

AGREEMENT

Curbside Collection of Solid Waste and Recyclables

This contract made and entered into this 1st day of January, 2017 by and between **Johns Disposal Service, Inc.**, hereinafter referred to as the “Contractor” and the **City of Milton**, hereinafter referred to as the “City”.

The Contractor shall be responsible for the collection and proper disposal of all refuse and recyclables from all residential buildings and condominium associations pursuant to this agreement. The Contractor shall provide and furnish all of the labor, materials, necessary tools, expendable equipment and supplies, vehicles, transportation services, permits, and landfill space required to perform and complete the collection from all units and disposal of refuse; and arrangements with processors required to perform and complete the collection from all units and marketing of recyclables.

A. INCLUDED MATERIALS:

1. General household trash and refuse.
2. All items required to be recycled by Wisconsin statutes, including glass, metal cans, plastic containers, aluminum, newspapers, mixed paper, magazines, phone books, and corrugated cardboard.
3. Automotive batteries with the bulk items collection (See Section C (4)).
4. Furniture and appliances with the bulk items collection (See Section C (4)).
5. Motor oil if properly contained and tightly capped with the bulk items collection (See Section C (4)).
6. Tires – no more than 4 per week, 8 per year, with the bulk items collection (See Section C (4)).
7. Electronic devices banned from landfills in 2009 Wisconsin Act 50. Banned items include TV’s, computers, peripherals, VCR’s, and many other devices, with the bulk items collection (See Section C (4)).

B. ITEMS NOT INCLUDED:

1. Earth, rocks, concrete, loose construction and demolition materials, trees or parts thereof. See section C (4) for bulk items collection.
2. Yard waste is not included in the regular curbside collections. Yard waste dumpster service at the City garage is included.

3. Hazardous, toxic or infectious materials, including any items recognized as special waste by the State of Wisconsin.

C. SERVICE DETAILS:

1. Collection of NON-RECYCLABLE TRASH will be made weekly, with all suitable materials for collection being placed by residents at the curb of their homes by 6:00 a.m. on the day of collection. All NON-RECYCLABLE TRASH shall be placed by residents in a 96-gallon BROWN CART which is provided by the Contractor.
2. Collection of RECYCLABLES will be made every other week, with all suitable materials for collection being placed by residents at the curb of their homes by 6:00 a.m. on the day of collection. Recyclables shall be commingled. All RECYCLABLES shall be placed by residents in a 96-gallon GREEN CART which is provided by the Contractor.
3. The Contractor shall make collections with as little noise and disturbance to City residents as possible. Permitted collection hours are to be between 6:00 a.m. and 6:00 p.m. Pickup will be on Wednesday.
4. Collection of BULK ITEMS. Bulk items will be collected on the 3rd Wednesday of each month. There is no need for residents to call to have bulk items removed. Items collected with the bulk items pick-up include:
 - Furniture
 - Appliances (including microwaves and items containing CFC's such as refrigerators)
 - Automotive tires, truck tires and tractor tires, provided that tires over 42" in diameter are quartered (4 per collection, 8 per year total)
 - Drain oil in one (1) gallon or larger containers with secure lids that are labeled as 'drain oil'
 - Automotive batteries
 - Earth, rocks, concrete, loose construction and demolition materials are included with the bulk items collection if contained in 32 gallon cans that weigh less than 60 pounds (no limit on the number of cans).
 - Electronic devices banned from landfills in 2009 Wisconsin Act 50. Banned items include TV's, computers, peripherals, VCR's, and many other devices.
5. HOLIDAY'S. When the collection day is interrupted by a holiday, pickup will be the following day.
6. NO HAZARDOUS, toxic or infectious waste will be accepted, except for specific items listed in this contract such as appliances containing CFC's and automotive batteries.

7. LITTER. All refuse shall be collected and transported in such a manner as to prevent falling or spilling of material. When spilling does occur, the material shall be picked up as soon as possible and the area properly cleaned.
8. REFUSE and RECYCLING CARTS. The Contractor shall initially provide each residential unit with one cart for refuse and a second cart for recycling. The Contractor will deliver the carts to new units after notification of occupancy by the City. All carts are the property of the City for the duration of this agreement and must stay with the home. At the end of the agreement the contractor will take ownership of the carts and remove each cart from the City. The homeowner is responsible for keeping the carts clean. The homeowner is responsible for damage, other than normal wear, such as melting from hot ashes, cuts from a saw, or other avoidable damage. In the event the homeowner is responsible for the damaged cart(s), the replacement cost of \$60 will be billed directly to the homeowner by the Contractor. The Contractor is responsible for normal wear to the cart, wheels or lid and will repair or replace the cart in a timely manner after the homeowner informs the Contractor of the problem. The Contractor is responsible for damage caused from snow plows or passing vehicles.
9. DISABLED RESIDENTS as identified by the City shall receive doorway service at no extra cost.
10. CITY OWNED PROPERTIES: The Contractor agrees to provide the City with a special service to meet all the needs for garbage and recycling removal from the City-owned locations, including parks, the Public Safety Building, the Public Library, the City Garage, and all other properties and facilities owned and maintained by the City at no additional cost. This does not include sludge from the Waste Water Treatment Plant. Trash containers in the business district and at designated locations, which are owned by the City, shall also be emptied weekly.

D. TERM and COST:

1. ANNUAL COST. The City agrees to pay the Contractor the following fees for in conjunction with the services rendered pursuant to this Contract:
 - Refuse collection including disposal for all residential buildings and condominium associations with 4 units or less, per unit per month
@ \$9.00 for 2017
 - Recycling collection, processing and marketing per unit per month
@ \$3.00 for 2017

- Refuse collection for Multi-Family Complexes Above 4 units, per unit per month @ \$8.00 for 2017
- Commercial properties will be included as identified by the City. Commercial properties will receive the same services as residential properties at the same rates identified in Sec D of this agreement with one exception - commercial properties will not receive the bulk items collection.
- The unit count will be increased to account for new or annexed homes and may be lowered to account for razed or condemned units. All units that are able to be occupied will be included in the count once an occupancy permit is issued until the unit is condemned or razed.
- Yard waste dumpster service will be at a lump sum cost of \$9370.00 for 2017

TERM. This Contract shall be in effect for the period, January 1, 2017 through December 31, 2021. The City may opt to extend the agreement to include 2022 and 2023 at its sole discretion. The Contractor may increase the fees charged for 2018, 2019, 2020, 2021, 2022 and 2023 by notifying the City of the fee increase not later than October 1st preceding the year in which the fee increase will be effective. The Fee increase shall be in an amount not to exceed the cost of living percentage (CPI-U- Midwest, the Consumer Price Index for All Urban Consumers- Midwest Region) as calculated annually and published by the Bureau of Labor Standards in August of each year provided that in no event shall the fee increase be in an amount to exceed three percent (3%), after adjusting for new homes added.”

2. In no event shall the Contractor increase the fees during the current year of an agreement.

Payments of contract service fees shall be made within 30-days of the end of each month and shall be based upon full-month occupied residential units, calculated at the end of each month.

3. The City may terminate this Agreement for unsatisfactory service upon sixty (60) days written notice. Unsatisfactory service shall include, but not be limited to, consistent or recurring failure to provide timely collection, omission of collections, failure to leave the collection sites in good order, delivery of recyclables to landfills, unless those recyclables were comingled with solid waste by the residents or commercial units, and failure to provide a regular and accurate accounting for disposal of refuse, recyclables, or similar deviations from the contract requirements. Termination under this subsection shall not become effective if the Contractor remedies or cures the unsatisfactory service to the City’s satisfaction within thirty (30) days of mailing of notice and termination. Notice and termination under this subsection shall include recitation of the Contractor’s right to cure a claim of unsatisfactory service. All notices shall be mailed via registered U.S. Mail to the City and the Contractor.

4. **DUMPING FEES.** Any and all “dumping fees” (broadly defined to include all fees and taxes imposed by Rock County, the State of Wisconsin and the Federal Government, or any division or agency thereof related to the execution of this contract) that are required to be paid by law, including but not limited to fees required per Section 289.63, 289.64, 289.67, 289.64 (2) Wisconsin Statutes, including any revisions that may be made thereto during the term of this Contract, along with any other fee or tax must be paid for by the Contractor in order for this contract to be performed in compliance with law, shall be paid fully and timely by the Contractor; and the compensation paid to the Contractor pursuant to this contract shall be deemed to include any portion of such fees or taxes as may otherwise be the obligation of the City. Any government imposed or increased landfill taxes or fees instituted after January 1, 2017 are not included and will be the responsibility of the City.

E. SPECIAL PROVISIONS:

1. **RECYCLING RECORDS.** The Contractor shall keep a record of total weights of both solid waste and of each category of recyclables collected from the City and report those totals to the City on a quarterly basis.
2. **DATA AND RECORD COLLECTION.** The Contractor shall collect data and provide the City with a quarterly status report on the recycling collection containing the following information:

Total weight of each recyclable material commodity collected that quarter, segregated so the City has the information it needs to complete reports required by the Wisconsin Department of Natural Resources.

3. **CONTRACTOR OFFICE.** The Contractor shall maintain an office which it may be contacted directly, where service may be applied for, where the public and the City personnel may call or send inquiries and complaints, and where the public and the city personnel may send and receive instructions. The office shall be equipped with sufficient telephones and shall have a responsible person in charge during collection hours. These services shall be operated between the hours of 8:00 a.m. to 4:30 p.m., Monday through Friday, and 8:00 a.m. to noon on Saturdays except during holidays. The City will publicize the customer service telephone number(s) of the Contractor.
4. **INSURANCE.** The Contractor shall maintain such insurance as will protect the Contractor from claims under workers’ compensation acts, and from any other claims for property damage, bodily injury or personal injury, including death, which may arise from operations under this contract, whether such operations by the Contractor, or by any subcontractor or anyone directly or indirectly employed by either of them. Certificates of Insurance and required City endorsements, naming the city as co-insured, shall be filed with the City prior to the start of the

Contractor's services for the City. Proof of such insurance shall be provided to the City clerk annually.

The Contractor shall carry at its own costs, the following minimum insurance coverage:

- a. Workers' compensation and employers liability.
 - i. Workers' compensation: statutory in Wisconsin.
 - ii. Employer's liability at a level of not less than \$1,000,000.
 - b. General liability insurance (each accident/occurrence).
 - i. Bodily injury at a level of not less than \$1,000,000/\$1,000,000.
 - ii. Property damage at a level of not less than \$1,000,000/\$1,000,000.
 - iii. Personal injury at a level of not less than \$1,000,000/\$1,000,000.
 - c. Auto liability insurance (each accident/occurrence).
 - i. Bodily injury at a level of not less than \$1,000,000/\$1,000,000.
 - ii. Coverage shall extend to all owned, leased or hired vehicles.
 - d. Umbrella liability coverage of \$5,000,000 for each occurrence, \$5,000,000 aggregate.
6. PROCESSING, RECYCLING and DISPOSAL. The Contractor agrees to dispose of refuse in compliance with all City, County, and State of Wisconsin and Federal Government ordinances, codes, statutes, and rules, including, but not limited to, all applicable recycling laws, environmental laws and waste disposal laws.
 7. MARKETING of RECYCLABLES. The Contractor agrees to market all recyclables. The Contractor shall retain the proceeds from the sale of materials and shall be responsible for the cost of recycling materials with a negative value such as tires and glass.
 8. EDUCATION and PROMOTION. The City and the Contractor shall coordinate their efforts to publicize and promote the recycling program and educate the citizens regarding recycling. The City and the Contractor will review and approve promotional activities jointly.

GENERAL PROVISIONS

1. INDEMNITY. The contractor shall indemnify, defend, save, and hold harmless the City, its officers and employees from any and all liability, losses, costs, expenses, demands, taxes, claims, damages, lawsuits, proceedings, or causes of action, including workers' compensation claims, of any kind or nature whatsoever, including reasonable attorney's fees and costs of defense, that the City may suffer, incur, sustain, or become liable for, on account of any injury to or death of its employees, or injury or death to any other person, or damage to or injury to any

property, in any way resulting from, arising out of, in connection with or pursuant to this Agreement caused by the Contractor, its agents, retailers, employees, or any subcontractors in performance of the services to be conducted, including ownership, maintenance, use, operation, or control of any vehicle owned, operated, maintained, or controlled by the Contractor or subcontractor.

The Contractor shall not be liable for any claims of liability resulting solely from the negligence or willful misconduct of the City, its agents, or employees.

2. **ASSIGNABILITY of AGREEMENT.** This Contract is not assignable by the Contractor of record, without the express written consent of the City, and in the event of bankruptcy, assignment for the benefit of creditors, or a petition for receivership relative to the Contractor of record, the City may, without notice, declare this contract at an end, at its option.
3. **SUBCONTRACTING.** The Contractor shall not subcontract any work to be performed or any materials to be furnished in the performance of this Contract without the written consent of the City. The Contractor shall be fully responsible for any acts or omissions of its subcontractor as it is for the acts and omissions of persons directly employed by itself.
4. **INDEPENDENT CONTRACTOR.** The contractor shall be deemed an independent contractor, solely responsible for control and payment of its employees and compliance with all applicable Federal, State and local laws.
5. **DAMAGES.** The Contractor shall take all necessary precautions for the protection of property. The Contractor shall be responsible for damages to property resulting from the operation of vehicles or the handling of any receptacle. All property which suffers damage caused by the Contractor shall be repaired or replaced as soon as possible to equivalent quality at the time of damage at no cost to the property owner or to the City. If the Contractor fails to repair or replace damaged property, the City may, after giving the Contractor notice in writing and 30 days to repair or replace, repair or replace such property as may be deemed necessary at the Contractor's expense. The cost of such repair or replacement shall be deducted from the Contractor's monthly bill.
6. **EMPLOYEES AND CONDUCT.** The Contractor shall undertake to perform all collection and disposal services in a neat, orderly, and efficient manner; to use care and diligence in the performance of this agreement; to provide neat, orderly, and courteous personnel on its collection crews; and to provide courteous and knowledgeable personnel in its customer service function.

The Contractor shall conduct itself both in relations with the City and City residents in a personable, professional manner. The Contractor should also act in an ethical manner throughout the term of this agreement.

All Employees of the Contractor shall be dressed in a neat, professional like manner and shall carry official company identification. All drivers shall carry a valid Wisconsin state driver's license for the class of vehicle operated.

7. **REFUSE REQUIREMENTS.** Throughout the term of this agreement, the Contractor shall own, co-own, rent, lease, control, or otherwise have access at its cost to a properly-licensed and permitted landfill of sufficient capacity for the disposal of refuse.

Upon request of the City, the Contractor shall provide proof that such facilities comply with all laws and regulations. This shall not preclude the Contractor from changing the disposal location to a reasonable alternate site, but the Contractor shall notify the City in advance of any changes. Upon request of the City, the Contractor shall furnish evidence of arrangements assuring availability of adequate landfill capacity for disposal of refuse collected under this agreement.

8. **RECYCLING REQUIREMENTS.** Throughout the term of this Agreement, the Contractor shall own, co-own, rent, lease, or otherwise control, or have access at its cost to a suitable storage/processing facility for the purpose of sorting and/or preparing the collected recyclable material collected to either a processor(s) or broker(s) experienced in processing and marketing recyclables or to a market itself. The Contractor shall be responsible for all collection and transportation costs necessary to bring recyclables to the storage/processing facility. The Contractor shall be responsible for payment of all necessary processing costs for recyclables.
9. **VEHICLES.** All vehicles shall be kept in good working order and appearance at all times during the term of this agreement. All vehicles shall display the name of the Contractor, a local phone number and a vehicle identification number that is clearly visible on both sides.

All vehicles shall be fully enclosed and leak proof. They shall be operated in a way that no refuse or recyclables blow off the vehicle. Should refuse or recyclables blow off a vehicle, it shall be immediately cleaned.

10. **TITLE TO REFUSE AND RECYCLABLES.** Titles to all refuse and recyclables shall pass to the Contractor when materials are placed into the collection vehicle.

11. NOTIFICATIONS. Official notifications to the City, whenever required for any purpose under this agreement, shall be made in writing and address as follows:

The City of Milton
City Clerk
430 East High Street
Milton, WI 53563

Official notifications to the Contractor, whenever required for any purpose under this agreement, shall be made in writing and address as follows:

Johns Disposal Service, Inc.
Brian Jongetjes
P.O. Box 329
Whitewater, WI 53190-0329

12. LEGAL INTERPRETATION. The performance and interpretation of this agreement shall be according to the laws of the State of Wisconsin

13. SEVERABILITY. Each provision of this agreement is severable, and should any court or other governmental body of competent jurisdiction declare any provision of this agreement invalid or unenforceable by reason of any rule of law or public policy, all other provisions hereof shall remain in full force and effect.

14. LAWFULL AGREEMANT. The Contractor in executing this agreement acknowledges that it has not been induced to enter into this Agreement by any understanding or promise or other statement, whether verbal or written, by or on behalf of the City concerning any matter not expressed herein. The Contractor acknowledges that the City has relied upon the proposal submitted by the Contractor and has awarded the Contract in reliance thereon.

15. PERFORMANCE BOND. The contractor will provide a performance bond in the amount of 25% of the total annual contract amount. The bond shall be subject to approval as to form and content by the City's Attorney.

16. ENTIRETY. This Agreement constitutes the entire Agreement between the parties. No modification, amendment, alteration, revision or waiver of this Agreement or any of its provisions shall be permitted by or binding upon the parties unless so agreed in writing.

JOHNS DISPOSAL SERVICE, INC.

By _____ Date _____
President

THE CITY OF MILTON

By _____ Date _____
Mayor

By _____ Date _____
City Clerk