

**VILLAGE OF ROCKDALE
REFUSE COLLECTION AND DISPOSAL HOST AGREEMENT
APRIL 1, 2014 – MARCH 31, 2036**

Village of Rockdale – Environmental Recycling & Disposal Service

THIS AGREEMENT is made and entered into this 4th day of February, 2014, by and between the **VILLAGE OF ROCKDALE**, Illinois, a municipal corporation (hereinafter “Village”) and **ENVIRONMENTAL RECYCLING & DISPOSAL SERVICE**, (hereinafter “Contractor”).

WITNESSETH:

WHEREAS, the Village and the Contractor have negotiated the terms of a Refuse Collection and Disposal Host Agreement between the Village and Contractor for the collection of residential refuse within the current (2014) municipal boundaries of the Village; and

WHEREAS, Contractor has approached the Village declare his intent to seek local siting approval of a pollution control facility, a municipal solid waste transfer station within the municipal boundaries of the Village; and

WHEREAS, pursuant to 415 ILCS 5/1 et. seq., the Environmental Protection Act, no permit to develop or operate a pollution control facility may be granted unless the applicant submits proof that the location of the facility has been approved by the county board of the county if in an unincorporated area or the governing body of the municipality when in an incorporated area, in which the facility is to be located; and

WHEREAS, a county has jurisdiction over the territory within the corporate limits of the county which does not lie within the corporate limits of a municipality; and

WHEREAS, all units of local government have concurrent jurisdiction with the IEPA in the pollution control facility siting and permitting process; and

WHEREAS, the Solid Waste Planning and Recycling Act shall not be construed to impact the authority of units of local government in the siting of solid waste disposal facilities; and

WHEREAS, the proposed pollution control facility is located entirely within the corporate limits of the Village of Rockdale; and

WHEREAS, the Board of Trustees of the Village has duly authorized the Mayor and the Village Clerk of the Village to execute this Agreement for and on behalf of the Village; and

WHEREAS, execution of this Agreement, by which Contractor agrees to provide refuse collection and disposal service free of charge to the Village or its residents for a twenty (20) year term in lieu of Contractor's payment to the Village of per ton host fees for Contractor's solid waste transfer station to be built and operated in the Village if Contractor's siting request meets the statutory requirements as set forth in 415 ILCS 5/39.2.

NOW, THEREFORE, IN CONSIDERATION OF THE FOREGOING AND OF THE COVENANTS AND AGREEMENTS HEREIN CONTAINED, IT IS MUTUALLY AGREED BY AND BETWEEN THE VILLAGE AND THE CONTRACTOR AS FOLLOWS:

1. **Siting Approval.** Upon Contractor receiving final, unappealable siting approval, this Agreement shall supersede and replace the Agreement For Collection And Disposal Of Residential Waste entered into between Village and Contractor, and the Agreement For Collection And Disposal Of Residential Waste shall be hereby repealed and revoked and of no further consequence.

2. **Collection.** Contractor agrees, at its sole cost and expense, to furnish all labor, tools, equipment and materials, supplies and services necessary to collect and remove all residential refuse (to include garbage, kitchen waste, ashes and associated household debris and one bulk item). The service excludes IEPA regulated items, as well as yard and or landscape waste, which includes grass clippings, branches, twigs and stems, and construction materials. Contractor agrees to provide service for up to 850 dwelling units within the current (2014) municipal boundaries of the Village, the Village Hall, the Village garage and storage facility on Larkin Avenue. Contractor shall remove all residential refuse in enclosed collection trucks. Contractor further understands and agrees to pay all costs and expenses required to properly dispose of all residential waste collected pursuant to this Agreement.

3. **Collection Schedule.** Collection of refuse within the Village shall be made once each week at all single family residences, duplex family residences and three-units, as well as the Village Hall, the Village garage and storage facility on Larkin Avenue, on the schedule of collection established by the Contractor; provided, however, in the event that the day for collection shall fall on a legal holiday, pickup shall be delayed one day.

4. **Collection and Containers.**

(a) Every dwelling unit (single-family, duplex and three-units) shall be provided by Contractor one (approximately) 96 gallon toter at no cost to the Village or its residents. Additional totes can be rented by residents for \$2.00 a month billed by Contractor.

(b) All containers shall be placed on the curb line or alley by six o'clock a.m.

on the day of collection. The only exception to the foregoing requirements is that refuse from the Village Hall, Village garage and storage facility shall be placed in a dumpster for collection at no charge to the Village. On each designated collection day, Contractor will collect and properly dispose of all residential waste from each residential unit. Contractor shall be required to collect no more than one bulk item and (1) receptacle of residential waste per residential unit per collection day (unless additional totes are rented by residents).

(c) The Contractor will provide 10 (ten) twenty-cubic yard roll off containers each year to use at the Villages discretion at no charge to the Village.

(d) Until Contractor receives final, unappealable siting approval, the Contractor will provide roll off containers (dumpsters) for landscape debris at the Village garage and storage facility on Larkin Avenue. The roll off containers will be emptied and returned by direction of the Village and billed per load. Subsequently, the Village may deposit Village-collected landscape debris at Contractor's site location at no cost to the Village.

(e) The Village will have an option of three (3) eight-cubic yard dumpsters serviced twice a week or as needed, or a 30 yard closed roll off container serviced twice a week or as needed, for recyclables.

5. **Term.** The term of this Agreement shall be for the twenty (20) year period commencing upon receiving final, unappealable siting approval and ending twenty (20) years thereafter, or March 31, 2036, whichever occurs first.

6. **Compensation.** In consideration for the service to be rendered by the Contractor for the term of this Agreement, the Village agrees not to charge or collect a host fee for Contractor's operation of a Municipal Solid Waste Transfer Station and Recycling Center located on Moen Avenue in the Village.

7. **Siting Approval.** This Agreement shall not be construed as pre-approval of a request for siting approval by the Village, and any such request shall be decided solely on the criteria set forth in 415 ILCS 5/39.2.

8. **Operation.** Contractor agrees to operate such transfer station in accordance with all applicable state and federal requirements, and specifically in accordance with any permits issued by the IEPA, and failure to do so shall be deemed a material breach of this Agreement.

9. **Services.** Contractor agrees to provide the collection service described in this Agreement free of charge to the Village and its residents for a period of twenty (20) years commencing upon Contractor receiving final, unappealable siting approval and ending twenty (20) years thereafter, or March 31, 2036, whichever occurs first, summarized as follows:

- for up to 850 dwelling units within the current (2014) municipal boundaries of the Village;
- 10 (ten) twenty-cubic yard roll off containers each year of the contract to use at the Villages discretion at no charge to the Village;
- Roll-off containers (dumpsters) for landscape debris at the Village garage and storage facility on Larkin Avenue until Contractor receives final, unappealable siting approval;
- Three (3) eight-cubic yard dumpsters serviced twice a week or as needed, or a 30 yard closed roll off container serviced twice a week or as needed, for recyclables;
- refuse from the Village Hall, Village garage and storage facility shall be placed in an appropriately sized dumpster.

10. **Insurance and Indemnification.** The Contractor shall comply with all provisions of the Workers' Compensation Act of the State of Illinois. Except to the extent that Contractor is self-insured, Contractor shall carry a public liability and property damage policy naming the Village as an additional insured. Said public liability and property damage policy shall have \$5,000,000.00 aggregate limits, and \$1,000,000.00 property damage limits, which shall protect Contractor and Village from all claims for personal injury and property damage which may arise because of the nature of the work or from operations under this Agreement. It is understood and agreed by and between the Parties that the Contractor is an independent Contractor and Contractor shall hold the Village harmless from and indemnified on any claim or claims arising solely and directly from Contractor's negligence in its collection or disposal operation, including costs and expenses of litigation.

11. **Customers.** At the end of each (12) months, the Village shall furnish the Contractor with a tabulation of either additional residences to be serviced due to new construction or residences to be removed from service due to demolitions or vacancies so Contractor may verify that the 850 dwelling unit limit under the Agreement will not be exceeded. This Agreement does not include non-residential refuse collection within the Village and the Village shall have no interest in such non-residential refuse collection.

12. **Cooperation.** Village and Contractor agree to cooperate as necessary in all steps, including joint participation in litigation, to establish the Village's right to exercise meaningful siting authority and jurisdiction, free of any limitation or restriction imposed or attempted to be imposed by any other governmental entity.

13. **Waiver.** Village waives all filing fees and claims for reimbursement in Section 62-64(e) of the Village Code.

14. **Deposit.** Contractor shall deposit \$15,000.00 as their sole contribution with the Village to defray the reasonable and necessary costs for compensation of the Hearing Officer, court reporter expenses and transcription costs. The Village shall periodically submit a detailed accounting and summary of said expenditures to the Contractor. If there are funds remaining, such amount shall be refunded to the Contractor upon the final resolution of the application process (including appeals to the Illinois Pollution Control Board, Appellate Court, Illinois Supreme Court, Federal Courts, and administrative review in the Courts, if any).

15. **Appeal.** In the event that there is an appeal by any party other than the Contractor, the costs for preparing the record for appeal, and the cost of representing the Village on appeal, shall be fully borne by Contractor. The Village agrees to cooperate with Contractor in said appeals process.

16. **Compliance with Law.** Contractor shall comply with all local, state and federal statutes, laws, rules and regulations, including, but not limited to, all environmental protection laws, minimum wage laws, equal employment and nondiscrimination laws.

17. **Indemnity.** Contractor agrees to protect, indemnify and hold harmless the Village against all loss, expenses, damage, charges and costs (including court costs and attorney's fees) for injury to or death of persons and damages to or destruction of property suffered or alleged to have been suffered as a result of any act or omission on the part of Contractor or others whose services are engaged by Contractor or anyone directly or indirectly employed or controlled by either of them in the course of the performance of the work provided for in this Agreement, except such injury, damage, destruction, or death as may be caused by the negligence or fault of the Village.

18. **Disposal.** All residential waste collected by Contractor pursuant to this contract shall be disposed of in a sanitary landfill or other similar facility properly licensed and permitted by an appropriate state agency. All waste collected by Contractor under this Agreement shall become the property of Contractor when collected.

19. **Equipment.**

(a) **Equipment required.** Contractor shall obtain, at his sole cost and expense, all trucks, mobile equipment and other equipment necessary or proper to carry out the terms and conditions of this Agreement.

(b) **Cleanliness.** Contractor shall maintain all trucks and other equipment in a clean and sanitary condition at all times. Each vehicle shall be washed regularly.

(c) **Condition.** Contractor shall maintain all of its equipment in good working condition at all times. Contractor shall have auxiliary equipment available to perform the terms and conditions of this Agreement in the event of breakdown.

(d) Hauling. All waste hauled by Contractor shall be properly contained and secured to prevent leakage, spillage or blowing.

20. **Additional Requirements of Village.**

(a) Use of Public Streets. Contractor shall conduct its operations so as to interfere as little as possible with the public use of roads, walks and entrances to residences.

(b) Operations on Village Property. All operations of Contractor upon the premises of the Village shall be confined to areas authorized by the Village. No unauthorized or unwarranted entry, passage through, or storage or disposal of materials shall be made upon the Village or private property. Contractor shall hold the Village harmless from all liability of any nature or kind arising from any use, trespass or damage occasioned by its operation on premises of third persons.

(c) Designation of Street Collection. The Village Board, in its sole discretion, shall designate collection under this Agreement shall be from a public street for every residential unit covered by this Agreement.

21. **Interruption of Service**. Except for act of God or disaster, in the event Contractor shall fall further than one (1) week behind in collection and disposal services hereunder, the Village may, at its option, make alternate arrangements for the collection and disposal of residential waste and shall be entitled to charge any reasonable expense over and above the fees provided for herein to Contractor. In the event Contractor shall miss collection from any residential unit, upon notification of such missed pick-up, Contractor shall promptly respond and collect all residential waste from such residential unit as soon as possible, but not later than 24 hours after notification.

22. **Holidays**. Contractor may observe the following holidays:

- New Year's Day
- Memorial Day
- Independence Day
- Labor Day
- Thanksgiving Day
- Christmas Day

Residential waste collections skipped on a designated holiday shall be made on the next succeeding calendar day and the remaining collection schedule for that week shall be adjusted accordingly by Contractor provided that all areas of the Village shall be provided collection during that calendar week.

23. **Licenses and Permits**. Contractor shall obtain and maintain in full force and effect during the entire term of this Agreement at its sole cost and expense, all

licenses and permits required by federal, state or local law. Village will waive all Village license fees to Contractor.

24. **Reports.** If the Village requests, the Contractor will agree to furnish monthly and/or annual reports to the Village for the services performed under this Agreement. Such reports shall be filed at the end each month and/or at the end of each calendar year with the Village Clerk. The reports shall include data on the tonnage of all waste, which is collected, hauled and disposed of pursuant to this contract. Said tonnage shall be verifiable through weight tickets and/or official log books, and said reports are to be provided in such form and manner as the Village may direct. Additionally, Contractor shall provide the Village with certification that all waste collected pursuant to this contract has been disposed of in a properly licensed and permitted sanitary landfill or other proper facility.

25. **Inspection.** Village shall have the right at all reasonable times to inspect Contractor's equipment and facilities to ensure compliance with the terms and conditions of the Agreement.

26. **Notices.** All notices required or contemplated by this Agreement shall be personally served or mailed, postage prepaid and return receipt requested, addressed to the parties, as follows:

Village:
Village Mayor
Village Hall
79 Moen Ave
Rockdale, Illinois 60436

Contractor:
Environmental Recycling & Disposal
Attn: Jay Ipema
2277 Moen Ave
Rockdale, IL 60436

Or to such other address as the parties may designate in writing.

27. **Amendments.** It is the intention and agreement of the parties that all provisions of law required to be reflected herein, shall be and are included herein. However, if by mistake or otherwise, some such provision is not contained herein, or is not reflected herein in proper form, then upon application of either party, the Agreement shall be amended so as to strictly comply with the law without prejudice to the rights of either party. When mutually agreeable, the Agreement may be modified as necessary because of changing requirements or for other reasons. However, any modification or amendment will only be by written agreement duly executed by the parties or their authorized representatives.

28. **Subcontracting and Assignment.** Contractor shall not enter into any subcontracts, leases, agreements or assignments of or pertaining to this Agreement, or any interest or right herein either voluntarily or by operation of law, without prior written approval of the Village.

29. **Termination.** All terms and conditions of this Agreement are considered

material, and failure to perform any of the terms and conditions on the part of Contractor shall be considered a breach of this Agreement. Should Contractor fail to perform any of the terms or conditions, the Village shall have the right to terminate this Agreement upon ten (10) day notice to Contractor.

30. **Waiver.** A waiver of any breach of this Agreement shall not constitute or operate as a waiver of any other breach of such provision or any other provisions, nor shall any failure to enforce any provision operate as a waiver of that provision or of any other provision.

31. **Governing Law.** This Agreement is entered into and is to be performed in the State of Illinois. The Village and Contractor agree that the laws of the State of Illinois shall govern the rights, obligations, duties and liabilities of the parties to this Agreement and shall govern the interpretation of this Agreement.

32. **Severability.** The invalidity of one or more 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.

33. **Successors and Assigns.** This Agreement shall be binding upon, and inures to the benefit of, the parties and their respective permitted successors or assigns (any assignment, whether voluntary or involuntary, by merger, consolidation, dissolution, operation of law or any other manner) in accordance with the terms and conditions of this Agreement.

34. **Bankruptcy.** In the event Contractor shall be adjudged bankrupt, either by voluntary or involuntary proceedings, then this Agreement shall terminate at the option of Village. If Contractor shall become insolvent, or fail to meet its financial obligations, then this Agreement may be terminated at the option of Village on fifteen (15) days written notice to Contractor. This Agreement is not assignable by Contractor either voluntarily or involuntarily, or by process of law, except as provided herein, and shall not be or come under the control of creditors, of trustee, or trustees of Contractor in the case of bankruptcy, or insolvency of Contractor, but shall be subject to termination as provided above.

35. **Supervision of Performance.** Contractor's performance of this Agreement shall be supervised by the Mayor or his/her designee. If, at any time during the life of this Agreement, performance satisfactory to the Mayor shall not have been made, Contractor, upon notification by the Mayor, shall increase its work force, tools and equipment as needed to properly perform this Agreement to the satisfaction of the Mayor. The failure of the Mayor to give notification shall not relieve Contractor of its obligation to perform the work at the time and in the manner specified in this Agreement.

36. **Settlement of Disputes.** Where any dispute arises between a resident

and Contractor as to the manner of placing residential waste or the nature of the contents or the like, Contractor agrees in the specific instance to remove the residential waste even though, in its opinion, it is improperly placed or contained. Thereafter, Contractor will immediately report the controversy to the Mayor for settlement before additional collection becomes necessary in order to avoid further disputes or disagreements between residents and Contractor's employees.

37. **Coordination of Contract.** Contractor will coordinate and cooperate with the Village and Village's other solid waste contractors to assure that an efficient, convenient and orderly service is delivered to residents and will furthermore work to assure that Contractor provided services will not interfere with other Village activities or services.

38. **Rights & Remedies Cumulative.** All rights and remedies of the Village enumerated in this Agreement are cumulative and none will exclude any other rights or remedies allowed by law.

39. **Breach.** It is acknowledged that the failure of Contractor, its successors or assigns, to achieve substantial compliance with the terms of this Agreement will cause Village to incur substantial economic damages and losses of types and in amounts which are impossible to compute and ascertain with certainty as a basis for recovery by the Village of actual damages, and that liquidated damages represent a fair, reasonable and appropriate estimate thereof. Accordingly, in lieu of actual damages for such breach, the Contractor agrees that liquidated damages may be assessed and recovered by the Village as against Contractor without the Village being required to present any evidence of the amount or character of actual damages sustained by reason thereof; therefore Contractor shall be liable to the Village for payment of liquidated damages in the amount of fifty thousand dollars (\$50,000) for each year of breach (with said liquidated damages amount of \$50,000 assessed in the base year of 2015, and said amount shall be increased by 2.5% in every year thereafter; e.g. \$51,250 in 2016, \$52,531 in 2017, etc.), which is a reasonable approximation of the anticipated or actual loss caused by the breach. Such liquidated damages are intended to represent estimated actual damages and are not intended as a penalty, and Contractor shall pay said amount to Village without limiting Village's right to terminate this Agreement for default as provided elsewhere herein.

40. **Independent Contracting or Subcontracting and Assignment.** Contractor shall perform all work and services described herein as an independent contractor and not an officer, agent, servant or employee of the Village. Contractor shall have exclusive control of, and the exclusive right to control the details of the services and work performed 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 the Village and Contractor. No person performing any of the work or services described herein shall be considered an officer, agent, servant, or employee of the Village, and no such person shall be entitled to any benefits available or granted to employees of the Village. Contractor shall not enter into any subcontracts, leases,

agreements or assignments of or pertaining to this Agreement, or any interest or right herein either voluntarily or by operation of law, without prior written approval of the Village.

41. **Entirety.** This Agreement is the entire Agreement of the parties as to he matters contained herein. Any oral representations or modifications concerning this Agreement shall be of no force and effect.

IN WITNESS WHEREOF, the Village has caused this Agreement to be executed by its Mayor pursuant to the authority granted by the Board of Trustees of the Village, and the Contractor has executed this Agreement by its President and attested by its Secretary the day and year first above written.

**VILLAGE OF ROCKDALE, AN
ILLINOIS MUNICIPAL CORPORATION**

By Samuel Wyke
Samuel Wyke, Village President

ATTEST:

Robert M. Joutras
Robert Joutras, Village Clerk

**ENVIRONMENTAL RECYCLING &
DISPOSAL SERVICE**

By Donald H. [Signature]
President

ATTEST:

[Signature]
Secretary