

## NON-EXCLUSIVE TEMPORARY LICENSE AGREEMENT

THIS NON-EXCLUSIVE TEMPORARY LICENSE AGREEMENT, hereinafter referred to as “License,” is made this 2 day of October, 2017, between PINELLAS COUNTY, a political subdivision of the State of Florida, hereinafter referred to as “LICENSOR,” and the CITY OF GULFPORT a municipal corporation of the State of Florida, hereinafter referred to as “LICENSEE,” hereinafter collectively referred to as the “Parties.” Given the exigent circumstances surrounding the Parties post-Hurricane Irma recovery efforts, this License may be executed retroactive to the Commencement Date.

### WITNESSETH:

WHEREAS, the Parties wish to formalize an agreement to permit LICENSEE to use LICENSOR owned property for the purpose of accessing and maintaining a temporary debris monitoring, site for the monitoring, staging and reduction of debris generated by Hurricane Irma.

**NOW, THEREFORE**, in consideration of the mutual covenants terms and conditions herein contained, and for other good and valuable consideration, the receipt and sufficiency of which are hereby mutually acknowledged, the Parties agree as follows:

1. **PREMISES:** In consideration of the covenants of the respective parties hereto, as hereinafter described, LICENSOR does hereby license and let unto the LICENSEE, and LICENSEE does hereby license from LICENSOR, a portion of County-owned property located at 10901 28<sup>th</sup> St. N., St. Petersburg, FL Parcel ID 14/30/16/71418/001/0020, as further described in Exhibit “A” attached hereto and made a part hereof, herein after referred to as the “Premises.”
2. **USE:** LICENSOR hereby grants LICENSEE the right to use the Premises strictly for the purpose of monitoring, staging and reduction of LICENSEE’s debris directly related to Hurricane Irma in a manner so as to not negatively impact the LICENSOR’s use, if any, of the property for the monitoring, staging and reduction of LICENSOR’s hurricane debris. The Parties recognize and acknowledge that each party’s use and debris shall remain segregated on the site.
3. **TERM:** This License shall be for a one (1) year term commencing on September 18, 2017 (herein referred to as the “Commencement Date.”) LICENSEE shall have the option to renew this License for an additional sixty (60) days. LICENSEE must notify LICENSOR, in writing, of its intent to exercise said option one-hundred twenty (120) days prior to the anniversary of the

License of the Commencement Date. Upon termination of this License, LICENSEE shall vacate the Premises and the Premises shall be thoroughly cleaned of all materials, debris, etc., and shall be restored as near possible to its original condition.

4. ASSIGNMENT: LICENSEE agrees not to assign, sublet, or in any manner transfer the Premises under this License.

5. MAINTENANCE OF THE SITE: LICENSEE shall be responsible for the safe upkeep, maintenance, repair, replacement and management of the Premises utilized by or on behalf of LICENSEE.

6. PARTIES' LIABILITY: Each Party hereto agrees to be responsible for their own acts of negligence or their respective agents' acts of negligence under this License, as limited by Section 768.28, Florida Statutes. Nothing herein is intended to serve as a waiver of sovereign immunity by either Party. Nothing herein shall be construed as consent by either Party to be sued by third parties in any manner arising out of this License. To the extent allowed by law, LICENSEE hereby agrees to be responsible and liable for all risk, injury, and claims of any sort due to or that arise from the LICENSEE's use of the Premises.

7. INSURANCE: LICENSEE shall require all agents and contractors utilizing the Premises to name LICENSOR as an additional insured on any and all insurance policies required by the LICENSEE for the disaster debris monitoring, staging and reduction occurring on the Premises.

8. ALTERATIONS & IMPROVEMENTS: LICENSEE agrees to make no structural alterations or permanent improvements to the Premises without the prior written consent of the LICENSOR. In the event approval is granted, LICENSEE shall require its contractors and subcontractors to provide the Insurance and Indemnification as provided in this License to the LICENSOR. At the termination or expiration of the License, LICENSEE agrees that all such improvements and alterations shall be removed at LICENSEE's expense.

9. LIABILITY OF LICENSEE: All property of any kind that LICENSEE, its contractors, agents, or employees, may have on Premises during continuance of the License shall be at the sole risk of LICENSEE and LICENSOR shall not be liable to LICENSEE, its employees, contractors, subcontractors, or any other person for any injury, loss, or damage to property to any person on said Premises.

10. NOTICES: Any official notice provided for in this License must be in writing and be forwarded by registered or certified mail, return receipt requested, postage prepaid, or express or

courier service. Either Party may change its address to any other address in the United States of America by notice in writing given to the other party in the manner herein provided.

LICENSEE shall forward all notice to LICENSOR at the following address:

*Pinellas County Public Works Department  
Rahim Harji, P.E., Director  
22211 U.S. 19 North, Bldg No. 1  
Clearwater, FL 33765*

LICENSOR shall forward all notices to LICENSEE at the following address:

*City of Gulfport  
Tom Nicholls, Public Works Superintendent  
2401 53<sup>rd</sup> Street South  
Gulfport, FL 33707*

11. HAZARDOUS SUBSTANCES: LICENSEE hereby agrees that (i) no activity will be conducted on the Premises that will produce any Hazardous Substance, except for such activities that are part of the ordinary course of LICENSEE's disaster debris monitoring, staging and reduction ("Permitted Activities") provided said Permitted Activities are conducted in accordance with all Environmental Laws and have been approved in advance in writing by LICENSOR; (ii) the Premises will not be used in any manner for the storage of any Hazardous Substances except for the temporary storage of such materials that are used in the ordinary course of the Permitted Activities ("Permitted Materials") provided such Permitted Materials are properly stored and disposed of in a manner and location meeting all Environmental Laws and approved in advance in writing by LICENSOR; (iii) no portion of the Premises will be used as landfill or a dump; (iv) LICENSEE will not install any underground tanks of any type; (v) LICENSEE will not allow any surface or subsurface conditions to come into existence that constitute, or with the passage of time may constitute, a public or private nuisance; (vi) LICENSOR shall be permitted to conduct at LICENSOR'S expense any environmental testing reasonably necessary by LICENSOR or LICENSOR's agent, to determine the presence of any Hazardous Substance at or on the Premises. If at any time during or after the term of the License the Premises is found to be so contaminated or subject to said conditions demonstrated to have been caused exclusively by LICENSEE during the term hereof, LICENSEE agrees to clean up the Premises according to applicable Environmental Laws. If any contamination is found to

have been caused in part by LICENSEE, LICENSEE agrees to be responsible for its proportionate share of any clean-up expenses only to the extent that it is negligent. The foregoing obligation shall survive the termination or expiration of this License. In the event LICENSEE fails to act in the removal, proper disposal, or all required clean-up procedures to the satisfaction of appropriate Federal, State or Local Agencies, LICENSOR shall have the right to remedy LICENSEE's environmental problem at LICENSEE'S costs, and seek recovery from LICENSEE through proper legal channels. The term "Hazardous Substances" as used in this License shall mean pollutants, contaminants, toxic or hazardous wastes, including, but not limited to, asbestos, polychlorinated biphenyls, and petroleum products, or any other substances, the removal of which is required or the use of which is restricted, prohibited or penalized by any "Environmental Law," which term shall mean any Federal, State or Local Law or ordinance relating to pollution or protection of the environment.

LICENSEE agrees to promptly notify LICENSOR in writing of any environmentally hazardous event or procedure, including hazardous waste spills of any kind, on or contiguous to the Premises, regardless of responsibility, and to advise LICENSOR of any environmental concern expressed by any private party or government agency relating to the Premises.

12. QUIET ENJOYMENT: Grant of the License shall not restrict the right and interest of LICENSOR in general use, maintenance, and quiet enjoyment of property. Both Parties recognize and agree that LICENSOR will utilize the site for LICENSOR's disaster debris activities, or may allow another governmental entity to utilize the side for disaster debris activities of which LICENSEE shall not interfere.

13. DEFAULT: If LICENSEE should fail to keep and perform any of the terms, covenants, conditions or provisions in this License to be kept and performed by LICENSEE then LICENSOR, within thirty (30) days of becoming aware of the default, shall notify LICENSEE of the default and its demand to cure the default. Upon receipt of notice of default, LICENSEE shall have fifteen (15) days from the date of receipt to cure said default. Upon LICENSEE failure to cure said default as set forth herein, LICENSOR may declare this License terminated and take possession of the Premises as provided by law. LICENSEE covenants and agrees that upon termination herein, or at such election of the LICENSOR, or in any other way, LICENSEE will surrender and deliver said Premises and property peaceably to LICENSOR, their representatives and attorneys, immediately.

14. COVENANT AGAINST LIENS: LICENSEE shall have no power or authority to create any lien to the Premises or on the building or other improvements thereon, and LICENSEE shall notify all materialmen, contractors, artisans, mechanics and laborers and other persons contracting with LICENSEE with respect to the Premises or any part thereof, that they must look to LICENSEE to secure payment of any bill for work done or material furnished or for any other purpose during the term of this License.
15. COMPLIANCE WITH LAWS: LICENSEE shall comply with all laws of the United States of America, the State of Florida, the Pinellas County Code and applicable municipal ordinances. LICENSEE shall obtain all necessary permits and licenses and keep the same in force during the term of the License and shall not permit or commit any strip or waste of Premises.
16. BINDING AGREEMENT: The terms and provisions of this License shall be binding upon the Parties hereto, their successors and assigns.
17. FISCAL FUNDING: In the event funds are not budgeted and appropriated by LICENSOR in any succeeding fiscal year for purposes described herein, then this License shall be deemed to terminate at the expiration of the fiscal year for which funds were appropriated and expended.
18. CONDEMNATION: If the whole or any part of the Premises shall be taken by any public authority under the power of eminent domain, then this License shall terminate on the day the possession shall be required for any public purpose. Parties agree that LICENSEE will receive a Notice of Commencement of condemnation proceedings within ten (10) days of LICENSOR'S receipt of notice of their initiation if commenced by a third party, or within ten (10) days of their initiation if commenced by LICENSOR.
19. SUBROGATION: LICENSEE hereby waives subrogation rights for loss or damages against LICENSOR.
20. WAIVER: One or more waivers of any covenant or condition by LICENSOR shall not be construed as a waiver of subsequent breach of the same or other covenants or conditions, and consent or approval by LICENSOR to or of any act by LICENSEE requiring LICENSOR'S consent or approval shall not be construed a consent or approval to or of any subsequent similar act by LICENSEE.
21. ENTIRE AGREEMENT: The License as hereinabove set forth, including all exhibits and riders, if any, incorporates all covenants, promises, agreements, conditions and

understandings between the Parties, and no covenant, promise, agreement, condition or understanding, either written or oral, not specifically set forth herein shall be effective to alter the performance or the rights of the Parties as stated herein.

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IN WITNESS WHEREOF, the Parties hereto have executed this Non-Exclusive Temporary License Agreement the day and year first above written.

WITNESS:

*Jesley DeMuth*  
Print Name: Jesley DeMuth  
City Clerk

CITY OF GULFPORT

By: *James E. O'Reilly*  
Print Name: James E. O'Reilly  
Title: City Manager

WITNESS:

Della Klug  
Print Name: Della Klug

PINELLAS COUNTY, FLORIDA

By: *Mark S. Woodard*  
Mark S. Woodard, County Administrator

APPROVED AS TO FORM

By: *Cheryl Doraan Pembert*  
Office of the County Attorney

EXHIBIT A

**DEBRIS MANAGEMENT SITE - SOD FARM (Pinellas)**



Owner Pinellas County Solid Waste  
3095 114<sup>th</sup> Avenue North  
Largo, FL 33779-2942  
Parcel Number 14/30/16/71418/001/0020, (182 Acres), (8' Elevation)