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EDWARD R. ALEXANDER, JR.

June 24, 2022

VIA ELECTRONIC DELIVERY

Lee J. Baggett, Esquire
Sebastian Poprawski, Esquire
City Attorney's Office
City of Port St. Lucie
121 SW Port St. Lucie Blvd
Port St. Lucie, Florida 34984

Re: Interference with Business Relationships of Waste Pro of Florida, Inc.

Counsel:

As Sebastian, Amber and I discussed shortly after Waste Pro defaulted the City for assessing administrative charges that were punitive and not reasonably related to expenses incurred, the City's negative public comments were having a detrimental impact on Waste Pro's local operations. To be sure, employees were leaving Waste Pro and it was more challenging to hire replacements for the local workforce.

Unfortunately, the City did not heed Waste Pro's concerns and, in fact, has raised the level of vitriol in its public statements about Waste Pro. Add to it that the City is now making intentionally false statements about Waste Pro, it is clear the City is tortiously interfering with Waste Pro's relationship with the residents of the City. The following are but a few examples:

A. The City published a "Message from Mayor Shannon M. Martin" on June 20, 2022, wherein she informed that the City had only 3 choices for garbage collection services going forward:

1. Accept FCC's bid at an increase of approximately \$138 per year,
2. Accept Republic's bid at an increase of \$200 per year, or
3. Do nothing and let the citizen's [sic] contract with trash companies themselves. This was not a possibility due to our time constraints, but it does highlight the situation the City was in.

This statement by the Mayor that the City published is false in that Waste Pro discussed and provided a proposal to keep the Western Collection Zone of the City, as shown by this letter dated April 26, 2022. See, Waste Pro Letter dated April 26, 2022. The letter explained that

Waste Pro would agree to drop its legal claims and the City could keep the administrative charges that had already been assessed, which exceeded \$1.6 million.

As you know, because Waste Pro had a current contract until 2025, it could service the Western Collection Zone of the City through amendment despite the procurement process. The Mayor's statement that "Waste Pro chose NOT to submit a bid" is intentionally deceptive to portray Waste Pro in a negative light. It makes it appear that Waste Pro would abandon this community it has served for more than 16 years, when Waste Pro's letter shows the opposite. *See, Waste Pro Letter dated April 26, 2022.*

B. In the June 22, 2022, press release by the City, the City stated that "after suspending recycling at Waste Pro's request, garbage collection has continued to decline."

That statement is patently false. As the City is well aware, Waste Pro has been bringing in crews from divisions outside of the area to provide additional assistance, some from as far as Louisiana. On June 12, 2022, City Manager Russ Blackburn thanked Waste Pro for its efforts and observed that "many areas with missed routes were picked up Saturday." *See, June 12, 2022, email from Russ Blackburn.* There is simply no possible way to reconcile Mr. Blackburn's gratitude and observation with the City's public comments about declining service.

C. In the June 22, 2022, press release by the City, the City falsely stated that "[t]he City has made several attempts to coordinate collections efforts with Waste Pro, but Waste Pro's Regional Vice President has severed communications with the City."

This statement by the City is completely false as the Thursday operations meetings continue to occur with Waste Pro and the City, including yesterday. *See, Meeting Invite.* More importantly, representatives for the City and Waste Pro communicate daily by phone and email. As for the Regional Vice President, his email exchange with the assistant to Russ Blackburn shows the falsity of that statement. *See, Email exchange dated June 17, 2022.*

D. In its June 17, 2022, press release, the City expressed that it was "deeply concerned with [the] legal maneuver" of Waste Pro's "outrageous move" of appealing the injunction that the Court entered.

This statement places Waste Pro in a negative light as it suggests that parties should not pursue viable appellate remedies. The viability of Waste Pro's appeal of the injunction is obvious from the City's Motion for Clarification. *See, Motion filed June 24, 2022.* Indeed, the City concedes that the injunction (1) did not track the oral pronouncement of the Court at the hearing, (2) did not make sufficient findings to justify its entry, (3) did not discuss a bond, and (4) did not meet the strict legal requirements for injunctions.

E. On the City's website, it has published the following answer to a Frequently Asked Question:

Have you considered going to once-a-week garbage pick-up during this transition?
Any change to the service levels with Waste Pro would require a new contract. Amending the contract would require additional time that we don't have. Our new hauler will begin in September and staff is diligently working to get expedite the transition.

This answer by the City is manifestly false. Pursuant to Section 8.4 of the Franchise Agreement, the days of Collection Service can be reduced when the Director determines that such change is "necessary or otherwise appropriate to protect the public health, safety, or welfare" of the residents. There is no need for an amendment, despite what the City is telling its residents.

Moreover, the City knows from its own experts that the service requirements of the Franchise Agreement were not sustainable and has already acknowledged that once a week service is appropriate in just a few months when FCC becomes the hauler. Instead of truthfully telling the residents that the City can make the change to once a week now and chooses not to do so, the City is misinforming the public to place itself in a positive light as it continues to disparage Waste Pro.

As the parties continue to wind down this 16-year relationship, it is truly disappointing that the City has decided that a public smear campaign is the appropriate way to proceed, even going so far as to solicit residents to complain about Waste Pro while dangling a carrot that they may get financial relief if they do. Perhaps the upcoming elections are driving these decisions. Regardless of the City's motivation, as my prior informal request that the City's rhetoric be tamped down was unsuccessful, please consider this a formal demand that the City cease and desist from further false and misleading disparaging statements about Waste Pro. Should the City not cease and desist, my firm has been authorized and instructed to seek all legal and equitable remedies available to it.

Very truly yours,

Amy S. Tingley

Enclosures
AST/jv



April 26, 2022

Russell Blackburn
City Manager
City of Port St. Lucie
121 SW Port Saint Lucie Blvd
Port Saint Lucie, FL 34984
Dear Russell,

As a result of the court-ordered directive to amicably resolve our legal dispute, Waste Pro has prepared the following term sheet for the City's consideration.

1. Parties agree to drop and withdraw their legal arguments pertaining to the current agreement and enter into a settlement agreement in the form of a contract amendment. City also rescinds notice to Waste Pro's bonding company.
2. The city discontinues the use of the supplemental contractor for the remaining months of the current agreement. Waste Pro will augment its use of subcontractors to keep yard waste on schedule.
3. The city keeps administrative penalties assessed to date.
4. The city evaluates the request for proposals received and awards a contractor the agreement to service the eastern collection zone beginning September 6, 2022.
5. Waste Pro agrees to leave commercial containers in place for 120 days in the eastern collection zone until new containers arrive. Waste Pro would consider selling the commercial containers in the eastern collection zone to the new incoming contractor.
6. Waste Pro retains the western collection zone at rates are in line with rates received in the recent request for proposals for the western collection zone. See attached western bid sheet with our projected costs.
7. The amendment would incorporate service changes outlined in the request for proposals for the eastern collection zone. We would transition our zone to the new contract requirements of 1x week five-day a week service for solid waste, 1x month bulk, and limited weekly yard waste collection by September 6, 2022.

Asset and labor availability

Waste Pro currently utilizes a total of 60 collection vehicles and employs approximately 100 people to operate under the current agreements. Our current fleet for dedicated use in the city is comprised of 34 rear load collection vehicles, 5 front-end load collection vehicles, 7 grapple trucks, and 14 automated side load collection vehicles. Currently, we are still recruiting for 10 positions to fulfill the collection requirements of the agreement.

To perform collections under the new zone and service parameters effective September 6, 2022, Waste Pro proposes to utilize and implement the following collection vehicles: 13 garbage, 10 recycle, 6 yard waste, 4 bulk collection vehicles, 3 front-end load (commercial). A total of 36 collection vehicles and 54 primary labor positions will be needed to fulfill the collection requirements as dictated per the new agreement.



Waste Pro is prepared to begin services on September 6, 2022. Under the new service parameters in the recent request for proposals, we are fully staffed and have equipment ready for use in the new collection zone. In addition, all the commercial and industrial containers are in place and ready for continued use in the new collection zone. The new service parameters drastically reduce the amount of equipment and labor required for collection services. Under the new service parameters, we are fully staffed and have the required equipment to perform collection services and prepare for future growth within the Port St Lucie community.

Growth commitment

Waste Pro is committed to the following residential parameters related to growth within the new collection zone. Target route sizes will be 800 homes/route for trash services, 1000 homes/route for recycling services, and 1600 homes/route for yard waste services. Routes will be adjusted as these thresholds are met with future growth within the city.

Waste Pro intends to forecast truck needs annually based on the previous year's growth and input from the city. Proof of orders will be provided to city staff that tie to the annual truck growth plan submitted. Waste Pro will maintain sufficient commercial containers to meet 90 days of new business. As containers are delivered inventory will be replenished.

Miscellaneous amendments to the current agreement

1. The age of fleet provision shall be modified to allow for use of current vehicles in place through 2025. We request the age requirement we waived and modified with language to allow for equipment to be in good working condition. All collection chassis for future growth needs will be new.
2. We request a CPI adjustment to the current rates in 2023.
3. An extension beyond 2025 would be mutually agreed upon.
4. Disposal avoidance language modified to be a flat 11,000 a month. Remove 1000 ton threshold language.

Kind regards,

Keith Banasiak
SVP/Chief Operating Officer
Waste Pro
kbanasiak@wasteprousa.com

CC:

Amy Tingley
Russell Mackie
Tim Dolan
Eddie Jesus
Tracy Meehan

From: Russ Blackburn <rblackburn@cityofpsl.com>

Sent: Sunday, June 12, 2022 2:58 PM

To: Russell Mackie <rmackie@wasteprousa.com>

Cc: Mike Lubeck <mlubeck@cityofpsl.com>; Dave Peters <dpeters@cityofpsl.com>; Carmen Capezzuto <CarmenC@cityofpsl.com>

Subject: Re: route update

Russell,

Thank you, many areas with missed routes were picked up Saturday.

Russ

Sent from my iPad

On Jun 11, 2022, at 7:54 AM, Russell Mackie <rmackie@wasteprousa.com> wrote:

We are running 46 total routes today and have the landfill open till 5pm so we are expecting a great day of progress today.

Russell Mackie
Regional VP
Waste Pro of Florida

Subject: FW: GoToMeeting Invitation - PSL/Waste Pro Weekly Meetings
Location: Via go to meeting

Start: Thu 6/23/2022 10:00 AM
End: Thu 6/23/2022 11:00 AM

Recurrence: (none)

Meeting Status: Accepted

Organizer: Charles McLain

-----Original Appointment-----

From: Charles McLain
Sent: Wednesday, June 22, 2022 5:06 PM
To: Charles McLain; Mike Lubeck; Dave Peters; Carmen Capezzuto; Michael Hahn; Kenneth Skaggs; Edward Jesus; Russell Mackie; Summer Burdick
Subject: GoToMeeting Invitation - PSL/Waste Pro Weekly Meetings
When: Occurs every Thursday effective 6/23/2022 until 9/15/2022 from 10:00 AM to 11:00 AM (UTC-05:00) Eastern Time (US & Canada).
Where: Via go to meeting

PSL/Waste Pro Weekly Meeting

Due to everyone's busy schedule we will need to conduct our weekly meetings via go-to-meeting.

Thanks,

Charles McLain

Please join my meeting from your computer, tablet or smartphone.

<https://meet.goto.com/667103565>

You can also dial in using your phone.
(For supported devices, tap a one-touch number below to join instantly.)

United States (Toll Free): 1 877 309 2073

- One-touch: <tel:+18773092073,,667103565#>

United States: +1 (646) 749-3129

- One-touch: <tel:+16467493129,,667103565#>

Access Code: 667-103-565

Get the app now and be ready when your first meeting starts: <https://meet.goto.com/install>

From: MaryAnn Verillo <DeliaM@cityofpsl.com>
Sent: Friday, June 17, 2022 7:55 AM
To: Russell Mackie <rmackie@wasteprousa.com>
Subject: RE: call with Russ Blackburn

Great! I sent you an invite! Russ will call you at 9:00 on Monday

Have a safe trip home!

From: Russell Mackie <rmackie@wasteprousa.com>
Sent: Thursday, June 16, 2022 5:35 PM
To: MaryAnn Verillo <DeliaM@cityofpsl.com>
Subject: Re: call with Russ Blackburn

Yes, that works for me.

Russell Mackie
Regional VP
Waste Pro of Florida

From: MaryAnn Verillo <DeliaM@cityofpsl.com>
Sent: Thursday, June 16, 2022 3:40:04 PM
To: Russell Mackie <rmackie@wasteprousa.com>
Subject: RE: call with Russ Blackburn

Hi Russell,

Will 9:00 on Monday work for a call with Russ? Please let me know if that time is good and I will then send an invite out.

Thank you.

From: Russell Mackie <rmackie@wasteprousa.com>
Sent: Thursday, June 16, 2022 2:31 PM
To: MaryAnn Verillo <DeliaM@cityofpsl.com>
Subject: Re: call with Russ Blackburn

I thought Russ knew I was out of town as I missed the meeting today with staff. I am out of state with limited reception other than email. I fly back on Saturday afternoon and can talk then or Monday morning.

Russell Mackie
Regional VP
Waste Pro of Florida

From: MaryAnn Verillo <DeliaM@cityofpsl.com>
Sent: Thursday, June 16, 2022 1:03:51 PM

To: Russell Mackie <rmackie@wasteprousa.com>

Subject: call with Russ Blackburn

Hi Russell,

Are you available today at 4:30 for a call with Russ? If that time is not good, how about tomorrow at 1:30?

Let me know! Thank you!!

IN THE CIRCUIT COURT OF THE NINETEENTH JUDICIAL CIRCUIT,
IN AND FOR ST. LUCIE COUNTY, FLORIDA

CITY OF PORT ST. LUCIE, a Florida
Municipal Corporation,

CASE NO: 56 2021 CA 001628

Plaintiff,

vs.

WASTE PRO OF FLORIDA, INC., a
Florida For-Profit Corporation

**PLAINTIFF, CITY OF PORT ST. LUCIE'S, MOTION FOR CLARIFICATION ON THE
COURT'S ORDER GRANTING PLAINTIFF'S EMERGENCY MOTION FOR
INJUNCTIVE AND DECLARATORY RELIEF AND MOTION FOR TEMPORARY
INJUNCTION AND/OR SPECIFIC PERFORMANCE BY DEFENDANT, WASTE PRO
OF FLORIDA, INC.**

COMES NOW the Plaintiff, CITY OF PORT ST. LUCIE ("CITY"), by and through undersigned counsel, moves this Court for an order clarifying the Court's Order Granting Plaintiff's Emergency Motion for Injunctive and Declaratory Relief and Motion for Temporary Injunction and/or Specific Performance by Defendant, WASTE PRO OF FLORIDA, INC., pursuant to Florida Rules of Civil Procedure 1.540 and as grounds therefore, states:

1. On September 20, 2021, the CITY filed the Complaint, along with the Franchise Agreement as an attachment, in this action in which the CITY alleged several factual allegations and sought injunctive and declaratory relief. The CITY filed an Amended Complaint on October 1, 2021, which supplemented a missing page. In Count I of the Amended Complaint, the CITY sought to enjoin the Defendant's compliance with the Franchise Agreement due the health, safety, and welfare of the citizens of the CITY. Count I remained in the Second Amended Complaint which was filed on March 4, 2022.

2. On September 24, 2021, the CITY filed an Emergency Motion for Injunctive and Declaratory Relief in which the CITY requested the following relief, in part, in the “Wherefore Clause”:
 - a. Issue in the City’s favor a preliminary injunction against Waste Pro compelling compliance with the Franchise Agreement;
 - b. Declare that the matters set forth herein concern the public health, safety and welfare; and
 - c. Award such other and further relief as the Court may deem just, proper and equitable.In this motion, the CITY argued that the Defendant’s failure to provide its Collection Services under the Franchise Agreement created a matter of public health, safety and welfare issue. Attached to this motion, an affidavit from the CITY’s Emergency Management Administrator affirmed the potential public health and safety issue, including that the concern is elevated during hurricane season.
3. On November 24, 2021, the Court entered an Order Denying Emergency Relief in that it was an emergency and held that the motion could be set up using the Court’s online calendaring system.
4. On December 17, 2021, the CITY filed a Notice of Special Set Hearing setting the motion to be heard on January 10, 2022.
5. On December 20, 2021, the Defendant filed a Motion to Compel Mediation and Stay Action Pending Mediation.¹
6. On December 21, 2021, the CITY filed an Amended Notice of Special Set Hearing setting the Plaintiff’s Motion for Preliminary Injunction and Declaratory Relief to be heard on January 14, 2022.
7. On January 7, 2022, the Defendant filed a Response in Opposition to Plaintiff’s Emergency Motion for Injunctive Relief and Declaratory Relief in which the Defendant acknowledged that the CITY was seeking an injunction compelling the Defendant’s compliance with the Franchise Agreement. Thus, the issues involved in the CITY’s initial motion had been fully briefed by the parties.

¹ It’s the CITY’s position that this was the Defendant’s first of multiple attempts to delay this motion from being heard by the Court.

8. At the hearing on January 14, 2022, the Court entered an Order on Plaintiff's Emergency Motion for Injunctive and Declaratory Relief in which the Court reserved ruling and postponed the hearing to March 2, 2022, following mediation by the parties.
9. On February 16, 2022, the parties went to mediation which resulted in no resolution.
10. Due to Defendant's request to post-pone the hearing on March 2, 2022, the CITY agreed and filed a Notice of Cancellation of the Hearing on February 17, 2022. On the same day, the CITY filed a Notice of Hearing resetting the Plaintiff's Emergency Motion for Injunctive and Declaratory Relief to be heard on April 5, 2022.
11. On March 25, 2022, the Defendant filed an Emergency Motion for an Order to Show Cause and to Continue Injunction Hearing.
12. On April 4, 2022, the Court entered an Order granting the request for a continuance and reset the Plaintiff's Emergency Motion for Injunctive and Declaratory Relief to be heard on April 25, 2022.
13. On April 15, 2022, the CITY filed a Motion for Temporary Injunction and/or Specific Performance by Defendant in which the CITY sought, in part, the following relief, in the "Wherefore Clause":
 - a. Enjoining the Defendant, WASTE PRO OF FLORIDA, INC., from removing its inventory of equipment, including trucks, and Mechanical Containers prior to September 15, 2022; and
 - b. Compelling the Defendant to comply with the requirements and deadlines outlined in Section 50 of the franchise agreement.
14. Section 50 of the Franchise Agreement involves the Defendant's obligations during the six-month wind down period, including the sale/lease of mechanical containers, the six-month schedule and the CITY's right to procure services from a new solid waste hauler. [See Exhibit A.]. It should also be noted that in Section 50.1 of the Franchise Agreement, it states that the Defendant "shall provide its Collection Services in compliance with this Agreement for up to an additional six (6) Operating Months after the expiration of this Agreement, at the then

current rates.” *Id.* Section 1.18 of the Franchise Agreement defines Collection Service as one or more of the services provided by the Defendant for the collection of solid waste and recyclable materials pursuant to the Franchise Agreement. *Id.* Sections 6-37 of the Franchise Agreement pertain to the Collection Service obligations. *Id.* Section 7 of the Franchise Agreement spells out the general requirements for residential collection service which requires the Defendant to collect Garbage and Rubbish two times per week, Recyclable Materials one time per week, and Bulky Waste and Yard Waste one time per week. *Id.* At the time of the hearing on May 26, 2022, the parties communicated to the Court that they agreed to suspend the collection of Recyclable Materials so that those resources could be directed to the collection of Garbage and Yard Waste.

15. On May 11, 2022, the CITY filed a Notice of Hearing setting BOTH Plaintiff’s Emergency Motion for Injunctive and Declaratory Relief AND Plaintiff’s Motion for Temporary Injunction and/or Specific Performance by Defendant, Waste Pro of Florida, Inc. to be heard on May 26, 2022. On May 16, 2022, the CITY filed an Amended Notice of Hearing simply adding a third motion to be heard, Plaintiff’s Motion to Deposit Funds into the Court Registry, on May 26, 2022.
16. At the hearing on May 26, 2022, counsel for the CITY opened by stating to the Court that the CITY was there for both Plaintiff’s Emergency Motion for Injunctive and Declaratory Relief AND Plaintiff’s Motion for Temporary Injunction and/or Specific Performance by Defendant. [See Exhibit B (Transcript of Hearing page 5, lines 14-18.)]. He further stated that these motions overlapped. [*Id.*]. The first motion sought compliance with the Franchise Agreement and the latter motion sought compliance with Section 50 which primarily deals with the wind-down period. [See Exhibit A at Section 50.1.]. However, it should be noted that Section 50 also requires the Defendant to provide its Collection Services in compliance with the (entire) Franchise Agreement. [See *id.* at Section 50.1.].
17. At the hearing on May 26, 2022, the CITY called an expert witness, Timothy Martin Duffy, to provide opinion testimony as to the public welfare, safety and health concerns of garbage sitting out in front of the residents’ homes for long periods of time in that it would likely cause

a rodent infestation. [See Exhibit B at pp. 53-56.]. In addition, Summer Burdick, Manager in Neighborhood Services Department for the CITY, testified as to the significant increase in residents' complaints of the Defendant's failure to collect garbage. [*Id.* at pp. 10-18.]. Furthermore, Ms. Burdick testified that residents had complained of maggots, flies and animals scattering garbage in the streets. [*Id.* at p. 15]. Michael Hahn, Solid Waste Manager for the CITY, testified at the hearing that he: (a) was hired in 2019 due to the Defendant's failure to comply with the Collection Services requirements in the Franchise Agreement; and (b) received citizen complaints and personally observed an extraordinary amount of sitting garbage about the CITY in recent times and that he brought some photographs documenting what he had seen. [*Id.* at pp. 28-34.]. The CITY contends that the testimony of these witnesses clearly supported Plaintiff's Emergency Motion for Injunctive and Declaratory Relief and further supplemented the affidavit of the CITY's Emergency Management Administrator's Affidavit attached to said motion. In that affidavit, the CITY's Emergency Management Administrator affirmed potential risks of rodents and sitting garbage during hurricane season. Furthermore, the Court considered and took judicial notice of the potential danger of hurricane season and the potential rodent infestation at the hearing on May 26, 2022. [*Id.* at pp. 75-76.]. At the end of the hearing, the Court found that the problem of garbage being left out is severe problem. [*Id.* at pp. 74 (lines 11-19), 75 (lines 19-25), 76 (lines 3-6).].

18. It's the CITY's impression that when the Court ruled at the hearing that the Court was reading from the "Wherefore Clause" of Plaintiff's Motion for Temporary Injunction and/or Specific Performance by Defendant, but the Court did not get to the "Wherefore Cause" of Plaintiff's Emergency Motion for Injunctive and Declaratory Relief. [*Id.* at p. 76.]. Its further believed that this was overlooked as the Court was pressed for time and the hearing had already gone over the time allotted. [*Id.* at pp. 51(Line 20) through p. 52 (line 5); 74 (lines 8-10)].
19. Strict compliance with Florida Rules of Civil Procedure 1.610(c), which specifies the form and scope of injunctions, is required. *Eldon v. Perrin*, 78 So.3d 737, 738 (Fla. 4th DCA 2012). Before a temporary injunction may be granted, the trial court must make clear, definite, and unequivocally sufficient factual findings showing that: (1) the movant will suffer irreparable harm unless the status quo is maintained; (2) the movant has no adequate remedy of law; (3) the movant has a substantial likelihood of success on the merits; and (4) that a temporary injunction will serve the public interest. *See id.*; *see also American Learning Systems, Inc. v.*

Gomes, 199 So.3d 1076, 1082 (Fla. 4th DCA 2016) (wherein the trial court's order was reversed because in both the court's oral ruling and written order did little more than state that each prong had been satisfied.). In the CITY's Emergency Motion for Injunctive and Declaratory Relief AND Motion for Temporary Injunction and/or Specific Performance by Defendant, the CITY identified and argued that these four prongs were met.

- a. In the Court's Order, the Court found that the parties have begun to work with each other in order to improve the Defendant's severe performance deficiencies.
 - b. At the hearing, the Court found that the Defendant's failure to pickup the garbage in compliance with the Franchise Agreement has caused a severe problem within the CITY. [*See* Exhibit B at p. 74.]. The Court further found that the CITY had to create at least 4 positions due to the Defendant's failure to provide Collection Services pursuant to the Franchise Agreement. [*Id.*]. The Court also found that the uncollected garbage can cause a rodent infestation and become a problem during hurricane season. [*Id.* at 75-76.].
 - c. The Defendant brought no witness(s) to the hearing to tell the Court that it has provided Collection Services in compliance with the Franchise Agreement. The Defendant's counsel only cross examined the CITY's witnesses. The Court was not convinced by the Defendant's counsel's cross examination of Mr. Hahn in that Mr. Hahn's photographs did not accurately depict the severe problem in the CITY. [*Id.*].
 - d. The Court clearly made sufficient findings in her ruling to meet each of the four prongs.
20. "No temporary injunction shall be entered unless a bond is given by the movant in an amount the court deems proper, conditioned for the payment of costs and damages sustained by the adverse party if the adverse party is wrongfully enjoined. Unless otherwise specified by the court, the bond shall be posted within 5 days of entry of the order setting the bond. **When any injunction is issued on the pleading of a municipality** or the state or any officer, agency, or political subdivision thereof, **the court may require or dispense with a bond**, with or without surety, and conditioned in the same manner, having due regard for the public interest." Florida Rules of Civil Procedure 1.610(b) [emphasis added]. In Section VI of CITY's Motion for Temporary Injunction and/or Specific Performance by Defendant, the CITY asked the Court to dispense with the requirement for a bond because the CITY is a taxing authority and has the ability to pay future costs and damages, if any. Although it should be noted that the Defendant

did not raise the issue of a bond in any of its pleadings or orally in Court, the Court did not require that the CITY post a bond as a result of entering an order on the temporary injunction. However, the Court has the option under the Rule to require or dispense with the bond requirement against the CITY, a municipality. The reason for allowing a city to forego the posting of a surety bond is that they are presumed to be financially responsible and to save the municipality the expense, inconvenience, and delay in obtaining such a bond. *Provident Management Corp. v. City of Treasure Island*, 718 So.2d 738, 740 (Fla. 1998).

WHEREFORE, Plaintiff, CITY OF PORT ST. LUCIE, respectfully requests that this Honorable Court enter an order:

- A. Clarifying whether it intended to compel the Defendant's Compliance with its Collection Services (i.e. the collection of Garbage two times per week, and Bulky Waste and Yard Waste one time per week, while recognizing that the parties agreed to suspend the collection of Recyclable Materials) pursuant to the Franchise Agreement;
- B. Clarifying any additional findings that were made by the Court at the hearing, but not included in the order, in its analysis with the four-prong test proscribed in the *Eldon v. Perrin* Case;
- C. Expressly stating that it intended to dispense with the need for the CITY to post a bond because it is a municipality; and
- D. Any other relief that the Court deems appropriate.

CERTIFICATE OF SERVICE

WE HEREBY CERTIFY that a true and correct copy of the foregoing was filed on the E-Portal website and furnished via e-service on this 24th day of June 2022, to: Matthew J. Pearce, Esq. (mpearce@sctlaw.com); Amy S. Tingley, Esq. (atingley@sctlaw.com); and Lance D. King, Esq. (lking@sctlaw.com), at Stovash, Case & Tingley, P.A., The VUE at Lake Eola, 220 N. Rosalind Avenue, Orlando, Florida 32801.

CITY ATTORNEY'S OFFICE
Counsel for Plaintiff
City of Port St. Lucie
121 S.W. Port St. Lucie Blvd.
Port St. Lucie, FL 34984
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By: /s/ Sebastian K. Poprawski
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