

AGREEMENT FOR JONESBORO RECYCLING SERVICES

TERMS AND CONDITIONS: In consideration of the fees to be paid herein, and other good and valuable consideration, the receipt of which is hereby acknowledged, the City of Jonesboro (“City”), a Municipal Corporation, does hereby contract and agree with Abilities Unlimited of Jonesboro, Inc. (“Contractor”) to perform the work referred to in the bid specifications attached and known as the Recycling Project, both parties hereto do agree to bound by the covenants and provisions set forth herein, and do contract:

1. **CONTRACT** – This contract shall become effective upon acceptance by the City Council. The Mayor shall notify the Contractor of acceptance by the City and, upon receipt of required insurance certificates and any other such documentation as may be required of the Contractor, shall issue to the Contractor a written NOTICE TO PROCEED and an executed copy of the City’s contract. Work shall not commence until the NOTICE TO PROCEED is issued.
2. **CONTRACT PERIOD** – This contract shall commence on or about May 1, 2015 and continue for three (3) years expiring June 30, 2018.
3. **RENEWAL OF CONTRACT** – By agreement of the parties hereto, this contract may be renewed in two (2) year increments upon such terms and provisions as may be agreed upon by the parties. Not less than thirty (30) days prior to the end of a contract period, either party may serve the other with written notice of any proposed amendments to the contract. In the absence of such notice, the contract shall be automatically renewed for a two (2) year period under the terms and conditions in force and effect at the renewal date.
4. **POST CONTRACT PERFORMANCE** – Should this contract not be renewed at the end of any contract period, Contractor agrees to continue performance of the terms and provisions of the contract last in effect on a month to month basis for a period not to exceed six (6) months unless otherwise specified by the City.
5. **INTENT AND SCOPE** – Contractor shall provide blue bag recycling collection service as defined by the following specifications to the residential areas within the City of Jonesboro and sorting and sale of recycled items. Services are not intended to be provided to commercial establishments, or industrial facilities. Multifamily dwelling have designated pickup points.
6. **SERVICE DESCRIBED** – The recycle pickup service is intended to be provided to all eligible residents by means of a curbside blue bag pickup. Recycling shall be provided to residents on a once per week basis (sanitation pickup day) as set by the City of Jonesboro. At times, a citizen may make a special request and the Contractor will take this into consideration when/where possible. The Contractor shall not commence work prior to 7 a.m. on any pickup day. The Contractor shall perform services

described herein in its entirety on the scheduled day of pickup. Should a holiday or inclement weather fall on a day of scheduled pickup, pickup shall be the next following business day, or as directed by the Sanitation Department in order to coincide with trash pickup.

7. WORK TO BE PERFORMED – On a weekly basis, the Contractor shall pickup, transport and “sort/sell” at the Contractor’s facility. The blue bags will be provided by either the City of Jonesboro or the Legacy Landfill and will be tied and dropped at the residence where the recycled blue bag is picked up (replacement bag). In addition, the Contractor shall run the recycling program on the Sanitation pickup schedule week. Contractor must recycle all recyclables.

Items collected which are not recyclables, must be disposed of at the Legacy Landfill at Contractor’s expense if applicable. Items to be picked up for recycling are:

- a. Newspapers, magazines, catalogs, telephone books
- b. Cereal boxes, office paper, junk mail, cardboard boxes, brown paper bags
- c. Clear, brown and green glass
- d. Aluminum and tin cans
- e. Plastics
- f. Aseptic Packaging and gable top containers

The above mentioned tasks will be provided to residential properties only under this contract and said service shall be provided at no charge to the residents.

The City will provide a minimum amount of advertising along with publishing information on general recycling program rules, but makes no guarantee as to quantities to be collected.

Service under this contract is not intended for commercial, industrial and manufacturing enterprises, however this does not restrict Contractor from performing services for those entities separately and not subject to this contract.

The following items SHALL NOT be picked up under this contract:

- a. Household hazardous waste
- b. Commercial or industrial waste
- c. Pathogenic waste; medicines; poisons; etc.
- d. Construction waste; rocks; sand; concrete or rubble from building construction or major remodeling in large enough quantities to warrant a special removal arrangement. This would mean that a couple of boards, an old window, a door, etc. would be picked up.

8. QUANTITIES – The quantities of material to be picked up along the residential streets will vary considerably with the time of year. The City makes no guarantees or representations as to the actual quantities of recyclables which shall

be removed, sorted and sold under this agreement. The Contractor is obligated to pickup and recycle ALL eligible materials during the contract term at the contract price.

9. CHANGES IN SPECIFICATIONS – The City reserves the right to amend, alter or modify the contract specifications at any time during the life of the contract or any renewal upon thirty (30) days written notice to the Contractor. Any adjustments in compensation shall be agreed upon by both parties. In the event that the parties cannot agree as to the adjustment of compensation, the matter shall be referred to binding arbitration in accordance with the rules of the American Arbitration Association. No changes may be made to any of the bid specifications or other terms or provisions of this contract without the express prior written authorizations of the City.

10. COMPENSATION – In consideration for the performance of the work set forth in the bid specifications, the Contractor shall receive compensation in the amount of \$4,900.00 per month. Payment to the Contractor will be made by the City on a monthly basis within thirty (30) days following the completion of a thirty (30) day work period. The City reserves the right to refuse payment for work not performed or not performed according to the terms and provisions of this contract.

11. CONTACT PERSONS – The City Sanitation Department shall be the contact person on behalf of the City. The Contractor shall provide the Sanitation Department in writing the name, title, address and telephone number of two (2) representatives of the Contractor designated to act on behalf of the Contractor.

12. INSURANCE – The Contractor shall provide written documentation of insurance coverage with the following conditions:

a. Worker Compensation – Covering all persons engaged in work related to this contract, directly or indirectly, to the full statutory limits established by the Arkansas Workers Compensation Act and any other applicable statute or law. Vendor shall adhere to OSHA Safety Standards.

b. Comprehensive General Liability – General Aggregate (2,000,000.00) Personal Injury (\$1,000,000.00 per occurrence/aggregate), Property Damage (\$500,000.00 per occurrence/aggregate).

c. Automobile Liability – On all motor vehicles used in any way related to this project: Bodily Injury (\$1,000,000.00) and Property Damage (\$500,000.00). The City of Jonesboro, its agents, employees, representatives and volunteers shall be listed as named insured on all policies. The Contractor shall furnish certificates of insurance to the City before any work on this contract begins. All insurers shall be licensed and/or authorized to do business in the State of Arkansas. Each policy shall contain a thirty (30) day notification clause so that a policy may not be canceled, terminated or allowed to lapse without notice to the City of Jonesboro.

d. Environmental/Pollution Liability (\$1,000,000.00) All subcontractors shall provide insurance in the same manner as the Contractor and shall provide proof of same to the City. The above requirements shall not be interpreted to limit the liability of the Contractor for bodily injury or property damage suffered as the intent of the parties is that the Contractor be able to completely and fully indemnify the City for any bodily injury or property damage suffered as a result of the Contractor and/or his/her agents' negligence and/or intentional acts or omissions.

13. PERFORMANCE – Performance Bond shall be furnished to the City in the full amount of the contract for the purpose of insuring the complete and satisfactory performance of each and every condition of this contract and project. The bond shall be issued by a guaranty or surety company acceptable to the City. The bond shall be accompanied by a Power of Attorney granting the bonding authority the ability to sign such bonds on behalf of the guaranty or surety company. All costs and expenses associated with providing the bond shall be borne solely by the Contractor.

14. COMPLIANCE WITH LAWS – The Contractor does hereby agree to comply with all applicable Federal and State statutes, regulations and guidelines, County and City ordinances or regulations in any way related to or affecting this project or the work associated therewith.

15. PERMITS AND LICENSE – Any and all permits, licenses, certificates or fees required for the performance of the work associated with this contract shall be obtained by and paid for by the Contractor.

16. SUPERVISION – The Contractor shall personally supervise the work or designate a competent person to act on his/her behalf. The Contractor shall be solely responsible for the quality of the work performed. The Contractor agrees to perform the work in a good and competent manner and in conformance with industry standards.

17. SAFETY – The City will not have control over, or charge of and will not be responsible for work means, methods, techniques, sequences, or procedures or for safety precautions and programs under the contract. Since these are solely the Contractor's responsibility, the City's review of work performed, equipment used and/or materials used in performance of work under this contract shall not limit the Contractor's or subcontractor's liability and shall not constitute approval of safety precautions.

18. PROTECTION OF PROPERTY – The Contractor shall be solely responsible for protecting and preserving from damage, any and all property, public or private, in or around areas where work is performed.

19. DEFAULT – Should one or more of the following occur, the City at its sole option, may declare the Contractor in default and take such action as the City deems in its best interests, including, but not limited to, terminating the contract and seeking money

damages, seeking specific performance, obtaining substitute performance or any other remedy available to it or allowed by law without reservation or limitation:

- a. Failure to provide insurance or keep such insurance in effect as required by this contract.
- b. Failure to provide performance bond as required by this contract.
- c. Failure to timely perform any term or provision of this contract.
- d. Failure to comply with any applicable federal or state statute, law or regulation, county or local ordinance or regulation.
- e. Failure to perform the work required herein in a safe or competent manner. Upon notice to the Contractor that the City has determined that the Contractor is in default, the Contractor shall immediately cease any and all performances unless otherwise requested by the City. The City, at its sole option, may allow the Contractor to cure the default upon such terms and conditions as the City may require. The City reserves the right to withhold any and all payments under this contract until all defaults and/or defects in performance have been cured to the satisfaction of the City, which satisfaction shall not be unreasonably withheld.

All remedies available to the City are hereby deemed cumulative. The election of one remedy shall not constitute a waiver of any other remedy available. The City, at its sole option, may take such actions as it deems necessary to cure any defaults or defect in performance, the costs of which, including but not limited to, costs for rebidding, costs of substitute performance, costs of litigation, actual attorney fees and any together costs necessarily incurred to correct a default or defect in performance, shall be paid by the Contractor promptly upon request of the City.

20. INDEMNITY – The Contractor, its agents, representatives, successors and/or assigns, do hereby agree to defend, indemnify and hold harmless the City, its employees, agents, volunteers and/or representatives from any and all claims, demands, liability, damages, expenses, costs, including costs of litigation and actual attorney fees, caused, directly or indirectly or in any way related to the performance of this contract by any act or omission, intentional or negligent, of the Contractor, its agents, employees, representatives, successors or assigns, however specifically excluding intentional acts, omissions or negligence of employees, agents, representatives or volunteers of the City.

21. NONASSIGNMENT – This contract may not be assigned, subcontracted or otherwise transferred without prior written approval of the City.

22. NONEMPLOYEE STATUS – The Contractor(s), agents, employees and/or representatives thereof are hereby deemed independent contractors and are not City employees. The Contractor shall exercise all supervisory and general control of daytoday operations, including the right to control over work duties, payment of wages, the right to

hire, fire and discipline all its employees. As an independent contractor, Contractor and/or his/her employees shall not be entitled to any benefits available to City employees.

23. EQUIPMENT INSPECTION – The City shall have the right to inspect all equipment and materials used in the performance of this contract. Should any such equipment or materials not be appropriate or in compliance with federal, state or local statutes or regulations pertaining thereto, the City may require the Contractor not to use such materials or equipment in the performance of this contract. Any inspection by the City under this section shall not limit or relieve the Contractor of any obligation under the contract nor shall any inspection constitute approval of safety equipment, policies or precautions. The Contractor shall utilize enclosed or covered equipment or enclosed packaging in order to eliminate any litter problem associated with the pickup and transport of the recyclables to the point of sorting. Initially the City shall provide to the Contractor the equipment the City is currently using to collect recyclables in the City. A list of said start up equipment is attached hereto in Appendix A. Once this equipment is transferred to the Contractor it is no longer the property of the City and all maintenance, replacement, or any other issue involving said equipment becomes the sole responsibility of the Contractor.

24. INTERPRETATION OF CONTRACT – Should the Contractor or subcontractors have any questions concerning any terms or provision of this contract, such questions shall be directed in writing to the City Attorney’s attention. Any decision by the City Attorney and/or Mayor as to the intent of the City and interpretation of this contract shall be final. Should litigation be required to enforce or interpret any portion of this contract the laws of the State of Arkansas shall govern the terms and any said dispute shall be litigated in Craighead County, Arkansas

25. SEVERABILITY – Should any clause, paragraph, terms, or provision of this contract be determined to be invalid by a court of appropriate jurisdiction, such clause, provision, term or paragraph shall be deemed severable and shall not affect the validity of the remaining terms, provisions, clauses or paragraphs.

26. INTEGRATION – This contract, together with the other documents included herein, shall be the sole, complete and final agreement between the parties containing all terms and provisions agreed upon by the parties except as set forth pursuant to paragraph 5.

27. QUARTERLY REPORT – The Contractor shall be responsible for providing the City with a quarterly report detailing the services provided and the recycled materials collected.

28. RIGHT TO MATERIALS – Once the recyclables have been picked up by the Contractor, the ownership thereof shall be the Contractor’s. It shall be the Contractor’s responsibility to dispose of same in a manner and fashion that complies with all local, state and federal laws and regulations. Any items that are picked up and not recyclable, the Contractor shall be responsible to haul items and for the payment of all dumping charges at the Legacy Landfill.

29. Each party represents to the other that the individual signing this Agreement below has been duly authorized to do so by its respective governing body and that this Agreement is binding and enforceable as to each party.

Abilities Unlimited

Mayor

City Clerk