AGREEMENT

Curbside Collection of Solid Waste and Recyclables

This contract made and entered into this ____ day_____, 20**19** by and between **Johns Disposal Service, Inc.,** hereinafter referred to as the "Contractor" and the **City of Stoughton** Wisconsin, hereinafter referred to as the "City".

The Contractor shall be responsible for the collection and proper disposition of all refuse and recyclables from one to four-family residential units, street containers downtown, city property and small businesses pursuant to this Agreement. For purposes of this Agreement, "small business" shall mean a business or commercial property that produces not more than one 64 gallon container of non-recyclable trash weekly and one 96 gallon container of recyclables bi-weekly. 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 optional bulk collection (See Section C (4)).

4. Furniture and appliances with optional bulk collection (See Section C (4)).

5. Motor oil if properly contained and tightly capped with optional bulk collection (See Section C (4)).

6. Tires — no more than 2 per week, 8 per year, with optional bulk 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 materials collection.

2. Yard waste is not included in the regular weekly, biweekly or monthly bulk collections.

DRAFT

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-RECYCABLE TRASH shall be placed by residents in a 64 gallon BROWN CART which is provided by Johns Disposal Service. A larger 96-gallon or additional cart will be available at an extra cost of $60 per year to be collected by the contractor directly from the resident.

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 GREEN CART which is provided by Johns Disposal Service. The base cart for recycling is 96-gallons. The residents may select a 48-gallon cart for recycling that will be switched at the home by the contractor at no additional charge. An additional 96-gallon cart for recycling will be available at an extra cost of $40 per year to be collected by the contractor directly from the resident.

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 Tuesdays and Fridays of each week.

4. OPTIONAL COLLECTION of BULK ITEMS. Residents must call to schedule the collection of bulky items and may select the week they would like their bulky itme(s) collected. 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 (2 per week, 8 per year)
   - 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).

5. HOLIDAYS. When the collection day is interrupted by a holiday, pickup will be the following day.

Deleted: There is no need for residents to call to have bulk items removed. Items will be collected on the last Tuesday and Friday of each month.

DRAFT

6. NO HAZARDOUS, toxic or infectious waste will be accepted, except for the 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 Contractor and will be maintained by the Contractor. 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 of refuse and garbage removal from Municipally-owned buildings as designated by the City, from time to time, including parks, at no additional cost. The Contractor agrees to collect all municipally owned downtown refuse receptacles weekly on Tuesdays and Fridays for no additional expense. Municipal buildings acquired or constructed after the date of this agreement shall be provided service at no additional expense. Trash containers in the business district and at designated locations, which are owned by the City, shall also be emptied at no additional cost. All containers are to be emptied weekly or more often if necessary. The Contractor shall not be required to provide free refuse collection service for charitable or non-profit organizations.

D. TERM and COST:

COST. The City agrees to pay the Contractor the following fees in conjunction with the services rendered pursuant to this Contract:

- Refuse collection per unit/per month including disposal at $8.25
- Recycling collection per unit/per month at $3.25
- Optional bulk items collection per unit/per month at $1.65

DRAFT

Monthly total per unit at **$13.15**

2. TERM. This Contract shall be in effect for the period, January 1, 2019 through December 31, 2024. The Contractor may increase the fees charged for 2020, 2021, 2022, 2023 and 2024 by notifying the City of the fee increase not later than September 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. The City may terminate the agreement at the end of each year if the contractor requests increases greater than the CPI-U. 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. The contractor will assist in providing the list of units serviced but the final unit count will be determined by the City.

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 Dane 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 April 14, 2009 are not included and will be the responsibility of the City.

DRAFT

5. E. SPECIAL PROVISIONS:

Deleted: NUMBER of UNITS on December 31, 2013 ---

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 monthly basis.

2. DATA AND RECORD COLLECTION. The Contractor shall collect data and provide the City with a monthly status report on the recycling collection containing the following information:

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

   A copy of the current required report is attached for informational purposes as Exhibit "A".

   Name and location of the processor, broker, or market for each commodity.

   Comments on market conditions, the collection program, and other pertinent issues.

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 at least 8:00 a.m. and 4:30 p.m., Monday through Friday, except during holidays. The City will publicize the customer service telephone number(s) of the Contractor. In addition, a telephone number by which the Contractor may be reached after regular hours shall be provided to the City for the use of the City personnel.

   The Contractor shall take out advertisements in the January 2019, 2020, 2021, 2022, 2023 and 2024 editions of the AT&T Yellow Pages telephone book, listing its name, office address, and telephone number for residents to contact for customer service.

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

DRAFT

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 employer's 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.

5. PERFORMANCE BOND: The Contractor shall provide the City with a performance bond equal to 114th of the amount of the annual contract to assure that the services will be provided as specified in this contract.

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.

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,

DRAFT

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, at its own expense, appear, defend, and pay all reasonable fees of attorneys and all costs and other expenses arising therefrom or incurred in connection therewith; and, if any judgments shall be rendered against the City or its officers or employees in any such action, the Contractor shall, at its own expense, satisfy and discharge same.

The contractor expressly understands and agrees that any irrevocable letter of credit or insurance protection required by this Agreement or otherwise provided by the Contractor, shall in no way limit the responsibility to indemnify, keep, and hold harmless and defend the City, and to pay expenses and damages as herein provided.

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

DRAFT

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.

   The Contractor has informed the City that it will dispose of refuse at the City of Janesville Landfill. 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 has informed the City that it will deliver and process recyclables at the Johns Disposal Service, Inc. facility in Whitewater, Wisconsin.

   The Contractor shall be responsible for payment of all necessary processing costs for recyclables.

DRAFT

9. VEHICLES. The Contractor shall furnish a complete list of vehicles to be used in servicing this Agreement. The City reserves the right to request descriptive literature or specification sheets for each vehicle. At all times with reasonable notice, the City shall be free to inspect any of the vehicles used to service the Contract. The Contractor shall notify the City if any changes in the number or type of vehicles being used.

   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 the 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:

    City of Stoughton
    City Clerk
    381 E. Main Street
    Stoughton WI 53589

    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.
    Nate Austin
    P.O. Box 329
    107 Hwy. U
    Whitewater, WI 53190-0329

    Deleted: Brian Jongetjes

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.

DRAFT

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. 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.

IN WITNESS WHEREOF, OWNER and CONTRACTOR have signed this Agreement in duplicate. One counterpart each has been delivered to OWNER and CONTRACTOR. All portions of the Contract Documents have been signed, initialed or identified by OWNER and CONTRACTOR.

This Agreement will be effective on the date of this signing.

Owner
City of Stoughton, WI
381 E. Main St.
Stoughton, WI 54589

Tim Swadley _____ _____ _____
Mayor *Signature* *Date*

Deleted: Donna Olson

Holly Licht _____ _____ _____
City Clerk *Signature* *Date*

Deleted: Lana Kropf

Contractor
John's Disposal Service, Inc
107 Hwy U
Whitewater, WI 53190

_____ _____ _____
Contractor Signature *Signature* *Date*

DRAFT