

PROPOSED
RESIDENTIAL SOLID WASTE AND RECYCLING
COLLECTION AGREEMENT

THIS AGREEMENT, made and entered into this 1st day of January, 2020, by and between the Mayor, City Council, and Citizens of the City of Lexington, Missouri, a Municipal Corporation of Lafayette County, Missouri, hereinafter referred to as "City," and AAA Disposal Service Inc. hereinafter referred to as "Contractor."

WITNESSETH THAT:

In consideration of the provisions hereof and the obligations undertaken by each of the parties, the parties hereto agree as follows:

1. The City does hereby grant to the Contractor the exclusive right to conduct the business of residential solid waste and recycling collection within the City during the term of this agreement; and shall have the right to collect, remove and dispose of all residential solid waste and recycling materials, as defined in Chapter 11 of the City Code of Ordinances, shall furnish all labor, vehicles, tools, equipment and any other necessary facilities here for in accordance with the terms and conditions of this agreement and Chapter 11 of the City Code of Ordinances, as amended.
2. This Agreement is entered into by the City and Contractor under the authority of Chapter 260 RSMo. for the Collection and Disposal of Solid Waste according to a certain plan required and approved by the Division of Health of Missouri, Bureau of Solid Waste Management.

1.1 Definitions

Bulky Waste: Means solid waste consisting of non-putrescent materials of combustible and/or non-combustible waste materials which are either too large or too heavy to be safely and conveniently loaded into collection vehicles during normal residential solid waste collection activities. Waste may include furniture, appliances, building materials, carpet, remodeling debris, and similar disposable items. It does not include tires, yard waste, concrete, or other similar materials.

Collection Hours: The time during which collection of solid waste and recycling materials is authorized by the City for residential, commercial, and industrial customer collection shall begin no earlier than 7:00 A.M. and shall end no later than 5:00 P.M., unless extension of hours is approved in writing by the City prior to any modification thereof.

Collection Routes: Those areas designated for curbside pickup of residential solid waste and recycling materials. Each route shall have a specified collection day of the week upon which the Contractor is allowed material pickup within the boundaries of the area.

Collection Vehicles: Any vehicle approved by the City for collection of Residential solid waste materials within the corporate limits of the City.

Compostable Materials: Leaves, grass, yard trimmings, tree limbs of less than 4" diameter, and other organic yard materials. Tree limbs must be bundled, no long than 2 ft. in diameter and 4 ft. in length. Yard waste must be in biodegradable bags or 90-gallon toters.

Containers: Means a container supplied by the Contractor. Such container shall be a ninety (90) gallons poly-cart for solid waste disposal and a minimum 30-gallon poly-cart for recycling materials.

Contaminated Materials: Materials which, by virtue of their not meeting the recyclable material preparation standards, are not marketable, and cannot be easily made marketable by the Contractor.

Missed Collection: A missed collection is defined as a failure of the contractor to provide solid waste materials collection service to a residential property within the collection route during collection hours on the day scheduled for route collection. The failure of a residence owner to place materials at curbside prior to the arrival of the Contractor's collection equipment on the day scheduled for route collection shall not be deemed to constitute a "Missed Collection." The Contractor shall empty all contents of the poly-carts.

Multiple housing facility: A housing facility containing more than four (4) attached dwelling units under one roof.

Processing and Marketing: Contractor preparation, sale and delivery of recyclable to buyers.

Recyclables: Waste materials that can be reused including, but not limited to, aluminum and steel cans, clear, green and brown glass, newsprint, corrugated cardboard; chipboard boxes (i.e. cereal boxes, prepared food boxes), plastic containers: 1) PET or PETE--bottle type containers used for carbonated and noncarbonated drinks such as soft drink, liquor, juice, water and sports drink bottles; 2) PET or PETE--containers with a screw-neck lid for food, house cleaning products and personal care products, i.e., peanut butter jars, salad dressing, cooking oil, mouthwash, shampoo, window cleaners and dish washing detergent bottles; 3) HDPE--natural or translucent bottle-type containers such as milk jugs, juice bottles, water bottles, etc.; 4) HDPE--mixed colored or opaque bottle-type containers such as detergent bottles, bleach bottles, fabric softener bottles, shampoo bottles and dish washing detergent bottles.

Recyclable Material Preparation:

Recyclable material and modes of their preparation are as follows:

1. Clear, green, and brown glass containers: Unbroken glass containers shall be rinsed to avoid health and nuisance problems. Metal or plastic lids, caps, and rings should be

removed.

2. Steel and aluminum cans: Cans should be rinsed to avoid health and nuisance problems. Aluminum cans should be flattened when possible.
3. Plastic containers: Containers shall be rinsed to avoid health and nuisance problems.
4. Newsprint: Clean, dry, unsoiled newsprint containing minimal glossy magazine-type paper shall be separated from aluminum, glass, and plastic materials. No magazines shall be accepted.
5. Modification of Preparation Standards: The City shall retain the authority to modify the standards for material preparation administratively, after consultation with the Contractor, and the City shall provide the Contractor with written notice of any change in these standards in writing.

Resident: Occupant of a Residential Property.

Residential Property: Any home, house, living or dwelling unit, designed to be occupied by one or more families living independently or attached at the side or sides, including multiple housing units, trailer courts or mobile home parks.

Residential Solid Waste: Means any and all unwanted or discarded waste materials resulting from the maintenance and operation of dwelling units, excluding multiple housing facilities with more than four (4) dwelling units, in a solid or semi-solid state and may include glass jars and bottles, cans, plastic bottles, newspapers, garbage, and other solid waste.

Subcontractor: Person or persons who are performing any part of the scope of work other than the Contractor.

Unit Charge: Means the monthly amount charged by the Contractor to the Residence for services as specified in the Agreement.

2.1 Scope of Work of Contractor:

The contractor will be responsible for collection and disposal of Residential Solid Waste and recycling materials.

Specific responsibilities include but are not limited to:

1. Collection weekly of all residential solid waste, bulky waste and recyclable material from the curb from all City residential property, according to approved schedules, and as specified in this Agreement.
2. Procurement of all equipment and assumption of all start-up, operating and

maintenance costs for collection.

3. Supervision and labor to perform all Contractor collection.
4. Provision of proper safety equipment and insurance for vehicles and workers.
5. Provide adequate management systems assuring that collection services can be performed satisfactorily.
6. Not provide trash or recycling collection to non-paying customers.
7. Process and market all collected recyclable materials and reporting market prices.
8. Provide funding as specified in Section 1.5 for a publicity program to ensure that all residents are aware of recycling program and its intent.
9. Prepare and submit quarterly and annual reports detailing operations, materials collected, and marketing of collected recycling material.
10. Provide for the collection, processing and disposal of compostable materials as specified in the Agreement.

3.1 Term of Agreement: The term of this Agreement shall commence on 1 January 2020 and shall terminate on 31 December 2020 with an evaluation in December of each year; provided, however, that should the City be unable to comply with the terms and conditions of this Agreement as a matter of law, this Agreement shall thereupon terminate upon written notice to the Contractor and neither party shall be liable to the other on account of anything occurring after such termination.

There may be up to two successive one-year renewal periods, at the City's option, subject to contractual terms and conditions as mutually agreed upon between the parties, with adjustment for increases or decreases in Contractor's costs as provided for in this Agreement. The City shall give the Contractor written notice of its intention to extend the agreement a minimum of ninety (90) days before the expiration of the Agreement. All renewals will be subject to the satisfactory performance by the Contractor, favorable recommendation by the City staff, and the City Council approval of any renewals. The Contractor shall have no expectation of renewal nor rely in any manner on an expectation of renewal.

4.1 Collection Requirements:

1. There shall be weekly collection on the same day, with said schedule to be approved by the City. The collection point for Containers with solid waste and recycling materials shall be an area in front of the residential property being serviced within one (1) to four (4) feet off the street curb or edge of pavement. All pick to be on City streets excluding alleys. The contractor shall not litter premises in the process of making collections, nor allow any solid waste or

recycling materials to blow or fall from any vehicle used for collections. The Container (if applicable) shall, after emptying, be placed within the defined collection point and not blocking any driveway.

2. The Contractor shall distribute to all Residential Property located within the corporate limits of the City of Lexington, containers as described in Section 1.1. The Containers will then belong to the Residential Property. The contractor shall also provide to each recycling program participant an information packet of instructions. This packet must be approved by the City prior to its distribution.
3. All Residential Property shall receive such Containers. The Contractor, without expense to the City, within twenty-four (24) hours after notice, shall replace containers lost or damaged. If the damage or loss of the container is the fault of the Contractor, the Contractor shall replace the missing or damaged container at its own expense. If the loss or damage is not the fault of the Contractor, the Contractor may charge the Resident \$ 75.00 for a replacement container. Additional Containers requested by a Resident will be provided by the Contractor at a cost of \$ 6.00.
4. The Contractor will also provide, for those Residents who choose the service, compostable waste pickup. The Contractor will pick up compostable material placed in the provided 90-gallon toters or placed in Kraft paper bags. The Contractor will use standard/loader trucks to pick up the compostable material and transport it to the composting site. Contractor must comply with all applicable federal, state and local laws, rules and regulations. Contractor may refuse to pick up bags containing improper material or substances.
5. The Contractor shall maintain its approved schedule of Collection Routes and days of collection for each route as approved by the City throughout the term of the contract unless otherwise approved by both parties.
6. All Residential Solid Waste and recycling material shall be collected at one time in a Container/s as described in section I. I unless otherwise specified. Contractor shall notify resident on their collection day of failure to collect the resident's material due to contamination.
7. When, as determined by the City, weather conditions prevent collection of Residential Solid Waste and recycling material on the scheduled day, the Contractor shall collect on the next business day. The City may require the contractor to make special collections with 24 hours after oral notice is given if Contractor fails to make collections for any other reason, without prior approval of the City.
8. All vehicles and equipment used in the provision of collection and removal service shall be maintained in a safe, clean and sanitary condition, free of excessive noise, odor, or emissions. The vehicles must contain the solid waste and recycling material so that no material is spilled, leaked, or blown from the vehicle during its transit to the appropriate disposal site as approved by the City of Lexington. All vehicles to be used for

transportation of solid waste and recycling material shall be constructed with water-tight bodies, and with covers which shall be an integral part of the vehicle, or shall be a separate cover of suitable material with fasteners designed to secure all sides of the cover to the vehicle and shall be secured whenever the vehicle is transporting solid waste, or as an alternate, the entire bodies thereof shall be enclosed with only loading hoppers exposed. No solid waste or recycling material shall be transported in the loading hoppers. The City has the right to require the Contractor to clean any vehicle.

9. The Contractor shall provide and maintain during the entire period of this contract a fleet of solid waste and recycling collection vehicles sufficient in number and capability to perform the work and render the service required by this contract. The fleet must be sufficient to handle the special requirements of adverse weather and holiday overloads. No advertising other than the name of the contractor shall be permitted on the vehicles.
10. The Contractor presently maintains 20 number of solid waste compactor trucks with a maximum gross weight of 36,000 pounds with one dual axle and one solid waste compactor truck with a maximum gross weight of 54,000 pounds with tandem dual rear axles. The Contractor presently maintains 4 number of recycling trucks. Contractor shall have the right to operate the above listed equipment or replacements of same, upon the streets of the City, however, any additional truck units above maximum gross weight of 36,000 pounds shall not be used on the streets of the City without prior approval of the Director of Public Works. The City reserves the right to designate the streets or other thoroughfares upon which any truck unit above 36,000 pounds maximum gross weight may not be used. The City reserves the right to have the trucks weighted at any time.
11. If a holiday observed occurs, or falls on weekdays, then the collection ordinarily made on that day by said Contractor shall be made by said Contractor on the next succeeding day, it being intent of the Agreement that the occurrence of said holiday shall not excuse the said Contractor from making one (1) collection per week from each dwelling unit. Collections shall not be made on Saturday or Sunday. The contractor will observe six (6) holidays, which are as follows: New Year's Day, Memorial Day, Independence Day, Labor Day, Thanksgiving Day and Christmas Day.
12. In case of a Missed Collection reported by the City or a Resident, Contractor shall collect the materials from such Resident within one business day from notification. A recorded message left on a telephone answering device after business hours shall be considered to have been received at the start of business the following day. All calls relating to Missed Collection shall be logged by the City and that log shall be provided by the City to the Contractor, daily by phone, fax or email.
13. The Contractor shall be required to return the Container (if applicable) to the specified area of collection following collection. The Contractor shall be required to return the Recycling Container to the specified area of collection in an inverted position following collection; provided, however, if the Contractor has properly placed or allowed materials to remain in the Container, such as materials placed in the Container by the Resident that are not suitable for collections or publicity materials, then the container shall remain in the upright position.

14. Multiple Housing Facilities with more than four dwelling units and all commercial and industrial companies shall be subject to the rules and regulations set forth in the City Code of Ordinances. The City does not grant to the Contractor the exclusive right to conduct the business of commercial and industrial solid waste collection within the City during the term of this agreement. The Contractor otherwise shall have the right to contract for solid waste collection for multi-family housing that qualify, and any and all commercial and industrial companies on an individual basis and shall not be excluded from negotiating fees and charges for said collection services.

15. The Contractor shall provide 5 - 40 yd. dumpsters for the spring and fall city-wide solid waste bulky cleanup and provide 1 - 30 yd. dumpster monthly for yard waste. The Contractor to provide curbside unlimited yard waste collection for the spring and fall city-wide cleanup. The clean-up periods are not intended to accommodate the collection of white goods and major remodeling debris. The Contractor agrees that the cost of the clean-up periods are to be considered as subsidiary to the unit cost for Residential Solid Waste collection and that no additional cost for such services is to be paid by the City or individual Residents.

16. The Contractor hereby agrees to collect refuse and solid waste from all City Buildings, City Parks, and the solid waste containers placed around the City for public use on a regular basis provided said containers are placed in areas that are accessible to vehicles now used by Contractor. This collection shall be done at no charge to the City. In the event that Residents of the City shall deposit their Residential Solid Waste in the Public Containers to the extent that the same cannot be tolerated by the Contractor, each of the parties agrees to mutually cooperate to diminish or eliminate the misuse of such containers. Public containers are to be dumped twice weekly.

5.1 Disposal Requirements

All Residential Solid Waste material shall be disposed of at a disposal area/site approved by the City and in compliance with all requirements of the Missouri Solid Waste Management Act of 1972, Section 260.200 to 260.245 RSMo. or most recent modification thereof and any other applicable Federal, State or Local rule, law or regulation.

6.1 Permits and Licenses

The Contractor will be required to acquire all the necessary Federal, State and Local operating permits and licenses.

7.1 City Responsibility

1. Overall project administration and final approval of all Contractor obligations related to the provisions in this Agreement.
2. All monitoring of the collection and operations with the cooperation of the Contractor.
3. Provide the Contractor with a list of non-paying customers monthly.
4. Bill and collect trash fees at a collection rate of sixteen percent (16%) of the

total amount collected monthly.

8.1 Transportation and Marketing of Recyclables

The Contractor shall establish transportation and marketing arrangements for the Recycled Materials. Equipment utilized for storage and transport of materials to buyers may be owned or leased by the Contractor or the buyer. The contractor must have a material processing and marketing plan that includes at the minimum a materials handling design, equipment list, lists of markets to which materials will be sold and letter(s) of intent from said markets.

The City may approve or deny, in writing, any proposed disposal of collected Recyclable Materials, in a landfill or in any manner inconsistent with the Contractor's approved material processing and marketing plan.

Any disposal of recyclables inconsistent with the Contractor's marketing plan may be grounds for termination of this Agreement. Contractor shall be required to pay the necessary service or disposal charges for the subject commodity to be accepted for recycling. If the contractor can demonstrate to the City that said charges are substantially more than the cost of disposing of such commodity as part of its regular solid waste collection and disposal process, and that such increased costs have a material and adverse financial effect on the contractor so as to make continuation of the Agreement unreasonable, then the Contractor may request the City to negotiate early termination of this Agreement. In such event, the City may at its option upon five (5) days' written notice declare the Contractor to be in breach of the Agreement and the City may terminate the Agreement and declare same canceled and terminated and shall, in addition, be entitled to recover damages and take such other actions and seek other remedies as may be permitted to law.

9.1 Publicity and Education Programs

During the term of this Agreement, the Contractor shall pay the City the sum of \$1 per customer on solid waste collection (excluding commercial and industrial customers), per year to be used towards funding advertising costs associated with public education of recycling efforts and the elimination of grass and yard wastes from the solid waste stream. This sum is to be paid by the end of each year.

10.1 Reporting Requirements

10.1.1 Quarterly Project Status Reports

The Contractor will be required to keep records and submit reports within thirty (30) days of each quarter. These will serve as a means to inform the City of the Status of recycling activities and expenditures. The Contractor will also be required to provide certified weight receipts for all materials collected and sold.

The Quarterly Project Status Reports shall contain the following information:

1. Summary of all program costs and revenues, tonnage recovered by material,

- participation rates and details of expenditures;
2. Detailed data to allow analysis of collection efficiencies;
 3. Tonnage summaries, by material, of all materials collected and sold with copies of buyers' receipts;
 4. Resident participation rates in terms of weekly and monthly set out counts with a description of the methods used to determine those rates;
 5. Discussion of problems and noteworthy experiences in programs operation.

10.1.2 Annual Reports

Contractor shall provide year-end annual reports for each year the project is in operation. The reports will be due within thirty (30) days following the end of the City's fiscal year. At a minimum, the report shall include:

1. A collated summary of the detailed cost and revenue information contained in the Quarterly Reports, and summaries of the participation rates and recovered materials tonnage;
2. A discussion of highlights, problems, and measures taken to resolve problems and increase efficiency and household participation;
3. Any recommended changes in Agreement terms.

11.1 Random Sampling of Collected Recycled Materials

In addition to all regular reporting requirements, the City shall have the right to require, once within each quarter, that as part of a City-supervised random sampling, a random sample of the Recycled Materials collected within the City shall be separately weighed, by the type of material, immediately upon being brought to the processing facility and before being commingled with other materials. The City's Mayor or his designated representative shall directly supervise this sampling and will have full right of access necessary to accomplish this task. The City shall reasonably determine the procedures to be followed in conducting this sample weighing in order to ensure accuracy and reliability, and the date, time, and manner of the random sampling

12.1 Rates

The monthly amount to be paid by the individual resident to the Contractor during the term of this agreement for weekly Solid Waste Pickup Service shall be \$ 12.50 and for Recycling Service \$ 3.00. Each year, 90 days prior to the agreement anniversary date, the agreement may be reviewed and the Contractor may request an increase in the monthly rate based on increased landfill tipping fees (the cost charged the Contractor for each ton of solid waste deposited by the operator in the landfill), fuel costs, insurance premium costs, or other costs of doing business to be determined. The Contractor shall be responsible for presenting documentation of actual cost increases to the City

to justify any rate increases for service. Only upon approval of the City will any increase be incorporated, by written addendum, into this Agreement.

13.1 Customer Service Standards

Because the City is dedicated to serving each and every one of its Residents with the utmost professionalism, courtesy and timeliness, so too, should the Contractor. Therefore, the following customer service standards are established by which the Contractor must abide:

1. The City staff will make every effort to use courteous and polite phone manners when answering a customer's concern. The City has the right to ask for removal of any Contractor personnel.
2. The Contractor shall exercise all reasonable care and diligence in collecting Residential Solid Waste and Recycling materials. Every effort must be made to prevent spilling, scattering or dropping solid waste and recycling materials during the collection process. However, in the event that solid waste and recycling materials is spilled, scattered or dropped, the Contractor shall immediately clean up the material. The Contractor shall be solely responsible for all damages to containers and property resulting from the Contractor's actions or omissions.
3. When the Contractor's personnel have completed transferring Residential Solid Waste or recycling materials to the Collection Vehicle, the Container (if applicable) is to be placed at the appropriate Residential Property's curbside.
4. The City will be responsible for handling all service complaints. The City shall have personnel to answer the phone from 8:30 A.M. to 4:30 P.M. of each day in which any collection activities take place and must have an answering machine to receive messages at all other times.
5. The Contractor shall not litter premises in the process of making collections nor allow any solid waste or recycling materials to blow or fall from any Collection Vehicle used for collections.
6. The Contractor shall furnish neat, courteous and competent employees, and shall continue to prohibit the use of illegal drugs or consumption of alcoholic beverages by

any of its employees while engaged in the performance of this Agreement.

7. In the event the City has objective indication the contractor has not substantially complied with these customer service standards, the Agreement may be terminated.

8. If products are left in Containers because they have not been prepared properly for recycling, the Contractor will leave the Resident notice as to why the Recyclable Materials were left behind.

9. Program participants may place newspapers in up to five (5) brown paper bags which may be placed outside the recycling Container. Only brown paper bags may be utilized as auxiliary Containers for newspapers. The Contractor shall collect newspapers stored within such brown paper bags.

10. The Contractor shall survey the Residents no later than August 1 each year during the term of this contract to determine their satisfaction with the recycling service. Mail-in cards (4" x 6") with questions agreed to by the City will be printed at the Contractor's expense and will be placed in the collection Containers at the time of the survey. Residents can mail the cards directly to City Hall.

14.1 Physically Challenged Residents

The Contractor, with the assistance of the City, shall establish a procedure for certification of Residents who are physically unable, due to aging or a physical condition, to move the Container from the building line to the curb for pick-up. After documentation and verification of such condition, and that there is no other Residential Property Resident able to perform such a task, the City, after certification of need, will notify the Contractor, who will then be responsible for picking up and relocating the Container at the building line rather than the curb.

15.1 Insurance and Bonds

- A. General: The Contractor shall secure and maintain, throughout the duration of this Agreement, bonds and insurance of such types and in at least such amounts as are required herein. Contractor shall provide certificates of insurance and renewals thereof on forms approved by the City. The City shall be notified by receipt of written notice from the insurer at least thirty (30) days prior to material modification or cancellation of any policy listed on the certificate.
- B. Notice of claim: The contractor, upon receipt of notice of any claim in connection with the Agreement, shall promptly notify the City, and shall provide to the City the identity of the claimant or the claimant's representative. Further, the contractor shall promptly notify the City of any reduction in limits of protection afforded under any policy or insurance required under this Agreement.

- C. The Contractor shall furnish to the City, and maintain during the term of this Agreement, a performance bond in the amount of \$26,000.00 which shall be to ensure that the resources are available for all costs associated with the provision of the services associated with the contract. The bond shall contain the requirements and conditions set forth in and shall comply in all respects with Section 107.170 RSMo. and other applicable legal requirements.

The following represents the minimum limits of liability required for insurance to be provided to the City by the Contractor.

Worker's compensation:

State: Statutory

Applicable Federal (e.g., Longshoreman's): Statutory

Employer's Liability: \$100,000

Comprehensive General Liability:

\$1,000,000 Per Occurrence

\$2,000,000 Annual Aggregate

Business Auto Liability

\$1,000,000 Combined Single Limit

Certificates of insurance verifying such limits shall be provided to the City upon execution of the contract. Such insurance shall be maintained during the term of the contract. Said insurance shall name the City as an additional named insured party under said policies and shall be written by an insurance company which is authorized to conduct business in the state of Missouri.

16.1 Indemnification Agreement

Contractor shall indemnify and hold harmless the City and its officers and employees from any and all liability, losses or damages, including attorney's fees and costs of defense, the City may suffer as a result of claims, demands, suits, action or proceedings of any kind or nature, from or arising out of the operations of Contractor under this Agreement, including operations of Subcontractors; and Contractor shall, at his own expense, appear, defend and pay all charges or attorneys and all costs and other expenses arising therefrom or incurred in connection therewith; and, if any judgments shall be rendered against the City in any such act, Contractor shall, at his own expense, satisfy and discharge same.

The Contractor shall be held responsible for any damage to customers' property, real or personal, which occurs by the contractor or the Contractors agent in the performance of this Agreement.

Contractor expressly understands and agrees that any performance bond or insurance protection required by the Agreement, or otherwise provided by Contractor, shall in no way limit the responsibility to indemnify, keep and save harmless, and defend the City as herein provided.

In the event of any conflict between the language of the insurance policy(s) and the above-recited indemnity agreement, the indemnity agreement shall govern.

17.1 Notice

The City's representative for the purpose of this Agreement shall be the Mayor or such other person or persons duly designated in writing to represent the Mayor and the City Council to represent the City. However, no action, agreement or change in the terms of this Agreement may be implemented without prior approval of the City Council.

Any notices required to be given hereunder shall be deemed given if deposited, U. S. Mail, Certified First Class, Postage Prepaid, Return Receipt Requested, and addressed as follows:

To City:
Mayor of Lexington
City of Lexington, Missouri
919 Franklin Avenue
Lexington MO 64067

With Copy To: City Clerk

The Contractor's representatives shall be:

Name: Chris Holmberg
Position: Owner
Company: AAA Disposal Service Inc.
Address: 31103 Buckner, Mo. 64016

18.1 Ownership of Recycled and Compostable Materials

The Contractor shall have full ownership rights of all recyclable and compostable material placed at the curbside for collection by Contractor under this Agreement and the City agrees to take such action as may be reasonably necessary to protect Contractor's ownership interest.

19.1 Independent Contractor

Contractor shall perform all work and services described herein as an Independent Contractor and not as an officer, agent, servant or employee of the City. Contractor shall have exclusive control of and the exclusive right to control the details of the services and

work performed hereunder in accordance with the terms of this Agreement, and all persons performing the same and nothing herein shall be construed as creating a partnership or joint venture between City and Contractor. No person performing any of the work or services described hereunder shall be considered an officer, agent, servant or employee of City, and no such person shall be entitled to any benefits available or granted to employees of City.

20.1 Non-Assignment

The obligations of the Contractor pursuant to this Agreement are not to be transferred, subcontracted or assigned to any person or organization without the express written consent of the City. In the event of any such assignment, the assignee shall comply with any conditions that the City may reasonably require for assignment of the Agreement, and shall accept such assignment and perform all work and other obligations of the contractor as fully as if the Agreement were originally made by assignee. Any such assignment shall not relieve or excuse the Contractor from responsibility for performance to the City in the event the assignee does not fully perform all work and other obligations of the contractor under this Agreement.

21.1 Compliance with Laws and Ordinances

The contractor shall comply with all applicable, local, state and federal ordinances, statues, laws, rules and regulations governing the collection, transportation and disposal of solid waste and refuse. No pleas of misunderstanding will be considered on account of ignorance thereof.

The Contractor shall be in compliance with all applicable federal, state and/or local laws regarding employment practices. Such laws will include, but shall not be limited to Worker's Compensation, the Fair Labor Standards Act (FLSA), the Americans with Disabilities Act (ADA), the Family and Medical Leave Act (FMLA) and all OSHA regulations applicable to the work.

22.1 Accident Notification:

In the event of accident resulting in damage to persons or property which, arise from the performance of this Agreement, Contractor shall promptly notify the City. Contractor shall disclose to the City the identity of the persons involved in the accident, and provide a general description of the physical injuries to persons and/or damage to property occasioned in the accident. Contractor agrees to cooperate with its insurance companies in the investigation and resolution of any claims arising from any such accident.

23.1 Termination:

In addition to any other provisions herein relating to default, termination and/or penalties imposed on Contractor, the City shall have the right upon failure by Contractor to perform

any of the obligations of Contractor under this Agreement to give Contractor written notice of same, and thereafter Contractor shall have fifteen (15) days to correct same, and upon Contractor's failure to do so the City, at City's sole option, may declare this contract null and void and be entitled to recover damages, including City's reasonable attorney fees, and seek any and all other legal remedies against Contractor as may be permitted by law.

In the event that the Contractor shall fail or refuse to perform its duties and obligations, or shall become insolvent or shall become the subject of any proceeding for the appointment of a receiver, or in the event of an assignment by the Contractor for the benefit of its creditors, or the taking of its trucks, equipment, vehicles and other facilities used in connection with the performance of the work under any execution against the Contractor, the City may at its option upon fifteen (15) days written notice declare the Contractor to be in breach of the Agreement and the City may terminate the Agreement and shall, in addition, be entitled to recover damages and take such other actions and seek other remedies as may be permitted by law.

Contractor shall pay the sum of Two-Hundred Dollars (\$200.00) as liquidated damages to the City for each and every day that the Contractor shall fail or refuse to perform his duties and obligations or to comply with the provisions of the Agreement.

24.1 Contractor's Records

Contractor shall maintain its books and records related to the performance of this Agreement in accordance with the following minimum requirements:

- A. Contractor shall maintain any and all ledgers, books of account, invoices, vouchers and canceled checks, as well as all other records or documents evidencing or relating to charges for services, to information provided in the required reports or reasonably relevant to the Contractor's performance of this Agreement or the review of contractor's operations required by this Agreement, for a minimum period of three (3) years, or for any longer period required by law, from the date of termination of this agreement.
- B. Any records or documents required to be maintained pursuant to this Agreement shall be made available for inspection or audit, at any time, with reasonable notice, during regular business hours, upon written request by City representative. The records shall be available to City representative at Contractor's address indicated for receipt of notices in this Agreement.

25.1 Waiver

A waiver of any breach of any provision of this Agreement shall not constitute or operate as a waiver of any of any other breach of such provision or of any other provision, nor shall any failure to enforce any provision hereof operate as a waiver of such provision or of any other provision.

26.1 Law to Govern

This Agreement is entered into and is to be performed in the State of Missouri. City and Contractor agree that the laws of the State of Missouri shall govern the rights, obligations, duties and liabilities of the parties to this Agreement and shall govern the interpretation of this Agreement.

27.1 Titles of Sections

Section headings inserted herein are for convenience only, and are not intended to be used as aids to interpretation and are not binding on the parties.

28.1 Amendment

This Agreement may be modified or amended only by written agreement duly executed by the parties hereto or their representative.

29.1 Severability

The invalidity of one or more of the phrases, sentences, clauses or sections contained in this Agreement shall not affect the validity of the remaining portion of the Agreement so long as the material purposes of this Agreement can be determined and effectuated.

30.1 Entirety

This Agreement and any Exhibits attached hereto contain the entire Agreement between the parties as to the matters contained herein. Any oral representations or modifications concerning this Agreement shall be of no force and effect.

IN WITNESS WHEREOF, the parties hereto have set their hands as of this 10th day of December 2019.

CITY OF LEXINGTON, MISSOURI

By: _____
Joe Aull, Mayor

ATTEST:

Carla Ghisalberty, City Clerk

CONTRACTOR: AAA Disposal Service Inc.

By: _____
Chris Holmberg
Title: Owner

Ordinance No. 2019-57

AN ORDINANCE OF THE CITY COUNCIL OF LEXINGTON, MISSOURI AUTHORIZING AND APPROVING EXECUTION OF A SOLID WASTE AND RECYCLING CONTRACT BETWEEN THE CITY OF LEXINGTON, MISSOURI AND AAA DISPOSAL SERVICE INC.

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF LEXINGTON, MISSOURI AS FOLLOWS:

Section 1. That the City Council of the City of Lexington, Missouri does herewith authorize and direct the Mayor and City Clerk to enter into a binding memorandum of agreement with AAA Disposal Service Inc. for the collection of solid waste and recycling on the terms and conditions of the agreement which is attached hereto and incorporated herein by reference.

Section 2. This shall be in full force and effect from and after its passage and approval.

PASSED, APPROVED AND ADOPTED by the City Council of Lexington, Missouri, this 10th day of December, 2019.

Joe Aull, Mayor

ATTEST:

Carla Ghisalberti, City Clerk

CERTIFICATION

I, the undersigned City Clerk of the City of Lexington, Missouri hereby certify that the above and foregoing ordinance is a true and correct copy of the ordinance adopted by the City Council as the same appears of record in my office and that the same has not been amended or repealed as of the 10th day of December, 2019.

(SEAL)

Carla Ghisalberti, City Clerk