

STATE OF NORTH CAROLINA

COUNTY OF JACKSON

THIS AGREEMENT is made and entered into as of the 1st day of January 2024, by and between JACKSON COUNTY, a body politic corporate in nature and subdivision of the State of North Carolina, hereinafter "**County**," and Metalwood Recycling Services, Inc., hereinafter "**Contractor**."

W I T N E S S E T H

WHEREAS, County utilizes a transfer station to facilitate an economical and environmentally sound method to accommodate and dispose of municipal solid waste ("MSW"), construction and demolition waste ("C&D"), recyclables and scrap metals generated within County, and Contractor is in the business of removal and purchase of scrap metals and refrigerant removal ("**Services**"); and

WHEREAS, Contractor is willing to perform such Services, and will secure and maintain the necessary equipment and personnel to service the foregoing objectives of County.

NOW, THEREFORE, in consideration of the mutual covenants and agreements hereinafter set forth, the parties agree with the other, as follows:

SERVICES PERFORMED. County agrees to provide to Contractor all scrap metal delivered to all County staffed recycling centers.

The specific Services Contractor shall be obligated to perform include:

- A. The Contractor will assume liability for obtaining necessary permits and approvals from relevant federal, state, and local government agencies having jurisdiction over the processing and transportation of scrap metal;
- B. The Contractor will be certified by the EPA in refrigerant recovery, will be responsible for the removal of refrigerant, and will adhere and comply with all applicable environmental laws, rules and regulations;
- C. Contractor will meet all requirements of the Clean Air Act ("**Act**");
- D. Contractor will comply with all rules and regulations set by OSHA standards;
- E. Contractor will keep and maintain all equipment necessary to provide Services under this Agreement;
- F. Contractor will provide County a refrigerant manifest upon completion of work;
- G. Contractor will compensate County within thirty (30) days of acceptance of scrap metal for sale; and

H. Contractor will comply with all federal, state, and local laws and regulations.

COMPENSATION TO COUNTY. Contractor will compensate County seventy-five (75%) of the revenue derived from Contractor's sale of County's scrap metal.

TERM AND TERMINATION. The Effective Date is the date of mutual execution of this Agreement. The Agreement shall have a term of **January 1, 2024, through December 31, 2029**. County may terminate this Agreement at any time, with or without cause, by notification to Contractor in writing. In the event of termination without cause, County shall be paid for services performed by Contractor to the date of notification of termination.

COUNTY REPRESENTATIONS AND WARRANTIES. County warrants it will undertake reasonable efforts to exclude regulated waste, MSW, and special waste from the Transfer Station. County warrants it will exercise its best efforts to operate the Transfer Station in compliance with applicable federal, state, and local laws.

FORCE MAJEURE. Either party shall be excused from failure to perform any of its obligations hereunder if, and to the extent, such failure to perform is caused by, arises out of, or is attributable to war, riot, fire, explosion, acts of God, labor disputes, sabotage, accident, embargo, injunction, compliance with governmental order, inability to obtain fuel or raw materials preventing either party from performing any of its obligations hereunder, provided the party claiming such excuse shall promptly notify the other party of the reason therefore and the approximate duration of such delay or failure.

BASIC INSURANCE REQUIREMENTS. At Contractor's sole expense, Contractor shall procure and maintain the following minimum insurances with insurance companies authorized to do business in North Carolina and rated A-VII or better by A.M. Best.

COVERAGE:

LIMITS OF LIABILITY:

- | | |
|--|--|
| A. Workman's Compensation: | Statutory Limits |
| B. Employer's General Liability: | \$500,000 |
| C. Bodily Injury Liability (<i>except Auto</i>): | \$1,000,000 each / \$2,000,000 aggregate |
| D. Property Damage Liability (<i>except Auto</i>): | \$1,000,000 each / \$2,000,000 aggregate |
| E. Automobile Bodily Injury Liability | \$1,000,000 each person |
| F. Automobile Property Damage | \$1,000,000 each occurrence |
| G. Excess Umbrella Liability | \$2,000,000 each occurrence |

ADDITIONAL INSURANCE REQUIREMENTS.

- A. Contractor's General Liability policy will name County, its elected officials, officers, agents, and employees as additional insureds with respect to both the General Liability and Auto Liability policies. Before commencement of any work or event, Contractor shall provide a Certificate of Insurance as evidence of the required basic insurance coverages detailed above. The Certificate Holder must be listed as:

Jackson County
Attn: County Manager
401 Grindstaff Cove Road, Suite A-207
Sylva, NC 28779

The Certificate of Insurance must note in the Description of Operations the following information:

Department: **Jackson County Public Works**
Contractor: **Metalwood Recycling, Inc.**

If Contractor is authorized to assign or subcontract any of its rights or duties hereunder and in fact does so, Contractor shall ensure the assignee or subcontractor satisfies all requirements of this Agreement, including, but not limited to, maintenance of the required insurance coverages and provision of Certificate(s) of Insurance, and additional insured endorsement(s), in proper form prior to commencement of services.

INDEMNIFICATION. Contractor agrees to protect, defend, indemnify and hold County, its elected officials, officers, employees and agents free and harmless from and against any and all losses, penalties, damages, settlements, costs, charges, professional fees or other expenses or liabilities of every kind and character arising out of or relating to any and all claims, liens, demands, obligations, actions, proceedings, or causes of action of every kind in connection with or arising out of this Agreement and/or the performance hereof that are due, in whole or in part, to the negligence of Contractor, its elected officials, officers, employees, subcontractors or agents. Contractor further agrees to investigate, handle, respond to, provide defense for, and defend the same at its sole expense and agrees to bear all other costs and expenses related thereto.

DECLARATION BY CONTRACTOR. Contractor declares Contractor has complied and will continue to comply throughout the term of this Agreement, with all federal, state, and local laws regarding business permits, certificates, and licenses which may be required to carry out the work to be performed.

AMENDMENT AND MODIFICATION. This Agreement may be amended, modified, or supplemented only by written mutual consent of the parties hereto.

ASSIGNABILITY OF CONTRACT. Either party may not assign this Agreement in whole or in part without the prior written consent of the other party.

GOVERNING LAW. This Agreement and the legal relations between the parties hereto shall be governed by, and construed in accordance with, the laws of the State of North Carolina.

HOW NOTICES SHALL BE GIVEN. Any notice given in connection with this Agreement must be in writing and delivered in person or via certified mail, return receipt requested, postage prepaid, to the party at the party's address stated herein. Any party may change its address by giving notice of the change in accordance with this Paragraph.

COUNTY:

Jackson County
Attn: County Manager
401-B Grindstaff Cove Road, Suite A-207
Sylva, NC 28779

CONTRACTOR:

Metalwood Recycling, Inc.
Attn: Randall D. Kinsland
1483 Sunset Farm Road
Whittier, NC 28789

COMPLETE AGREEMENT. This Agreement contains the entire agreement of the parties regarding the terms and conditions contained herein, and there are no oral or written conditions, terms, warranties, understandings, or other agreements pertaining thereto which have not been incorporated herein. This Agreement may be modified only by written instrument duly executed by both parties or by their respective successors in interest.

E-VERIFY. E-Verify is the federal program operated by the United States Department of Homeland Security and other federal agencies, or any successor or equivalent program, used to verify the work authorization of newly hired employees pursuant to federal law. Contractor shall ensure that Contractor and any subcontractor performing work under this Agreement: (i) uses E-Verify if required to do so by North Carolina law; and (ii) otherwise complies with the requirements of Article 2 of Chapter 64 of the North Carolina General Statutes. A breach of this provision by Contractor will be considered a breach of this Agreement, which entitles County to terminate this Agreement, without penalty, upon notice to Contractor.

IRAN DIVESTMENT. Pursuant to Article 6E of Chapter 147 of the North Carolina General Statutes, County must require most entities with which it contracts, which would include Contractor under this Agreement, to certify that the entity is not identified on a list created by the State Treasurer pursuant to N.C.G.S. § 147-86.58 (the "Final Divestment List"). This requirement is related to ensuring that entities with which local governments contract are not involved in investment activities in Iran. Contractor certifies that: (i) it is not listed on the Final Divestment List, and (ii) it will not utilize any subcontractor performing work under this Agreement which is listed on the Final Divestment List.

IN WITNESS WHEREOF, the parties hereto, acting under authority of their respective governing bodies, have caused this Agreement to be duly executed.

COUNTY OF JACKSON

METALWOOD RECYCLING SERVICES, INC.

BY: _____

BY: 

Don Adams, Jackson County Manager

Randall D. Kinsland, President

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

BY: _____

Darlene Fox, Jackson County Finance Director