cause compliance, the City may exercise any remedy authorized by this Lease.

(c) To the extent any expenditures under Section 4.6 are incurred due to an act or omission of the Company, any moneys expended by the City in efforts to comply with any applicable Environmental Law (including the reasonable cost of hiring consultants, undertaking sampling and testing, performing any cleanup necessary or useful in the compliance process and reasonable attorneys' fees) shall be due and payable by the Company to the City as extraordinary direct expenses hereunder from the date such cost is incurred. Prior to incurring expenses, and provided that the compliance action is not an emergency that requires immediate action to protect against imminent harm or danger to persons or property, the City shall provide written notice and consult with the Company and allow for a reasonable period of time, as dictated by such notice but not to exceed thirty (30) days, in order to comply as requested by the City. Such documented extraordinary direct expenses shall be payable by Company within thirty (30) days after delivery by the City. Subject to the pre-conditions herein, the Company's failure to make timely payment shall be a breach of this Lease.

(d) Company is not responsible or liable for any pre-existing environmental issues that existed or began to occur prior to the Effective Date and which were not caused by Company or by KC Dumpster Company, LLC, and the City shall be responsible for the remedy for those pre-existing environmental issues.

(e) To the extent caused by the act or omission of the Company, the Company shall and does hereby indemnify the City and agree to defend and hold the City harmless from and against all loss, cost, damage and expense (including, without limitation, reasonable attorneys' fees and costs associated incurred in the investigation, defense and settlement of claims) that they may incur, directly or indirectly, as a result of or in connection with the assertion against them or any of them of any claim relating to the presence on,

escape or removal from the Project during the term of this Lease of any hazardous substance or other material regulated by any applicable Environmental Law, or compliance with any applicable Environmental Law, whether such claim is raised before, during or after the term of this Lease, including claims relating to personal injury or damage to property. Such indemnity shall not apply to any claims arising from the gross negligence or willful misconduct of the City, its employees, agents, and/or representatives. Nothing in this Lease shall be construed as a waiver by the City and its agents, employees and officers (elected and appointed) of any defense or immunity available to it or them including sovereign and qualified immunities.

ARTICLE V

RENT AND SERVICES PROVIDED BY THE COMPANY

Section 5.1. Monthly Rent.

(a) The Company covenants and agrees to pay to the City, on a monthly basis, in same day funds for the account of the City during this Lease Term, on or before the 5th day of each month during the Lease Term, the monthly rent (the “**Monthly Rent**”) as set forth in this **Section 5.1**.

(b) The Monthly Rent commencing during the first full month after the Commencement Date, and continuing through December of the same calendar year, is eight thousand dollars (\$8,000) per month. No rent shall be due and owed for a partial month during which the Commencement Date occurs.

(c) The Monthly Rent shall increase by two percent (2.0%) each calendar year, starting in January of the calendar year after the Commencement Date, and continuing annually each January thereafter through the full Lease Term including any Extension Terms, which shall be allocated proportionally over the twelve (12) monthly payments each calendar year.

(d) All payments of Monthly Rent shall be paid directly to a bank account through an automated clearinghouse agreement as arranged by the City Finance Department, or by another method of payment as acceptable to the Company and the City Finance Department.

Section 5.2. Rent Obligations of Company Absolute and Unconditional. Unless provided for herein or as agreed upon by both Parties in writing, the obligations of the Company under this Lease to make payments of Monthly Rent on or before the date it becomes due, and to perform all of its other obligations, covenants and agreements hereunder shall be absolute and unconditional, without notice or demand, and without abatement, deduction, set-off, counterclaim, recoupment or defense or any right of termination or cancellation arising from any circumstance whatsoever, whether now existing or hereafter arising, and notwithstanding any damage to, loss, theft or destruction of, the Project or any part thereof, any failure of consideration or frustration of commercial purpose, any change in the tax or other laws of the United States of America, the State of Missouri or any political subdivision thereof, or any default of the City hereunder (unless such default by the City materially impacts the ability of the Company to meet its obligations under the Operations Agreement, Lease, or any other documents entered into in connection with the Project); provided, however, that nothing in this **Section 5.2** is intended or shall be deemed to affect or impair in anyway the rights of the Company to terminate this Lease as provided herein.

Section 5.3. Household Hazardous Waste (HHW) Program. The Company shall operate the HHW Program in compliance with the following terms and conditions:

(a) The HHW Program shall at all times be operated in compliance with the Intergovernmental Agreement between the MARC Solid Waste Management District and the City relating to the Regional Household Hazardous Waste Program executed on or about August 30, 2003 (the “**MARC Agreement**”), subject to any amendments to, termination of that Agreement or other arrangement as agreed upon in writing by the Company, City and MARC, and subject to the further arrangement of the Parties to carry out the provisions of **Section 5.3(b) and (c)**.

(b) The City will coordinate with MARC and the Company to effectuate the following regarding operation of the HHW Program:

(1) During calendar year 2022, the City, Company and/or KC Dumpster Company, LLC will undertake efforts to educate the residents of Lee’s Summit that, starting on January 1, 2023, the City of Kansas City, Missouri (“KCMO”) will no longer accept Lee’s Summit residents at the KCMO HHW facility, and starting on January 1, 2023, and thereafter, Lee’s Summit residents may only dispose of household hazardous waste at the Project Site. It is the intention of the Parties to create a year-long transition period during calendar year 2022 whereby residents of Lee’s Summit are informed of this change forthcoming January 1, 2023, to encourage and facilitate the migration of Lee’s Summit residents from the KCMO HHW facility to the Project Site through marketing, scheduling and accommodations, generally set forth in 5.3(c), while honoring all existing financial obligations to KCMO under the MARC Agreement for Lee’s Summit residents that use the KCMO HHW facility during calendar year 2022;

(2) Starting January 1, 2023, KCMO will stop accepting Lee’s Summit residents at the KCMO HHW facility, and the City, the Company and/or KC Dumpster Company, LLC will no longer recognize or honor any payment obligations to MARC or KCMO for use of the KCMO HHW facility by Lee’s Summit resident starting on that date;

(3) Promptly after the Effective Date, the City will provide written notice to MARC and KCMO that, starting on January 1, 2023, the City, Company and/or KC Dumpster Company, LLC will no longer remit payments to MARC or KCMO for the use of the KCMO HHW facility by Lee’s Summit residents on and after that date. Notwithstanding this provision, the Company will pay MARC for Lee’s Summit residents who attend mobile events which are conducted pursuant to an agreement between the City and MARC.

(4) The Company shall reasonably endeavor to continue the operation of the free store in association with the HHW Program as it has been managed prior to the Effective Date.

(c) Notwithstanding anything to the contrary in the PDA Agreement, during the Construction Period and then during the Lease Term, the Company will operate the HHW Program at the Project Site in compliance with the MARC Agreement and the following requirements, as of the Effective Date of this Lease:

(1) The HHW Program will be operated Monday through Friday from 8:00am to 4:30pm without the need for Lee’s Summit residents to schedule appointments;

(2) The Company will permit Lee's Summit residents to schedule appointments for use of the HHW Program on Saturdays from 8:00am to 4:30pm, and residents that attempt to schedule appointments will not be turned down if time slots are available. However, if no appointments are made by Lee's Summit residents during this period, the Company is not required to maintain the aforementioned hours for the HHW Program;

(3) The HHW Program shall not need to be operated on Sundays;

(4) There shall be no weight limits applicable to the disposal of HHW by Lee's Summit residents;

(5) The operating day and time requirements in this subsection 5.3(c) are minimum operating requirements, and the facility may be operated more frequently at the option of the Company.

Section 5.4. Additional Services Provided by Company. The Company shall perform the following services for the City at Company's sole cost and as part of the operation and management of the Project:

(a) operation of the South Recycling Facility as set forth in the Operations Agreement;

(b) up to one thousand three hundred (1300) tons annually of free disposal of Waste for the City's Public Works Department, Water Utilities Department, and Parks and Recreation Department, with such amount applying through calendar year 2023, and thereafter increasing by 2% per calendar year for the Lease Term;

(c) up to seven hundred (700) yards annually of free compost, pulverized organic materials and mulch provided to the City's Public Works Department, Water Utilities Department, and Parks and Recreation Department, with such amount applying through calendar year 2023, and thereafter increasing by 2% per calendar year for the Lease Term;

(d) the operation of RecycleFEST, which shall be an event that occurs at least twice per calendar year which is consistent with the City's prior operation of RecycleFEST, including acceptance of all recyclable items and materials that have historically been accepted by the City.

ARTICLE VI

MAINTENANCE, TAXES AND UTILITIES

Section 6.1. Maintenance and Repairs. Throughout the Lease Term the Company shall, in Company's discretion and at its own expense, keep the Project in as reasonably safe condition as the operation thereof will permit, and keep the Project in good repair and in good operating condition, making from time to time all necessary repairs thereto and renewals and replacements thereof it determines to be necessary. Without limiting the generality of the foregoing, the Company shall at all times remain in compliance with all provisions of the City's Code of Ordinances relating to property maintenance and appearance. In the exercise of Company's discretion to perform repairs and restoration, such discretion does not relieve the obligation to comply with all City Codes and other Applicable Laws at all times.

Section 6.2. Taxes, Assessments and Other Governmental Charges .

(a) The Parties anticipate that *ad valorem* real property taxes will not be charged to the leasehold estate created by this Lease, and such position shall be defended by the City as needed and permitted by law. Company may contest taxes and assessments at its option. Notwithstanding the Parties' expectations, in the event any taxes and assessments or other governmental charges are lawfully taxed, charged, levied, assessed, or imposed upon or against all or any part of the leasehold estate, the Company shall promptly pay and discharge, as the same become due, all such taxes and assessments. The City shall cooperate with Company in any appeal of the assessment of any ad valorem real property taxes.

(b) Any taxes, charges and assessments payable in connection with any machinery and equipment at any time installed thereon by the Company as referenced in Section 4.5, or the income therefrom, including any new taxes and assessments to the extent that the same are lawfully made, levied or assessed in lieu of or in addition to taxes or assessments now customarily levied against personal property, shall be paid by the Company. The Company may request and make all claims for deductions and depreciation of any Company machinery, equipment and personal property on the Property during Lease Term.

Section 6.3. Utilities. All utilities and utility services used by the Company in, on or about the Project shall be paid for by the Company and shall be contracted for by the Company in the Company's own name (or the name(s) of its affiliates), and the Company shall, at its sole cost and expense, procure any and all permits, licenses or authorizations necessary in connection therewith.

Section 6.4. Grants. The Company may pursue available state and federal grants associated with construction and operations of the Project. Company shall provide written notice of all grant applications and all grant awards, as set forth in the Operations Agreement. All improvements and fixtures to improvements that are constructed on the Property with the proceeds of Grants shall be owned by the City and shall remain in the ownership and control of City at termination of the Lease, subject to Section 8.1. All equipment and personal property that is acquired with the proceeds of any grants shall be owned by Company and shall remain in the ownership and control of Company at termination of the Lease. No grants shall be construed as an amendment to this Lease or the Operations Agreement, nor change or alter the respective relationship, duties or obligations of either Party hereto.

ARTICLE VII

INSURANCE

Section 7.1. Property and Liability Insurance.

(a) The Company shall obtain and shall maintain throughout the Lease Term policies of insurance as required in the Operations Agreement.

(b) In the event of loss or damage to the Project, the Net Proceeds of property insurance carried pursuant to this Section shall be applied as provided in **Article IX** of this Lease.

(c) The City shall obtain and shall maintain throughout the Lease Term a policy of environmental insurance to cover environmental claims for which the City is responsible as set forth in Section 4.6(d) of this Lease, and the City shall add Company as an additional insured to such policy but only as it applies to claims for which the City is responsible as set forth in Section 4.6(d) of this Lease.

Section 7.2. Certificate of Compliance. The Company shall provide the City certificates of insurance as required by the Operations Agreement.

ARTICLE VIII

ALTERATION OF THE PROJECT

Section 8.1. Additions, Modifications and Improvements to the Project. The Company shall have and is hereby given the right, at the Company's sole cost and expense, to make such additions, modifications and improvements in and to any part of the Project as the Company from time to time may deem necessary or desirable for its business purposes, provided that such additions, modifications or improvements in compliance with the description of the Project Improvements as set forth in **Exhibit B** are first approved as required by the UDO. All additions, modifications and improvements made by the Company pursuant to the authority of this Section shall (a) be made in workmanlike manner and will comply in all material respects with all laws and ordinances applicable thereto, (b) when commenced, be prosecuted to completion with due diligence, and (c) when completed, be deemed a part of the Project; provided, however, that additions of machinery and equipment installed on the Project Site by the Company and not constituting repairs, renewals or replacements of the Project shall remain the property of the Company, may be removed by the Company, and shall be subject to *ad valorem* taxes in accordance with local, state and federal authority, unless the provisions of a grant or other agreement require otherwise.

Section 8.2. Permits and Authorizations. As required herein and pursuant to applicable law, the Company shall not do or permit others under its control to do any work on the Project related to any repair, rebuilding, restoration, replacement, modification or addition to the Project, or any part thereof, unless all requisite municipal and other governmental permits and authorizations shall have been first procured. All such work shall be done in a good and workmanlike manner and in material compliance with all applicable building, zoning and other laws, ordinances, governmental regulations. In the event of demonstrated noncompliance with such laws, ordinances, governmental regulations and requirements the Company will take all reasonable steps to comply with laws, ordinances, governmental regulations and requirements.

Section 8.3. Mechanics' Liens.

(a) The Company will not directly or indirectly create, incur, assume or suffer to exist any lien on or with respect to the Project, except Permitted Encumbrances, and the Company shall promptly notify the City of the imposition of such lien of which the Company is aware and shall promptly, at its own expense, take such action as may be necessary to fully discharge or release any such lien. Whenever and as often as any mechanics' or other similar lien is filed against the Project, or any part thereof, purporting to be for or on account of any labor done or materials or services furnished in connection with any work in or about the Project, the Company shall discharge the same of record. At all times when construction work is taking place on the Property which could result in mechanic's liens, if the property were privately owned,

Company shall provide a payment bond as required by Missouri law. Notice is hereby given that the City shall not be liable for any labor or materials furnished the Company or anyone claiming by, through or under the Company upon credit, and that no mechanics' or other similar lien for any such labor, services or materials shall attach to or affect the reversionary or other estate of the City in and to the Project or any part thereof.

(b) Notwithstanding paragraph (a) above, the Company may contest any such mechanics' or other similar lien if the Company (1) within 60 days after the Company becomes aware of any such lien notifies the City in writing of its intention so to do, (2) diligently prosecutes such contest, (3) at all times effectively stays or prevents any official or judicial sale of the Project, or any part thereof or interest therein, under execution or otherwise, (4) promptly pays or otherwise satisfies any final judgment adjudging or enforcing such contested lien claim and (5) thereafter promptly procures record release or satisfaction thereof. The Company may permit the lien so contested to remain unpaid during the period of such contest and any appeal therefrom unless the Company is notified by the City that, in the opinion of City's legal counsel, by nonpayment of any such items, the interest of the City in the Project will be subject to loss or forfeiture or liability for the City or its employees or officers (appointed and elected). In that event, the Company shall promptly, at its own expense, take such action as may be reasonably necessary to duly discharge or remove any such pledge, lien, charge, encumbrance or claim if the same shall arise at any time and the Company may be permitted to escrow or bond over any mechanics' lien. The Company shall save and hold harmless the City from any loss, costs or expenses the City may incur related to any such contest. The Company shall reimburse the City for any reasonable expense incurred by it in connection with the imposition of any such lien or in order to discharge or remove any such pledge, lien, charge, encumbrance or claim. The City shall cooperate fully with the Company in any such contest.

ARTICLE IX

SPECIAL COVENANTS

Section 9.1. Damage or Destruction.

(a) If the Project is damaged or destroyed by fire or any other casualty, the Company, or its respective insurer, as promptly as practicable, shall repair, restore, replace or rebuild the same so that upon completion of such repairs, restoration, replacement or rebuilding the Project is of a value comparable to or greater than the value thereof immediately before the occurrence of such damage or destruction or, at the Company's option, construct upon the Project Site new buildings and improvements thereafter together with all new machinery, equipment and fixtures which are either to be attached to or are to be used in connection with the operation or maintenance thereof, provided that (A) the value thereof shall be comparable to or greater than the value of such destroyed or damaged Project Improvements immediately before the occurrence of such damage or destruction and (B) the nature of such new buildings, improvements, machinery, equipment and fixtures will not impair the intended character and operations of the Project as set forth in the Operations Agreement.

If the Company, or its respective insurer, elects to construct any such new buildings and improvements, for all purposes of this Lease, any reference to the words "Project Improvements" shall be deemed to also include any such new buildings and improvements and all additions thereto and all replacements and alterations thereof.

Subject to any Lender requirements in any Mortgage to the contrary, and subject to the requirements above in this Section 9.1(a), any insurance proceeds required by **Article VII** hereof received with respect to such damage or loss to the Project that are in excess of the actual cost of repair, restore, or replace, or rebuild of the Project shall be solely retained by the Company.

(b) Except as otherwise provided in this Lease, in the event of any such damage by fire or any other casualty, the provisions of this Lease shall be unaffected and the Company shall remain and continue liable for the payment of all Monthly Rent and all other charges required hereunder to be paid by the Company, as though no damage by fire or any other casualty has occurred.

(c) The City and the Company agree that they will cooperate with each other, to such extent as such other party may reasonably require, in connection with the prosecution or defense of any action or proceeding arising out of, or for the collection of any insurance monies that may be due in the event of, any loss or damage, and that they will execute and deliver to such other parties such instruments as may be required to facilitate the recovery of any insurance monies.

(d) The Company agrees to give prompt notice to the City with respect to all fires and any other casualties occurring in, on, at or about the Project Site which damages a material portion of the Project. A “material” portion of the Project for purposes of this Section 9.1(d) shall mean a casualty resulting in ten percent (10%) or more of the Project being damaged by such casualty.

(e) The Company shall not, by reason of its inability to use all or any part of the Project during any period in which the Project is damaged or destroyed or is being repaired, rebuilt, restored or replaced, nor by reason of the payment of the costs of such rebuilding, repairing, restoring or replacing, be entitled to any reimbursement from the City or of any other obligations of the Company under this Lease except as expressly provided in this Section.

(f) Company is entitled to rent abatement during the time that Company cannot operate the Project due to such damage or destruction of the Project; however, the Company is not relieved of any contractual obligations to the City in the event that the Project is not reconstructed for any reason after a casualty, unless agreed to by the City.

Section 9.2. City’s Right of Access to the Project. The City has the right to access the Property to inspect, ensure and reasonably seek compliance with the Lease, subject to the terms herein. City may freely access the property without permission of the Company during normal business hours, but shall provide reasonable, advanced notice of such access to Company when accessing the property outside of normal business hours. City staff shall coordinate activities on the Property with Company. During times of declared emergencies, City shall have the right of access and use of the Property.

Section 9.3. Granting of Mortgages and Financing Arrangements.

(a) The City acknowledges and agrees that the Company may finance and refinance the Project Improvements in connection with its rights and interests in the Project, this Lease, and the leasehold estate created hereby with prior notice and prior written consent of the City. The Company shall have the right to assign this Lease, the leasehold estate, and/or grant security interests therein, to any Lender for the purpose of financing the Project Improvements. This right shall apply only to Mortgages and security

interested granted for the purpose of financing the Project Improvements, and the Company shall not incur any Mortgages, assignments or grant security interests in the leasehold estate that are not directly related to financing the Project Improvements. The Parties acknowledge that as of the Commencement Date Company has granted a Deed of Trust to _____ covering the Project Site together with an Assignment of Leases (collectively the “_____ **Deed of Trust**”), and that this Lease is subject and subordinate to the _____ Deed of Trust in all respects. The Deed of Trust constitutes a Mortgage as that term is defined in this Lease. **[This section to be completed at signing.]**

(b) With respect to the _____ Deed of Trust and any future Mortgage, upon notice by the Company to the City in writing that it has executed a Mortgage under which it has granted rights in this Lease to a Lender which includes the name and address of such Lender, the following provisions shall apply in respect of each such Lender:

(1) there shall be no merger of this Lease or of the leasehold estate created hereby with the fee title to the Project, notwithstanding that this Lease or said leasehold estate and said fee title shall be owned by the same Person or Persons, without the prior written consent of such Lender;

(2) each Lender shall have the same period of time which the Company has, after the service of any required notice upon it, within which to remedy or cause to be remedied any payment default under this Lease which is the basis of the notice plus thirty (30) days, and the City shall accept performance by such Lender as timely performance by the Company;

(3) the City may exercise any of its rights or remedies with respect to any other Event of Default by the Company, subject to any applicable grace, notice and/or cure period;

(4) such Lenders shall have the right to identify a substitute party for performance of the obligations of the Company, provided that the Lender provides written notice to the City and the City has, in its sole discretion, agreed with the substitute party as the operator of the Project. If the City does not provide this permission, then the Residual Payment set forth in **Section 10.7** shall be paid by the City.

(d) In connection with the execution of one or more Mortgages, upon the request of the Company, the City agrees to execute such documents as shall be reasonably requested by a Lender and which are usual and customary in connection with the closing of the financing or refinancing pursuant to the Mortgage, provided that the City shall not be required to undertake any duties or payment obligations under such documents.

(e) This Lease is subject and subordinate to any Mortgage, provided that the Mortgage documents recognize and agree to the rights of the City to make the Residual Payment as set forth in **Section 10.7**.

(f) The Company shall not have the right to assign this Lease without the prior written approval of the City. The Company shall not have the right to sublease the leasehold interest created by this Lease.

(g) During the term of any Mortgage, this Lease may not be modified, amended, canceled or surrendered by agreement between the City and the Company, without the prior written consent of the applicable Lender;

(h) In the event of foreclosure by a Lender, or liquidation of the indebtedness and transfer in lieu of foreclosure, the City shall have the right to approve the transferee to the leasehold interest. No transfer of the leasehold interest to any party other than the Lender shall occur without prior City Council approval. Lender may request that the City conduct a request for proposals (RFP) process at City's cost to secure a new company to succeed Company to the Leasehold Interest. Lender may suggest a leasehold interest transferee, which shall be subject to City Council approval as indicated herein.

(i) The City agrees that any requested consent or signature of the City to any Mortgage under this Section (including any related document, including but not limited to documents subordinating the City's fee interest in the Project Site or any portion thereof to a Mortgage) may be given by the City Manager, in his or her discretion, without further approval of the City Council.

Section 9.4. Indemnification of City.

(a) To the extent caused by an act or omission of Company, the Company shall indemnify and save and hold harmless the City and the City Council members, officers, agents and employees (collectively, the "Indemnified Parties") from and against all claims, demands, costs, liabilities, damages or expenses, including attorneys' fees, by or on behalf of any person, firm or corporation arising from the execution of this Lease, the Operations Agreement or any other documents entered into in connection with this Lease and from the conduct or management of, or from any work or thing done under, in or on the Project during the Lease Term, and against and from all claims, demands, costs, liabilities, damages or expenses, including attorneys' fees, arising during the Lease Term from (a) any condition of the Project, (c) any breach or default on the part of the Company in the performance of any of its obligations under the Operations Agreement or this Lease or any related document, except for any material breach by the City of its obligations that is the cause of the Company's breach or default (c) any contract entered into by the Company in connection with the purchase, construction, extension or improvement of the Project, including any contract relating in any way to the undermined remediation work, (d) any act of negligence of the Company or of any of its agents, contractors, servants, employees or licensees, (e) any act of negligence of any agents, contractors, servants, employees or licensees of any assignee or sublessee of the Company; provided, however, the indemnification contained in this Section shall not extend to the City if such claims, demands, costs, liabilities, damages or expenses, including attorneys' fees, are the result of work being performed at the Project by employees of the City or the result of negligence or willful misconduct by the City. The City shall, at the request of the Company, reasonably cooperate with the Company to address any claims or demands made with respect to any costs, liabilities, damages, or expenses arising out of this Lease, the Operations Agreement, or any other documents entered into in connection with the Project. Pursuant to the terms as stated herein, and upon notice from the City, the Company shall defend the City in any such action or proceeding. This Section shall survive any termination of this Lease and is subject to the applicable statute of limitations.

(b) Subject to the pre-conditions as stated in Section 9(a), In case any action shall be brought against one or more of the Indemnified Parties based upon the foregoing indemnification and in respect of which indemnity may be sought against the Company, the Indemnified Parties shall promptly notify the Company in writing and the Company shall promptly assume the defense thereof, including the employment of counsel, the payment of all reasonable expenses and the right to negotiate and consent to settlement. If the Company shall have wrongfully failed to assume the defense of such action, the reasonable fees and expenses of counsel retained by the Indemnified Party shall be paid by the Company. If any of the Indemnified Parties is advised by counsel retained by the Company to defend such action that

there may be legal defenses available to it which are adverse to or in conflict with those available to the Company or any other Indemnified Party, and that the defense of such Indemnified Party should be handled by separate counsel, and the Company shall not have the right to assume the defense of such Indemnified Party, but shall be responsible for the reasonable fees and expenses of counsel retained by such Indemnified Party in assuming its own defense, provided, such counsel shall be acceptable to the Company. Any one or more of the Indemnified Parties shall have the right to employ separate counsel in any such action and to participate in the defense thereof, but the fees and expenses of such counsel shall be at the expense of such Indemnified Party or Indemnified Parties unless employment of such counsel has been specifically authorized by the Company. The Company shall not be liable for any settlement of any such action effected without its consent by any of the Indemnified Parties, but if settled with the consent of the Company or if there be a final judgment for the plaintiff in any such action against the Company or any of the Indemnified Parties, with or without the consent of the Company, the provided that the Company was given prompt written notice and the ability to assume the defense thereof as required by this paragraph, the Company agrees to indemnify and hold harmless the Indemnified Parties to the extent provided herein.

Section 9.5. Company to Maintain its Corporate Existence. The Company agrees that until this Lease is terminated, it will maintain its corporate existence, and will not dissolve or otherwise dispose of all or substantially all of its assets, will not consolidate with or merge into another domestic company or corporation or permit one or more other domestic corporations to consolidate with or merge into it, and will not sell or otherwise transfer to another domestic corporation all or substantially all of its assets as an entirety and thereafter dissolve.

ARTICLE X

DEFAULTS AND REMEDIES

Section 10.1. Events of Default. If any one or more of the following events shall occur and be continuing, subject to any applicable grace, notice and/or cure period, it is hereby defined as and declared to be and to constitute an “Event of Default” or “default” under this Lease:

(a) Default in the due and punctual payment of Monthly Rent for a period of 10 days following written notice to the Company by the City, unless otherwise provided for herein or as agreed upon by both Parties in writing; or

(b) Default in the due observance or performance of any other material covenant, agreement, obligation or provision of this Lease on the City’s or Company’s part to be observed or performed, and such default shall continue for 30 days after the non-breaching party has given the breaching party written notice specifying such default, or such longer period as shall be reasonably required to cure such default provided that (1) the breaching party has commenced such cure within said 30-day period, and (2) the breaching party diligently prosecutes such cure to completion; or

(c) The Company: (1) admits in writing its inability to pay its debts as they become due, unless such admission is made in conjunction with any other agreement or negotiations with the City and/or Lender that is not otherwise a default hereunder; or (2) files a petition in bankruptcy or for reorganization, arrangement, composition, readjustment, liquidation, dissolution or similar relief under the Bankruptcy Code as now or in the future amended or any other similar present or future federal or state statute or regulation, or files a pleading asking for such relief, unless such

petition is dismissed within ninety (90) days of the filing; (3) consents to the appointment of a trustee, receiver or liquidator for all or a major portion of its property or fails to have the appointment of any trustee, receiver or liquidator made without the Company's consent or acquiescence, vacated or set aside; or (4) is finally adjudicated as bankrupt or insolvent under any federal or state law; or (5) is subject to any proceeding, or suffers the entry of a final and non-appealable court order, under any federal or state law appointing a trustee, receiver or liquidator for all or a major part of its property or ordering the winding-up or liquidation of its affairs, or approving a petition filed against it under the Bankruptcy Code, as now or in the future amended, which order or proceeding, if not consented to by it, is not dismissed, vacated, denied, set aside or stayed within ninety (90) days after the day of entry or commencement; or (6) suffers a writ or warrant of attachment or any similar process to be issued by any court against all or any substantial portion of its property located at the Project Site, and such writ or warrant of attachment or any similar process is not contested, stayed, or is not released within 60 days after the final entry, or levy or after any contest is finally adjudicated or any stay is vacated or set aside; or

(d) the Company fails to materially complete the Project as described in **Exhibit B** within the Construction Period as described herein, or abandons the Project after some or all construction is completed; or

(e) The City fails to maintain any of its permits, including, but not limited to, MDNR permits, necessary for the Contractor's operations under this Agreement.

(f) any Event of Default under the Operations Agreement by either the City or Company.

Section 10.2. Remedies on Default. If any Event of Default referred to in **Section 10.1** hereof has occurred and continues beyond any grace period or any other the period provided to notify and/or cure, then the non-breaching party may at the non-breaching party's election, then or at any time thereafter, and while such default continues, take any of the actions which are specified as the remedies in the Operations Agreement. In the event of a default, the Parties may use mediation to attempt to negotiate a mutually agreeable resolution to the claim of Default. If mediation is selected by both parties, the City shall cooperate in such mediation effort. The parties shall split the costs equally of mediation. Any mediation shall take place in Jackson County, Missouri. Both parties must agree to the mediator used.

Section 10.3. Survival of Obligations. The Parties covenant and agree that those of its obligations under this Lease which by their nature require performance after the end of the term of this Lease, or which are expressly stated herein as intended to survive expiration or termination of this Lease, shall survive the cancellation and termination of this Lease, for any cause.

Section 10.4. Performance of the Obligations. If the either Party shall fail to keep or perform any of its obligations as provided in this Lease in the making of any payment or performance of any obligation, then either party may (but shall not be obligated so to do) upon the continuance of such failure on the failing Party's part for 30 days after written notice of such failure is given the by the non-failing Party to the failing Party, and without waiving or releasing the failing Party from any obligation hereunder, as an additional but not exclusive remedy, make any such payment or perform any such obligation, and all reasonable sums so paid by the failing Party and all incidental reasonable costs and expenses incurred by the non-failing Party (including, without limitation, attorneys' fees and expenses) in performing such obligations shall be deemed extraordinary additional costs and shall be paid to the non-failing Party on

demand, and if not so paid by the failing Party, the non-failing Party shall have the same rights and remedies provided for in **Section 10.2** hereof in the case of default by the Company in the payment of Monthly Rent.

Section 10.5. Rights and Remedies Cumulative. The rights and remedies reserved by the City and the Company hereunder and those provided by law shall be construed as cumulative and continuing rights. No one of them shall be exhausted by the exercise thereof on one or more occasions. The City and the Company shall each be entitled to specific performance and injunctive or other equitable relief for any breach or threatened breach of any of the provisions of this Lease, notwithstanding availability of an adequate remedy at law, and each party hereby waives the right to raise such defense in any proceeding in equity.

Section 10.6. Waiver of Breach. No waiver of any breach of any covenant or agreement herein contained shall operate as a waiver of any subsequent breach of the same covenant or agreement or as a waiver of any breach of any other covenant or agreement, and in case of a breach by the Company of any covenant, agreement or undertaking by the Company or the City may nevertheless accept from the Company or City any payment or payments hereunder without in any way waiving the Company's or City's right to exercise any of its rights and remedies provided for herein with respect to any such breach or breaches of the City or Company which were in existence at the time such payment or payments were accepted by the City or Company.

Section 10.7. Residual Payment. If, at any time after the beginning of the Construction Period and before expiration of the Lease Term, this Lease is terminated and the Company has left or is removed from the Property and is no longer operating the Project Site under the Operations Agreement, the City shall have an obligation to make a payment to the Company, or to a Lender or other third party as required by any agreement executed by the Company, in order to fairly compensate Company for the Company's construction of the Improvements, and the funds loaned and expended to construct the Improvements (the "**Residual Payment**") under the following conditions:

(a) During the Construction Period, the Residual Payment will be an amount equal to the amount of funds actually expended or agreed to be expended by the Company on construction of the Project through such Lease termination. The amount due for the Residual Payment under this circumstance will be certified in writing by the applicable Lender(s).

(b) After the Commencement Date, the amount of the Residual Payment during the first year of the Lease Period and for each year thereafter shall be the lesser of (1) the remaining principal amount, and any interest amount accrued through the Residual Payment date, of the outstanding loan to a Lender, in order to fully compensate the Lender for the outstanding principal and interest amount, or (2) the amount stated on the amortization schedule for such loan which is attached hereto as **Exhibit D**. If the amortization schedule is used as the measurement of the Residual Payment, such amount shall be adjusted for all payments that the Company may have made on such loan during the then-current payment period. Additionally, if the amortization schedule is used as the measurement of the Residual Payment, the City shall request a copy from Company, or Company's then Lender, as to the then-applicable amortization schedule to determine the Residual Payment. If the then-applicable amortization schedule is different than **Exhibit D** and such is used as the measurement of the Residual Payment, the City shall have the right to confirm that the then-applicable amortization schedule is commercially reasonable. Said confirmation shall not be unreasonably withheld.

(c) The Residual Payment shall be made by the City, payable to the Company, within thirty (30) days after certification by the applicable Lender(s), or within thirty (30) days of Company's notice of the amounts as indicated in Section 10.7(b)(1)-(2), whichever is applicable.

Section 10.8. Assignment of Lease. Except as expressly allowed herein for a Mortgage to one or more Lenders, the following restrictions shall apply:

(a) The Company may not assign, transfer, encumber or dispose of this Lease or any interest therein or part thereof to any person or party except without the prior written consent of the City, or as allowed by **Section 10.3**.

(b) No portion of the Property, and no portion of the leasehold estate, may be subleased, assigned, transferred, encumbered or disposed by the Company, without the prior written consent of the City.

ARTICLE XI

TERMINATION

Section 11.1. Termination at end of Lease Term. Unless earlier terminated pursuant to **Section 11.2**, this Lease shall terminate on the date specified in **Section 3.2**.

Section 11.2. Conveyance of the Project. At the end of the Lease Term, or upon earlier termination and payment of the Residual Payment by the City pursuant to **Section 10.7**, the City will assume ownership of the Project Site and all Project Improvements free of the leasehold interest created by this Lease, and free of any Mortgages granted to Lenders as allowed by this Lease.

ARTICLE XII

MISCELLANEOUS PROVISIONS

Section 12.1. Notices. All notices, certificates or other communications required or desired to be given hereunder shall be in writing.

Section 12.2. Consents and Approvals. Unless specifically provided to the contrary herein, all approvals or consents of the City may be given by the City Manager or his or her designee without the necessity of any action by the City Council. The City Manager, in his/her discretion and in all cases, may seek the advice, consent or approval of the City Council for any action that requires consent or approval by the City Manager pursuant to this Lease.

Section 12.3. Limitation on Liability of City. No provision, covenant or agreement contained in this Lease or any obligation herein or therein imposed upon the City, or the breach thereof, shall constitute or give rise to or impose upon the City a pecuniary liability or a charge upon the general credit or taxing powers of the City or the State of Missouri. The Company bears sole responsibility and risk of loss for furniture, trade fixtures, machinery and equipment owned by the Company, whether used as part of the Project or not constituting part of the Project but present on the Property.

Section 12.4. Governing Law. This Lease shall be construed in accordance with and governed by the laws of the State of Missouri.

Section 12.5. Binding Effect. This Lease shall be binding upon and shall inure to the benefit of the City and the Company and their respective successors and assigns.

Section 12.6. Severability. If for any reason any provision of this Lease shall be determined to be invalid or unenforceable, the validity and enforceability of the other provisions hereof shall not be affected thereby.

Section 12.7. Execution in Counterparts. This Lease may be executed in several counterparts, each of which shall be deemed to be an original and all of which shall constitute but one and the same instrument.

Section 12.8. Electronic Storage. The Parties hereto agree that the transaction described herein may be conducted and related documents may be sent, received or stored by electronic means. Copies, telecopies, facsimiles, electronic files and other reproductions of original executed documents shall be deemed to be authentic and valid counterparts of such original documents for all purposes, including the filing of any claim, action or suit in the appropriate court of law.

Section 12.9. Satisfaction of the Company's Obligations. Any obligation of the Company under this Lease, including, but not limited to, the obligations of the Company to pay Monthly Rent, and to maintain insurance as required herein, may be performed by a member of the Company, and such performance by a member of the Company shall be treated as though the obligation were performed by the Company.

Section 12.10. Complete Agreement. To protect the Company and the City from misunderstanding or disappointment, any agreements the Company and the City reach covering the subject matter of this Lease are contained in this Lease, which are the complete and exclusive statements of the agreement between the Company and the City, except as the Company and the City may later agree in writing to modify this lease.

Section 12.11. Employee Verification. The Company will comply with and satisfy the requirements of Section 285.530.2, RSMo., as amended, which requires (1) any business entity receiving tax abatement to, by sworn affidavit and provision of documentation, annually affirm its enrollment and participation in a federal work authorization program with respect to the employees working in connection with the business entity receiving tax abatement, and (2) every such business entity to annually sign an affidavit affirming that it does not knowingly employ any person who is an unauthorized alien in connection with the entity receiving tax abatement. The Company shall provide such affidavits and documentation to the City on or before December 1 of each year during the term of this Lease, beginning December 1, 2021, and also upon execution of this Lease.

Section 13.12. Amendments, Changes and Modifications. Except as otherwise provided herein, this Lease may not be effectively amended, changed, modified, altered or terminated except as mutually agreed by the Parties.

[Remainder of this page intentionally left blank]

IN WITNESS WHEREOF, the Parties hereto have caused this Lease to be executed in their respective names by their duly authorized signatories, all as of the date first above written.

CITY OF LEE’S SUMMIT, MISSOURI

By: _____
Name: William A. Baird
Title: Mayor

[SEAL]

ATTEST:

By: _____
Name: Trisha Fowler Arcuri
Title: City Clerk

Approved as to form:

By: _____
Name: David Bushek
Title: Chief Counsel of Economic Development & Planning

STATE OF MISSOURI)
) ss.
COUNTY OF JACKSON)

BE IT REMEMBERED, that on this _____ day of _____, 2022, before me, the undersigned, a Notary Public in and for the County and State aforesaid, came William A. Baird, Mayor of the City of Lee’s Summit, Missouri, a city duly incorporated and existing under and by virtue of the laws of the State of Missouri, who is personally known to me to be the same person who executed, as such official, the within instrument on behalf of and with the authority of said City, and such person duly acknowledged the execution of the same to be the free act and deed of said City.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal, the day and year last above written.

[SEAL]

NOTARY PUBLIC

My Commission Expires:

Lease Agreement
Solid Waste Processing Facility

SUMMIT TRANSFER, LLC,
a Missouri limited liability company

By: _____

Name: _____

Title: _____

STATE OF MISSOURI)
) ss.
COUNTY OF JACKSON)

On this _____ day of _____, 2022, before me, a notary public, appeared _____, to me personally known, who being by me duly sworn, did say that he is the _____ of Summit Transfer, LLC, and is authorized to sign documents on behalf of said entity and that said instrument was signed on behalf of said entity by authority of its Articles of Organization and acknowledged said instrument to be the free act and deed of said company.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my notarial seal in my office the day and year last above written.

Notary Public

My Commission Expires:

EXHIBIT A

LEGAL DESCRIPTION OF THE PROPERTY

The Project Site the following described real estate located in Jackson County, Missouri:

Lot 1 of the plat entitled “Minor Plat, Lee’s Summit Solid Waste Processing Facility” in Lee’s Summit, Jackson County, Missouri, recorded at Book ___ and Page ___.

The attached minor plat is included as a visual reference.

EXHIBIT B

PROJECT IMPROVEMENTS

The Project Improvements consist of those improvements set forth on the preliminary development plan and as described in the special use permit which were approved by Ordinance Nos. 9332 (preliminary development plan) and 9333 (special use permit) on February 8, 2022 by the City Council. The Project Improvements shall include any amendments to the preliminary development plan or special use permit that may be approved by the City Council from time to time.

EXHIBIT C
DEVELOPMENT SCHEDULE

Task Name	Start	Finish	Notes
Plan Design / Engineering	9/1/21	4/1/22	
Survey	9/1/21	10/1/22	
City of LS Permitting	11/1/21	6/1/22	
MDNR Permitting	1/15/21	5/1/23	12-18 month process for MDNR
SIGNED LEASE AGREEMENT	5/1/22	5/1/22	
Request EVERGY design plan	5/1/22	5/1/22	
Request fiber from provider	5/1/22	5/1/22	
order locates	5/15/22	6/1/22	
order silt fence	5/15/22	6/1/22	
order grade stakes for north side	5/15/22	6/1/22	
Excavation- Rough site grade	6/1/22	6/15/22	
Excavation- New exit/ North retainage	6/7/22	7/1/22	
Order Steel Package	6/1/22	6/1/22	NOTE LEAD TIMES FOR MANUFACTURER
order staking for area west of facility	6/15/22	7/1/22	
western boundary grade	7/1/22	7/15/22	
Confirm EVERGY overhead design plan	7/1/22	7/1/22	layout before curbs
Confirm fiber layout with provider	7/1/22	7/1/22	layout before curbs
water tap and line	7/15/2022	8/1/22	run to future footing location
water tap inspection	7/15/2022	7/15/22	
install north retainage drain line	7/15/2022	8/1/22	
inspection?	7/15/2022	7/22/22	
install exit curbing and road base	8/1/22	8/15/22	
Screen wall Footings	8/1/22	8/15/22	
Footing Inspection	8/15/22	8/15/22	
masonry screen wall	9/1/22	9/15/22	
install north road base asphalt	9/1/22	9/15/22	route traffic to new PDA exit
South boundary staking	9/15/22	9/15/22	
excavation/grading south boundary	9/15/22	10/15/22	
scalehouse foundation	10/15/22	11/1/22	
inspection	10/22/22	10/22/22	
scalehouse ground rough	10/15/22	11/1/22	
inspection	10/15/22	10/22/22	

scalehouse flatwork	11/1/22	11/7/22	
install entrance curbs and road base	10/15/22	11/7/22	
FACILITY GRADING	10/15/22	11/1/22	
install south side asphalt base	11/7/22	11/14/22	tie into new exit road
scalehouse rough framing	11/7/22	11/21/22	
FACILITY FOOTINGS	11/1/22	11/15/22	
Inspection	11/7/22	11/7/22	
sewer line connections	11/1/22	12/1/22	
FACILITY BUNKER WALLS	11/15/22	12/1/22	
scalehouse rough in	11/22/22	12/15/22	
Steel Package delivery	12/1/22	12/1/22	
FACILITY GROUND ROUGH	12/1/22	12/15/22	
inspection	12/15/22	12/15/22	
scalehouse drywall	12/15/22	12/31/22	
facility flatwork	12/15/22	1/1/23	
equipment install	1/1/23	1/15/23	
scalehouse finishes	1/1/23	2/1/23	
FACILITY STRUCTURAL STEEL INSTALL	1/15/23	2/15/23	
scalehouse final inspection	2/1/23	2/1/23	SCALEHOUSE TARGET COMPLETION DATE
FACILITY DOOR INSTALL- BIFOLD	2/14/23	2/28/23	
FACILITY RISER ROOM MASONRY	2/15/23	3/1/23	
FACILITY SPRINKER INSTALL	3/1/23	3/15/23	
INSPECTION	3/15/23	3/15/23	
FACILITY ROUGH ELECTRICAL	3/1/23	3/15/23	
FACILITY EQUIPMENT TESTING	3/15/23	4/1/23	
CITY OF LS FINAL INSPECTIONS	4/1/23	4/1/23	TEMP CERT OF OCCUPANCY
MDNR FINAL INSPECTIONS	4/1/23	4/1/23	
PUNCH LIST ITEMS ADDRESSED	4/1/23	4/15/23	
MDNR APPROVAL- OPEN TO PUBLIC	5/1/23	5/1/23	TARGET COMPLETION DATE
FINAL GRADING/LANDSCAPING	5/1/23	9/1/23	establish vegetation
FINAL PUNCHLIST INSPECTION	9/1/23	9/1/23	FINAL CITY OCCUPANCY CERT.

EXHIBIT D

LOAN AMORTIZATION SCHEDULE

[To be added at execution based on the final terms of the Company's initial loan.]