

Contract for Residential Solid Waste Collection and Disposal for the City of Brown City

- I. **AGREEMENT** made this 22nd day of September 2014 by and between the CITY OF BROWN CITY, a Michigan Municipal Corporation, hereinafter referred to as the City, and Knox Disposal, Inc., hereinafter referred to as the Contractor.

WHEREAS, the City of Brown City has deemed that it is in the best interest of the public health and welfare to continue residential trash, garbage, and refuse pickup in the City of Brown City.

It is hereby agreed as follows:

That the City does hereby hire Knox Disposal, Inc., for a period of three (3) years from and after October 1st, 2014, to pickup residential trash, garbage, and refuse in the City of Brown City under the following terms and conditions:

- A. **Compliance with Applicable Laws** - The parties of this Contract agree that the laws of the State of Michigan shall govern the validity, construction, interpretation and effect of this Contract. The Contractor shall conduct the service of residential solid waste collection as provided for by this Contract in compliance with all applicable federal and state regulations and laws. This Contract and the work to be done as described herein is also subject to the provisions of all pertinent City Ordinances which are hereby made a part hereof with the same force and effect as if specifically set out herein.
- B. **Breach of Contract** - If the Contractor fails to perform, or to perform in a satisfactory manner or to perform in accordance with applicable ordinances, the City shall have the right to demand in writing adequate assurance from the Contractor that steps are being taken to rectify the situation. The Contractor, within five (5) days of receipt of such demand, must return to the City Manager a written statement that explains reasons for nonperformance, delayed, partial or substandard performance during that period and any continuation thereof. Upon receipt of the Contractor's statement or the failure of the Contractor to submit one, the City may, except under conditions of Force Majeure, terminate this Contract with a majority vote of the Council.
- C. **Force Majeure** - Neither the Contractor nor the City shall be liable for the failure to perform their duties nor for any resultant damage, loss, etc., if such failure is caused by a catastrophe, riot, war, governmental order or regulation, strike, fine, accident, act of God, or other similar or different contingency beyond the reasonable control of the Contractor or the City.

If such circumstances persist for more than seven (7) days or if after their cessation the Contractor is unable to render full or substantial performance for a period of thirty (30) days, he may terminate this Contract upon written notice given in thirty (30) days advance to the City.

- D. **Enforcement** - Either party to this agreement may enforce their rights as a result of any controversy or claim arising out of or relating to this agreement or breach thereof in any Court having jurisdiction over the subject matter.
- E. **Assignment of Franchise** - No Assignment of this Contract or any right accruing under this Contract shall be made in whole or in part by the Contractor without the express written consent of the City, which consent will not be reasonably withheld. The delegation of any Contract duties will require the written consent of the Surety as such a delegation will not relieve the Contractor or his Surety of any liability and/or obligation to perform. In the event of any delegation of duty, the delegation shall assume full responsibility and liability for performance of that duty without affecting the Contractor's liability.

- F. **Change of Ownership** - In the event that the Contractor's business assets are sold, the City maintains the right to hold the original owner solely liable. If, however, the City determines that the new owner can adequately and faithfully render the service called for in this Contract for the remaining term of the Contract, then the City may elect to execute a notation allowing the new ownership to assume the right and duties of this Contract and releasing the previous ownership of all obligation and liability. The new ownership would then be solely liable for any work and/or claims attendant to this agreement.
- G. **Waivers** - A waiver by either party of any breach of any provisions hereof shall not be taken or held to be a waiver of any succeeding breach of such provision or as a waiver of any provision itself. No payment or acceptance of compensation for any period subsequent to any breach shall be deemed a waiver of any right or acceptance of defective performance.

Where the condition to be waived is a material part of the Contract such that its waiver would affect the essential bargains of the parties, the waiver must be supported by consideration and take the form of a Contract modification as provided for elsewhere in the section.
- H. **Illegal and Invalid Provisions** - Should any term, provisions or other part of this Contract be declared illegal, it shall be excised and modified to conform to the appropriate law or regulations. Should any term, provision or other part of this Contract be held to be inoperative, invalid or unenforceable, then such provision or portion thereof shall be reformed in accordance with applicable laws or regulations. In both cases of illegal and invalid provisions, the remainder of the Contract shall not be affected but shall remain in full force and effect.
- I. **Joint and Several Liability** - If the Contractor is comprised of more than one individual, corporation or other entity, each of the entities comprising the Contractor shall be jointly and severally liable.
- J. **Binding Effect** - The provisions, covenants, and conditions in this Contract apply to bind the parties, their legal heirs, representatives, successors, and assigns.
- K. **Merger Clause: Previous Agreements Superseded** - This agreement constitutes the final and complete agreement and understanding between the parties. All prior and contemporaneous agreements and understandings, whether oral or written, are to be without effect in the construction of any provision or term of this Contract if they alter, vary or contradict this agreement.

II. SERVICE PROVIDED.

- A. The Contractor shall pick up all trash, garbage and refuse from any residence in the City of Brown City at least once a week. It is the resident's responsibility to see that containers, bags, bundles and bins are placed at the street by 5:00 AM on the designated collection day.
- B. Collection of bulky waste will be made upon request of the City. Residential units will fill out "bulk waste pick up form" at City Hall. The City shall notify the contractor and the contractor will pick up item at the next regular pick up date.

(BULK WASTE: upholstery goods, mattresses, carpet cut in strips or rolls; NOTE - appliances not included.)
- C. **Construction debris** - The Contractor is not obligated to pick up large quantities of construction debris unless previous arrangements are made between the resident and Contractor at an agreed upon price to be paid by the resident.
- D. **Leaves, grass clippings and brush** - The Contractor is not obligated to pick up.
- E. The Contractor may set up certain rules and regulations as to placement of trash, garbage, and refuse, type of containers, and extra pick up dates. Such rules and regulations must be approved by the Council of the City. Rules and regulations approved by the City may be placed in effect following public notification.

- F. The Contractor, as part of the agreement, will pick up trash, garbage, and refuse in containers on the streets of the City and in the park at least once a week at no extra charge to the City.
- G. **Area to be served** - The area to receive the service of residential refuse collection within the City Limits as shown in the map appended hereto.
- H. **Hours of collection** - Normal hours of collection are to be from 5:00 AM to 5:00 PM. Exceptions may be made only when the Contractor has reasonably determined that an exception is necessary to complete collection of an existing route due to unusual circumstances or upon the mutual agreement of the City and the Contractor.
- I. **Missed collections** - In the event that a regularly scheduled collection is missed and a complaint received by either the City or the Contractor, and where no fault can be found on the generator's part, a special collection of the refuse will be required of the Contractor within forty-eight (48) hours. The City shall notify the Contractor of any complaints received within twenty-four (24) hours.
- J. **Holidays** - The following holidays will be observed: New Years Day, Christmas Day.

In cases where a holiday falls during the work week, either prior to or on the scheduled pick up day, pick up will be scheduled for the first regular work day following the normal pick up day. Work days are classified as Monday through Saturday.

- K. **Complaints** - The Contractor shall receive and respond to all complaints regarding services provided under this contract. Any complaints received by the City will be directed to the Contractor's office. Should a complaint go unresolved for longer than seven (7) days, the City will have the right, at its option, to demand an explanation or resolution to its satisfaction, or to resolve the situation itself and bill the Contractor accordingly.
- L. The location of the disposal site to be used under the terms of this Contract is described as follows: At Discretion of Contractor.

The Contractor may at any time be asked to provide evidence that the disposal site upon which his rates are based is the site actually used and that the said site is a legally permitted facility.

The Contractor shall be totally responsible for all equipment owned while operating on any disposal site.

III. DISCRIMINATION.

Neither the Contractor nor any sub-contractor nor any person(s) acting on its behalf shall discriminate based upon the laws of this State including but not limited to against an employee or applicant for employment with respect to hire, tenure, terms, conditions, or privileges of employment, or a matter directly or indirectly related to employment, because of race, color, religion, national origin, age, sex, height, weight, or marital status. Breach of this covenant may be regarded as a material breach of the contract.

IV. INDEMNITY.

The Contractor will indemnify and save harmless the City, its officers, agents, servants, and employees from and against any and all suits, actions, legal proceedings, claims, demands, damages, costs, expenses, and attorney's fees resulting from a willful or negligent act or omission of the Contractor, its officers, agents, servants, and employees in the performance of this Contract; provided, however, that the Contractor shall not be liable for any expenses and attorney's fees arising out of the award of this contract or a willful or negligent act or omission of the City, its officers, agents, servants, and employees.

V. INSURANCE.

The Contractor shall maintain in full force and effect throughout the term of this Contract and throughout any extension or renewal thereof the following types of insurance in at least the limits specified below:

<u>Type of Insurance</u>		<u>Amount</u>
GENERAL LIABILITY	General Aggregate	\$1,000,000
COMMERCIAL UMBRELLA	Excess Aggregate	\$1,000,000
Commercial Gen. Liability	Products-Comp/Ops Aggregate	\$1,000,000
Claims Made Occurrence	Personal Advertising Injury	\$ 300,000
AUTOMOBILE LIABILITY		
Any Auto	Combined Single Limit	\$1,000,000
WORKMEN'S COMPENSATION AND EMPLOYERS LIABILITY:		
	Each Accident	\$ 500,000
	Disease-Policy Limit	\$ 500,000
	Disease-Each Employee	\$ 500,000

Employer's Liability Coverage will be required of the Contractor and any sub-contractor where any class of employee engaged in work under this Contract is not protected under the Workmen's Compensation Statute.

All insurance will be by insurers acceptable to the City and authorized to do business in the State of Michigan. Prior to the commencement of work the Contractor shall furnish the City with certificates of insurance or other satisfactory evidence that such insurance has been produced and is in force. Said policies shall not thereafter be canceled, permitted to expire, or be changed without ninety (90) days advance written notice to the City.

VI. Rate for all collection and disposal services will be paid the sum of **Nine Dollars and Fifty Cents (\$9.50) per month per residence**. The rate may be renegotiated at the end of the 1st and 2nd year, based on increased disposal fees.

The City is to automatically add any new residential pick up to the agreement and the Contractor will be paid in the following manner for any pick ups therein:

A. It shall be the obligation of the City to make payments to the Contractor and the City shall be responsible for the collecting of the funds for residential establishments.

CITY OF BROWN CITY (CITY):

KNOX DISPOSAL, INC. (CONTRACTOR):

 CHRISTINE J. LEE
 CITY MAYOR
 September 22, 2014
 DATE

 RANDY KING
 OWNER / OPERATOR

 DATE

 JUANITA M. SMITH
 CITY CLERK
 September 22, 2014