

OELWEIN SINGLE HAULER AGREEMENT

This Agreement, made and entered into this 13th day of November 2017, by and between the City of Oelwein, Iowa, a Municipal Corporation, (hereinafter referred to as the City), and Black Hawk Waste Disposal Inc.



WITNESS

WHEREAS, the City, on behalf of its residents, desires to provide proper management of solid waste generated by City residential customers, including household waste, recyclable solid waste, residential bulk solid waste, and solid waste in City-owned; and,

WHEREAS, the City of Oelwein desires to provide proper management of solid waste generated by its own facilities; and,

WHEREAS, the City anticipates that an agreement with Black Hawk Waste Disposal regarding the same will be of substantial benefit to the City in that it will allow City to attain solid waste management requirements mandated by the State of Iowa pursuant to Title V Code of Iowa; and,

WHEREAS, Black Hawk Waste Disposal desires to provide the City with solid waste management services;

NOW, THEREFORE, in consideration of the recitals and the following mutual agreements and covenants, it is understood and agreed by and between the parties hereto as follows:

Article 1. Term of Agreement

1. This Agreement shall commence April 1, 2018 and shall remain in full force and effect through April 1, 2023.

Article 2. Definitions

The following terms, whenever used in this Agreement, shall have the meanings set forth in this Article unless otherwise limited or expanded elsewhere in this Agreement.

1. *Appliances* means refrigerators, freezers, kitchen ranges, air conditioning units, dehumidifiers, water heaters, commercial coolers, furnaces, thermostats, clothes washers, clothes dryers, dishwashers, microwave ovens, and PCB-containing ballasts and capacitors.
2. *Approved solid waste collection site* means at the site where the residential customer must set out solid waste for collection, and where the Contractor collects the solid waste. An approved solid waste collection site meets the following criteria:
 - A. Solid waste must be set out for collection at ground level within the City right-of-way at the curb no sooner than 18 hours prior to collection. Solid waste containers must be removed from the collection site within 12 hours after the collection event, regardless whether or not the solid waste was collected.
 - B. Solid waste collection containers must be placed at the approved solid waste collection site in a position easily accessible to the Contractor.
3. *Assigned territory* means the city limits of the City of Oelwein. Except as explicitly provided herein, assigned territory does not include commercial or industrial waste or collection from multi-family dwelling units larger than four (4) units, both of which shall be open to all licensed haulers, regardless of location. The assigned territory may be expanded due to annexations.
4. *Bulk solid waste* means nonputrescible solid waste that is either too large or too heavy to be contained inside a tote, or which cannot be safely or conveniently loaded into solid waste collection vehicles. Bulk solid waste includes construction debris, demolition debris, appliances, and furniture, but does not include yard waste.
5. *City* means the City of Oelwein, Iowa.
6. *Construction debris* means solid waste generated by construction activities, including lumber and other processed materials, and is not recyclable solid waste or yard waste.
7. *Demolition debris* means solid waste generated by demolition activities, including lumber and other processed materials, and is not recyclable solid waste or yard waste.
8. *Dwelling unit* means a room or group of rooms that are arranged, designed, or used as living quarters for the occupancy of one family or individual.
9. *Household waste* means garbage, refuse, and trash, and other solid waste generated by dwelling units.

10. *Non-residential bulk solid waste* means bulk solid waste that includes or contains the following materials:
- A. Solid waste generated outside the assigned territory
 - B. Solid waste generated by other than residential customers
 - C. Solid waste generated by businesses, schools, or commercial entities
 - D. Solid waste generated by agricultural activities on farms and properties zoned for agricultural use
 - E. Solid waste containing asbestos containing materials regulated pursuant to Title 40 Code of Federal Regulations Part 61
 - F. Appliances, tires, lead-acid batteries
 - G. Liquid waste or solid waste containing free liquids
 - H. Soils contaminated with petroleum products
 - I. Solid waste containing construction debris or demolition debris
 - J. Solid waste containing materials that are prohibited from the landfill.
11. *Recyclable solid waste* means household waste, which, until such time that the waste is recycled, reused, or processed in a manner that the waste is reintroduced into the economic stream as raw or usable materials, or, until such time that the waste is delivered to a facility approved by the State of Iowa for receiving such waste, is considered solid waste. For the purpose of this Agreement, recyclable solid waste includes, but is not limited to: tin cans, plastics (#1-#7, and plastic milk jugs), aluminum foil, newsprint (newspaper, magazines, phone books, junk mail, news print with glossy inserts, office paper, computer paper, chipboard (e.g., cereal boxes)), and corrugated cardboard, but does not include construction debris, demolition debris, plastic grocery bags or yard waste.
12. *Recycling tote* means a durable, rigid-wall plastic container designated for recyclable solid waste.
13. *Residential bulk solid waste* means bulk solid waste that is not non-residential bulk solid waste.
14. *Residential customer* means any person or household residing within the corporate limits of the City whose dwelling unit is a single-family residence or part of a multi-family complex which contains no more than three (3) dwelling units.
15. *Specifications* means the documents listed in Article 22 of this Agreement.
16. *Solid waste* means putrescible and nonputrescible waste and other discarded material, including solid, liquid, semi-solid, or contained gaseous materials, resulting from industrial, commercial, mining, agricultural, institutional, and residential activities. Solid waste does not include hazardous waste as defined by the Iowa State Code 455B.411.
17. *Tote* means a durable, rigid-wall plastic container with a hinged lid, and with wheels designed to provide adequate support to roll when fully-loaded with household waste. Totes shall be a 90-95 gallon container

Article 3. Scope of Work

1. The scope of work under this Agreement shall include the work described in the Specifications, composed of the documents listed in Article 22 of this Agreement, and shall include all supervision, materials, equipment, labor, and all other items necessary to complete such work in accordance with the Agreement.

2. During the term of this Agreement, and as defined and detailed in the Specifications, the Contractor shall provide to the City, services related to collection, transportation, and disposal of household waste collected from residential customers within the assigned territory and municipal facilities. Household and municipal waste shall be transported to the Fayette County Transfer Station, for disposal.
3. During the term of this Agreement, and as defined and detailed in the Specifications, the Contractor shall provide to the City, services related to collection, transportation, and delivery of recyclable solid waste collected from residential customers within the assigned territory and municipal facilities. Recyclable solid waste shall be transported to a facility approved by the State of Iowa for receiving recyclable solid waste.
4. During the term of this Agreement, and as defined and detailed in the Specifications, the Contractor shall provide to the City, services related to collection, transportation, and disposal of residential bulk solid waste collected from residential customers within the assigned territory during two clean-up weeks per year. Residential bulk solid waste shall be transported to the Fayette County Transfer Station for disposal.
5. During the term of this Agreement, and as defined and detailed in the Specifications, the Contractor shall provide to the City, services related to collection, transportation, and disposal of solid waste collected from City of Oelwein solid waste receptacles.
6. During the term of this Agreement, the Contractor shall provide to the City, services related to recordkeeping and reporting, as detailed in Article 6, Table 2.
7. The Contractor shall extend all services in this Agreement to new residential customers in the assigned territory at the contract price.
8. In the event of a tornado, flood, ice storm, disabling snow event, or other disaster, the City may grant the contractor a temporary variance in the Contractor's regular schedules and routes at the option of, and according to, conditions set by the City Administrator or its designee.
9. The Contractor shall adhere to the Quality Control procedures as detailed in Article 6-7, Quality Control.
10. The City shall conduct work related to residential customer monthly billing for solid waste services.

Article 4. Collection Services Provided

1. General Requirements

- A. The contractor shall load and transport solid waste in such a manner as to be as inoffensive to the public as practicable and shall exert all reasonable precautions to prevent spilling or scattering of solid waste in transit or while loading. In the event that solid waste is spilled or scattered, the Contractor shall immediately remove the solid waste and clean up the area, regardless whether the spillage occurred on private or public property, or within or outside the City limits.
- B. The Contractor shall not knowingly collect any hazardous waste.

2. Public Education Program

The Contractor shall be responsible for a public education program and public information efforts. The Contractor shall develop, distribute and pay for all education and information program costs concerning the solid waste, bulk collection. All materials shall be approved by the City to assure that information is consistent with the contract and City ordinances. The information shall include a description of the collection process and the regulations pertaining to preparation of materials to be collected and times of collection. The information should also communicate to the residents any problems that are being experienced by the Contractor and what the residents can do to eliminate the problems. Distribution of information shall be made no less often than every thirteen weeks or when a change in service, regulations or manner of collection is made. Other than the items outlined below, the Contractor can determine the manner of distribution to each residence as long as each and every resident is kept informed. Copies of all materials must be submitted to the City no less than 30 days prior to distribution for review and comments.

- A. The Contractor shall publish at least two (2) advertisements per year in the local newspaper extolling the benefits of recycling and encouraging Oelwein residents to recycle. Each ad must cover at least one-quarter of a page.
- B. The Contractor shall publish four (4) consecutive weekly advertisements, one month in advance of the implementation of single stream recycling program. The advertisement shall be developed in consultation with the City and contain mutually agreed upon information regarding the transition to a recycling container and acceptable materials. The advertisement shall also include detailed logistical information pertaining to the process by which the new on recycling totes will be distributed and the currently utilized bins will be collected.

3. Household waste

- A. The Contractor shall collect household waste from residential customers within the assigned territory at the frequency listed for household waste collection in Article 5, Table 1 during the term of this Agreement.
- B. Household waste shall be collected from approved solid waste collection sites.
- C. Individual customer collection days shall remain the same throughout the term of this Agreement, unless specifically approved by the City.
- D. All household waste must be set out for collection in totes.
- E. Each residential customer shall be issued a 90-96 gallon tote or a 30-36 gallon tote. A residential customer may request an additional tote for household waste collection if the following conditions, are met:
 - i. the residential customer pays the monthly fee for the additional large tote in addition to the monthly fee for the initially-issued large tote
 - ii. the residential customer pays service fee for the additional large tote
- F. A service fee shall be charged to change a tote size, or add an additional tote for waste or recycling.

- G. The Contractor shall provide inventory, storage, maintenance and repair of all totes.
- H. The contractor shall have upon each tote the Company Name and an “800” or local number for contact.

4. Recyclable Solid Waste

- A. The Contractor shall collect recyclable solid waste from residential customers within the assigned territory at the frequency listed for recyclable solid waste collection in Article 5.1, Table 1 of this Agreement during the term of this Agreement. The collection day of the recyclable solid waste shall be the same day of the week as the household waste collection.
- B. The collection of recyclable solid waste shall be limited to the items listed in the Article 2, Definitions.
- C. The Contractor shall not incinerate or landfill recyclable solid waste without specific approval from the City.
- D. Recycling totes containing recyclable solid waste shall be collected from approved solid waste collection sites.
- E. Recycling totes containing solid waste other than recyclable solid waste may be deemed by the Contractor as unacceptable and may not be collected. In such case, the customer is responsible to retrieve the recycling tote from the approved solid waste collection site.
- F. Each residential customer shall be issued a 90-96 gallon tote or a 30-36 gallon tote. A residential customer may request an additional tote for recycling collection if the following conditions, are met:
 - i. The residential customer pays the monthly fee for the additional large tote in addition to the monthly fee for the initially-issued large tote
 - ii. The residential customer pays service fee for the additional large tote
- G. Contractor shall provide customers recycling totes.
- H. The Contractor shall provide inventory, storage, maintenance and repair of all totes.
- I. The contractor shall have upon each tote the Company Name and an “800” or local number for contact.

5. Residential bulk solid waste

- A. The Contractor shall provide services for collection, transport, and disposal of residential bulk solid waste.
- B. The city will sell ticket for residential bulk solid waste. The contractor shall only be reimbursed for items that are picked up using a ticket.

- C. Residential bulk solid waste must be set out for collection in a manner that does not require mechanical means (i.e., shoveling, sweeping, gathering, binding, bundling, etc.), or that requires a task in addition to placing the solid waste into the collection vehicle.
- D. A list of acceptable bulk pickup items will be created with the contractor along with the Fayette County Transfer station.

6. Commercial and Industrial Waste and Recyclable Solid Waste

- A. The Contractor shall collect commercial and industrial solid waste and recyclable solid waste from each City facility at the locations and at the frequencies listed in Appendix A.
- B. The individual City facility collection days for collection of commercial and industrial solid waste and recyclable solid waste shall remain the same throughout the term of this Agreement, unless specifically approved by the City.
- C. The Contractor shall provide dumpsters and roll-offs as identified in Appendix A. The Contractor shall maintain all dumpsters and roll-offs in good repair and appearance, replacing or repairing as needed.

Article 5. Solid Waste Collection Operation

1. Frequency of Collection

Solid waste shall be collected at the frequencies listed in Table 1 below:

Table 1	
Type of Solid Waste	Frequency
A. Household waste	One time per week
B. Recyclable solid waste	Every other week – must occur on the same day of the week as household waste collection
D. Residential bulk solid waste	Tickets are purchased at City Hall
E Additional solid waste nonresidential bulk solid waste, etc.	By appointment with licensed contractor
F. City Receptacles in the Downtown, including city properties	Refer to appendix A

2. Hours of Operation

Collection services for household waste, recyclable solid waste, and yard waste, shall not start before 5:00 a.m. nor continue after 5:00 p.m., or on Friday, Saturday or Sunday. The City

Administrator may grant exceptions to these hours, and may require a full explanation of any request for such exception. In the event of a holiday, as defined by this agreement, garbage collection will be allowed on Fridays.

3. Collection Routes

- A. The Contractor shall establish regular routes for collection of each type of solid waste. Routes must be provided and approved by the City.
- B. The Contractor shall establish a regular schedule for each residential customer. The Contractor shall establish regular schedule routes. The Contractor shall notify residential customers of their regular collection day. The Contractor shall inform residential customers of their regular collection days either by mail, or in local newspaper ads covering at least one-quarter of a page and published at least two weeks prior to beginning the new collection schedule.
- C. Collection routes may be altered as necessary and after approval from the City; altered routes must be provided to the City and residential customers must be notified by mail at least two weeks prior to any changes in their regular collection day.

4. Garbage totes

- A. The contractor will make available two tote sizes for both trash and recycling. Tote sizes will be large and small. The large tote size will be in the 90-96 gallon range and the small tote size will be in the 30-36 gallon range.
- B. In the event that a tote is broken by the contractor, the tote will be replaced in a 24 hour period.
- C. In the event that a tote is broken by a resident, the can will be replaced once the resident has paid a tote fee.
- D. The color of the totes will be agreed upon by the City and the Contractor.

5. Holiday Collection of Household and Recyclable Solid Waste

- A. All pickup dates affected by holidays shall be picked up the next day. This meaning that all holidays where no pickup occurs, pickups will be a day late.
- B. It shall be the Contractor's responsibility to notify the City of any changes to the collection schedule for City facilities. The Contractor shall contact City Hall.
- C. For the purpose of this Agreement, the following days are considered holidays:

Thanksgiving Day
Memorial Day
Independence Day

New Year's Day
Christmas Day
Labor Day

6. Availability of Contractor

- A. The Contractor shall maintain availability for accepting, responding, and documenting complaints or other calls from City of Oelwein residential customers. The Contractor shall be continuously available during the hours of 8:00 a.m. to 5:00 p.m. Monday through Friday, except on holidays pursuant to Article 5.
- B. The Contractor shall maintain a local access phone number for the purposes of customer assistance.
- C. The Contractor shall designate a service manager to provide a single point of contact with the City's designated representative. The service manager shall be available to respond to emergencies 24/7.

7. Complaints

All complaints made directly to the Contractor shall be given prompt and courteous attention. In the case of alleged missed collections, the Contractor shall investigate and if such allegations are verified, the Contractor shall arrange for the prompt collection of the solid waste from the complainant within 24 hours of the complaint.

If a collection from an eligible household is inadvertently missed and the Contractor is notified by the household, the Contractor shall return to collect the materials. In all cases, the missed collection shall be handled within a 24 hour period after notification or during the next scheduled work shift, whichever is sooner.

If the Contractor is able to substantiate via a process pre-approved by the City using documentation such as written records or date and time stamped photos that the household did not have their tote out at the time the collection vehicle serviced the household, the Contractor may inform the household of this fact and provide the household the option to pay a "Return Service Fee" to return. Contractor shall also inform the resident that they may also hold the waste until the next schedule collection.

In the case of complaints regarding collection service or any related activities, the Contractor shall, upon being notified of the complaint, resolve the complaint with the eligible household or other person/entity submitting the complaint. The Contractor shall work cooperatively with the eligible households and the City to resolve complaints as appropriate. The Contractor shall make a record of each complaint received on a form approved by the City and shall be tracked and reported in accordance with Article 6-7 of this Agreement.

In the event that a dispute between the eligible household and the Contractor cannot be resolved, the City shall have the final say on the resolution.

8. Liquidated Damages

The failure of the Contractor to remedy the cause of any service complaints which is found to be justified shall be deemed a breach of this Agreement. In the event of such breach, the Contractor shall pay liquidated damages to the City according to the following schedule. The parties agree that actual damages incurred for each complaint may be difficult to ascertain. It is agreed between the parties that the following schedule reasonably reflects the actual damages that may be incurred, and that the City may deduct such damages from payments due or to become due to the Contractor and that said amounts are the appropriate damages for Contractor's breach. Extended or

significant failure and/or neglect of the following items may result in default and result in further action as noted in Article 12 of this agreement.

- A. Failure to clean up spilled Solid Waste - \$150 each incident.
- B. Failure or neglect to collect solid waste from any eligible residence within twenty four (24) hours from the scheduled date for collection - \$150 each failure or neglect.
- C. Failure to keep equipment in clean, safe and sanitary manner – \$100 per vehicle incident per day.
- D. Failure to have vehicle operators properly licensed - \$500 per incident per day.
- E. Failure to maintain office and phone hours in the manner specified Article 5.5 of this agreement - \$100 per incident per day.
- F. Failure to file on a timely basis information and reports required by this agreement - \$100 per incident per day.
- G. Failure or neglect to complete each route on the regular schedule collection day, if failure to complete collection is attributable to the Contractor - \$1,000 for each route not completed each day.
- H. Collection Service delivered outside of the approved hours of collection as specified in Article 5.3 - \$100 per incident per day.

Complaints listed above will be vigorously investigated and damages will be assessed when justified. However, the City, prior to any assessment of damages, shall give written notice to Contractor of any allegations and shall also give reasonable opportunity for Contractor to contest the alleged violation. The City shall have the option to waive damages assessment where, in its sole judgement, circumstances warrant the same.

- 9. Contractor understands and agrees that Contractor and Contractor's employees, agents, servants, or other personnel are not City of Oelwein employees. Contractor shall be solely responsible for payment of salaries, wages, payroll taxes, unemployment benefits, or any other form of compensation or benefit to Contractor or any of the Contractor's employees, agents, servants, or any other personnel performing the services or work or supplying equipment or materials specified herein. Whether it be of a direct or indirect nature. Further, it is expressly understood and agreed that neither Contractor nor Contractor's employees, agents, servants, or other personnel shall be entitled to any City of Oelwein payroll, insurance, unemployment, worker's compensation, retirement, or any other benefits whatsoever.

Article 6. Operations Procedures

- 1. The Contractor's employees shall handle all solid waste containers with reasonable care to avoid damage and shall exert all reasonable precautions to prevent spilling or scattering of solid waste. Upon emptying containers, bags, or totes, the Contractor shall immediately clean up and dispose of any spilled or scattered waste, regardless whether the spilled solid waste is on public or private property.
- 2. The Contractor shall be liable for replacement of all solid waste and recycling containers damaged by reason of misuse or mishandling by the Contractor.
- 3. Collection Equipment

The Contractor shall provide an adequate number of vehicles for regular collection services and sufficient back-up vehicles to provide uninterrupted service including seasonal variations and

maintenance down times. The Contractor shall maintain all collection equipment in good repair and appearance at all times and free of excessive noise, odor, leakage of fluids or emissions. The Contractor's logo, telephone number and individual vehicle identification number shall be clearly visible. All vehicles shall be operated and maintained properly and kept in sanitary condition at all times. The Contractor shall take reasonable care to prevent damage to residential refuse and recycling totes during collection.

4. Personnel and Safety

The Contractor shall employ personnel of sufficient numbers and qualifications to carry out the Contractor's obligation under this agreement. Such Personnel shall have the ability and authority to make operating decisions during normal working hours. The Contractor shall have key maintenance and operational personnel on call at all other times.

Employees who normally and regularly come in to direct contact with the public shall bear some means of individual identification such as a name tag or identification card. If wearing company apparel, the apparel shall identify the employee with the same company name as on the equipment used for this agreement. Contractor's employees shall be courteous at all times and shall work quietly, not use profane or loud language.

Employees driving the Contractor's vehicles shall at all times possess and carry a valid commercial vehicle operator's license of the State of Iowa required for the type of vehicle they are operating.

Contractor's employees, officers, and agents, shall at no time, be allowed to identify themselves or in any way represent themselves as being employees or agents of the City of Oelwein.

The Contractor agrees that it will take all reasonable precautions to prevent damage, injury, or loss by reason of or related to its operations to any property along its Routes, and that the Contractor will establish and maintain safety equipment and procedures for protection of employees and visitors to its facilities consistent with industry standard, applicable laws or regulations and with normal operating practices. The collection vehicles and other equipment shall be equipped with all required safety equipment and warning stickers to comply with OSHA, ANSI and IDOT regulations. The Contractor shall comply with all applicable federal, state and local laws, ordinances, rules, regulations, and lawful orders of any public authority relating to safety of persons or property.

5. Inspection

The City, or its authorized agent, may inspect the work performed for compliance with this Agreement.

6. Point of Contact

The point of contact for the City is the City Administrator or their designee.

7. Quality Control Procedures.

The Contractor shall provide the City the following information at the frequencies and reporting times required in Article 6, Table 2.

- A. List of major complaints. A complaint is major if it is a repeat complaint, an area-wide complaint, or the occurrence of a major spill of solid waste.

- B. Date and time each major complaint was received
- C. Nature (brief description) of the complaint
- D. Name, phone number, and address of the complainant(s), if provided
- E. Follow-up actions
- F. Date and time of follow-up actions

8. Auditing.

The City may conduct an audit of the information reported to the City by the Contractor as the City deems necessary. The City may, at its discretion, and at its expense, require the Contractor to submit to a financial audit, conducted by a certified public accountant.

9. Reporting.

The Contractor shall obtain the data for the report items, at the frequency stated, and provide this information annually, based on the calendar year, to the City at the report due dates given in Table 2 below:

Table 2		
Report Item	Frequency of Data Collection	Report Due Date*
A. Summary list of major complaints described in Article 6-7, above.	Each Occurrence	Within two weeks, or upon request by the City
B. Tons of household waste collected from residential customers in the assigned territory and number of stops on each route	Monthly	Final Business day of the month.
C. Tons of recyclable solid waste collected from residential customers in the assigned territory and number of stops on each route	Monthly	Final Business day of the month.
E. Tons of residential bulk solid waste collected during each bulk pick up week from residential customers in the assigned territory and number of stops on each route	Each event	Within 30 days following the event

**The City reserves the right to request data more frequently as needed.*

Article 7. Compliance with Laws

1. In performing any actions or services under this Agreement, the Contractor shall comply with any and all federal and state statutes, rules, regulations, and any and all city ordinances and regulations pertaining to or regulating such services or actions, including those now in effect or hereafter adopted.
2. The City and the Contractor agree to conform to all applicable statutes, ordinances, rules, and regulations.
3. Amendments to existing regulatory laws, ordinances, rules, and regulations and enactment of new laws, ordinances, rules, and regulations shall not serve as justification for the Contractor to terminate his obligations hereunder, unless such changes make the completion of this Agreement impossible.

Article 8. Insurance

1. Specific Requirements

The Contractor shall procure and maintain at all times during the term of this Agreement, insurance of such types and amounts as may be necessary to protect the Contractor, the City of Oelwein, its agents, officers, and employees against all hazard or risks or loss as hereinafter specified. The insurance shall be provided by an insurance company(ies), "admitted" and "non-admitted" to do business in the State of Iowa, having no less than a A-VII Am Best rating. The form and limits of such insurance, together with the underwriter thereof in each case shall be acceptable to the City, but regardless of acceptance, it shall be the responsibility of the contractor to maintain adequate coverage at all times during the contract term, in accordance with the terms of this Section. All insurance companies utilized under this Agreement must be authorized to do business in the State of Iowa. Failure of the Contractor to maintain coverage shall not relieve the Contractor of any contractual responsibility or obligation.

Satisfactory certificates of insurance shall be filed with the City prior to the commencement of this agreement. The certificate shall state that 30 days advance written notice will be given to the City before any policy covered thereby is changed or cancelled.

The insurance shall be written on an occurrence form of policy for not less than any limits of liability specified herein, or required by law, whichever is greater.

2. Insurance Required

The Contractor shall purchase and maintain such insurance as will protect the Contractor from claims set forth below which may arise out of, or result from the Contractor's operations under the contract, whether such operation be by the Contractor or by any subcontractor or by anyone directly or indirectly employed by any of them, or by anyone for whose acts any of them may be liable. The insurance to be maintained by the Contractor shall be written as follows:

1. Workers' Compensation and Employers Liability Insurance as prescribed by Iowa law or the minimum limits shown below;

Iowa Benefits	Statutory
Employers Liability	
Bodily Injury by Accident	\$500,000 Each Accident
Bodily Injury by Disease	\$500,000 Each Accident
Bodily Injury by Disease	\$500,000 Each Employee

The Workers Compensation policy shall include a waiver of subrogation clause in favor of the owner.

2. Commercial General Liability Insurance combined single limits shown below covering Bodily Injury, Property Damage and Personal Injury:

General Aggregate Limit	\$2,000,000
Products-Completed Operations Aggregate Limit	\$2,000,000
Personal & Advertising Injury Limit	\$1,000,000
Each Occurrence Limit	\$1,000,000
Fire Damage Limit (for any one fire)	\$ 100,000
Medical Damage Limit (any one person)	\$ 5,000

3. This insurance must include the following features:

- a. Coverage for all premises and operations. The policy shall be endorsed to provide the aggregate per Project Endorsement.
- b. Personal and Advertising Injury
- c. Operations by independent contractors.
- d. Contractual Liability coverage
- e. Coverage for property damage underground or damage by explosion or collapse (XCU).

4. Automobile Liability Insurance covering all owned, non-owned, hired and leased vehicles with a minimum combined single limit for Bodily Injury and Property Damage of \$1,000,000 per accident. Insurance must include Contractual Liability.

5. Umbrella/Excess Liability Insurance at city or utility option, the limits specified may be satisfied with a combination of Primary and Umbrella/Excess Insurance. Usually equal to the city or utility limits.

6. Additional Insured the Contractor will include the City or Utility as additional Insured on all policies except Workers' Compensation as respects all work performed.

7. Insurance Certificates Each policy noted above shall be issued by an insurance company authorized to write such insurance in the State of Iowa and shall be reasonably acceptable to the City or Utility. These insurance policies shall not be cancelled without at least 30 days prior written notice to the City or Utility. A properly executed Certificate of Insurance showing evidence of these insurance requirements shall be delivered to the City or Utility prior to the commencement of this lease.

8. Government Immunity the following clauses will be added to all liability coverages:

1. f. The company and the insured expressly agree and state that the purchase of this policy of insurance by the insured does not waive any of the defenses of governmental immunity available to the insured under Iowa Code Section 670.4 as it now exists and as it may be amended from time to time.
2. The company and the insured further agree that this policy of insurance shall cover only those claims not subject to the defense of governmental immunity under Iowa Code Section 670.4 as it now exists and as it may be amended from time to time.

9. Subrogation, To the extent that such insurance is in force and collectible and to the extent permitted by law, the City or Utility and Contractor each hereby releases and waives all right of recovery against the other or anyone claiming through or under each of them by way of subrogation or otherwise. The forgoing release and waiver shall apply to damage to contractor's equipment, tools and other personal property as well as automobiles.

3. Performance Bond

The Contractor agrees to provide a performance bond for the term of the contract. The performance bond shall be acceptable to the City Council. The performance bond shall be for \$75,000. This covers two months of trash pickup for the residents of Oelwein.

4. Indemnification

Contractor agrees to indemnify and hold harmless the City, its officers, agents, and employees from any and all claims, settlements, and judgements to include all reasonable investigative fees, attorney's fees, and court costs for any damage or loss which is due to or arises in whole or in part from the services performed under this Agreement, a breach of this Agreement, or any omission or negligence arising out of performance or nonperformance of this Agreement, and those of its subcontractors or anyone for whom the Contract is legally liable.

5. Disclaimer of Adequacy

Approval of insurance by the City does not in any way relieve or decrease the liability of the Contractor hereunder, and is expressly understood that the City does not in any way represent that the above-specified insurance or limits of liability are sufficient or adequate to protect the Contractor's interests or liabilities.

Article 9. Licenses and Permits

1. The Contractor shall obtain all required licenses and permits to perform the contract.

Article 10. Transferability of Agreement

1. Other than by operation of law, no assignment of the Agreement or any right accruing under this Agreement shall be made, in whole or in part, by the Contractor without the express written consent of the City. In the event of an assignment, the Contractor shall act as a guarantor of the assignee's satisfactory performance of all contractual obligations.

Article 11. Exclusive Agreement

1. The Contractor shall have then sole and exclusive license and privilege to provide collection, transportation, and disposal or delivery services as provided in this Agreement, except as provided in Article 12, Article 13 and/or Article 17.

Article 12. Default

1. It shall be an Event of Default if Contractor:
 - A. Fails to collect all Solid Waste, Bulky Waste, and special collections placed out for collection as required by this Agreement;
 - B. Fails to deliver all Solid Waste, Bulky Waste, and special collections collected to the designated facilities as required by this Agreement;
 - C. Fails for any reason to comply with insurance and/or Performance Bond requirements;
 - D. Assigns for the benefit of creditors of files or has filed a voluntary or involuntary petition by or against Contractor under any law for the purpose of adjudicating Contractor as bankrupt;
 - E. Fails to perform any other material obligation or comply with any material term of this Agreement.
2. The City shall have the ability to exercise the following remedies in the Event of Default:
 - A. Upon the occurrence of an Event of Default, the City shall not exercise any of the remedies described below unless the City has given the Contractor written notice describing in reasonable detail the nature of the Event of Default and the Contractor has failed to cure the Event of Default within a period of five (5) days of receipt of such notice; provided, however, if the Event of Default is an Event of Default listed in Article 12.1, Contractor shall have 24 hours from receipt of notice of default to cure the Event of Default; or, if the Event of Default is one not listed in Section 12.1, Contractor shall have such reasonable time, not to exceed 30 days, to effect a cure.
 - B. Subject to the foregoing required notice and cure period, the City may take any or all of the following actions:
 - a. Terminate this Agreement immediately without any obligation or liability to the Contractor, unless such Event of Default is cured within the cure period;
 - b. Call upon the Contractor's Performance Surety for performance or payment and compensation in such amount as shall reasonably compensate the City for any and all loss, costs, and expenses incurred as a result of the Event of Default; or
 - c. Take such action and exercise such rights as the City may have at law or in equity, including, without limitation, the right to seek injunctive relief and specific performance on the Contractor's obligations hereunder. All rights and remedies of the City shall be cumulative and the exercise of any right or remedy shall not be deemed a waiver, relinquishment, or abandonment of any other right or remedy.

Article 13. Termination

1. The proper exercise of the right of termination is in addition to, and not in substitution for, such other remedies whether damages or otherwise of the Party exercising the right of termination. When one Party terminates its obligations to the other Party in accordance with this Agreement, all of its rights, remedies, powers, and privileges are terminated, except as provided in Article 15 and Article 16, and as may otherwise be specifically provided in this Agreement.

Article 14. Damages and Enforcement

1. Upon the occurrence of an Event of Default, the Party in Default hereunder shall be liable to the non-defaulting Party for all loss, costs, and expenses incurred as a result of the Event of Default.
2. No termination of this Agreement limits or otherwise affects the rights and obligations of any Party that have accrued before the date of such termination

Article 15. Mitigation of Damages

1. The Parties recognize that their legal obligation to mitigate damages to the other party in the Event of Default shall apply.

Article 16. Contingency

1. In the event of the default as specified under Article 12.1 of this Agreement, the City may at its option and without notice to the Contractor, cause such materials to be collected and disposed of by any other available means, and any and all reasonable expenses incurred by the City in so doing may be charged to and collected from the Contractor and, in the event that the Contractor does not pay the same, charged against the performance bond as provided in Article 8.3 of this agreement.

Article 17. Method of Payment

1. For services related to Articles 3 Scope of Work, but excluding Article 3.6, (i.e., household waste, recyclable solid waste, residential bulk, and solid waste collected from City-owned receptacles, and associated tracking and reporting) the City shall receive payment directly from residential customers utilizing these services.
2. The City shall pay the Contractor for additional bulk solid waste if a resident buys a ticket for the service. Tickets will also be sold for additional bag items.
3. The City shall be responsible for billing and collection of fees for solid waste listed in Article 17.1, above. The City shall provide the Contractor with printed accountings of City residential customers including residences considered vacant. The City shall remit payment to the contractor Wednesday following the second City Council meeting of every month.
4. Residential Rates shall be as follows.

	April 2018-2019	April 2019-2020	April 2020-2021	April 2021-2022	April 2022-2023
SH	\$11.30	11.30	11.30	11.46	11.63
Admin	\$1.25	\$1.25	\$1.25	\$1.25	\$1.25
Total	\$12.55	\$12.55	\$12.55	\$12.73	\$12.92

Article 18. Conflict of Interest

1. The Contractor agrees that no member, officer, or employee of the City shall have any direct or indirect interest in this Agreement or the proceeds thereof. Violations of this provision shall cause this Agreement to be null and void and the Contractor shall forfeit any payments made under this contract.

Article 19. Force Majeure

1. Force Majeure means any of the following acts or events, and not others, which materially adversely affect the performance of the obligations of the City or the Contractor if such act or event is beyond the reasonable control, and not the result of willful or negligent action or a lack of due diligence of the Party relying upon:
 - A. An act of God, fire, flood, or other casualty;
 - B. A valid and enforceable order, judgment, or law of any federal, state, or local court, administrative agency or governmental body, specifically excluding OSHA, ANSI, IDOT or other health or safety-related enforcement actions; provided that the contesting in good faith or the failure in good faith to contest any such order, judgment, or law shall not constitute or be construed as such a wrongful or negligent act or omission or lack of reasonable diligence, and
2. As soon as a Party becomes aware of a possible Force Majeure, such Party shall notify the other Party. In the event either Party by reason of a Force Majeure is rendered unable to perform its obligations, then upon said Party giving prompt telephone notice followed by written notice to the other Party after knowledge of the occurrence of said Force Majeure, said Party shall be excused from performing such obligations and have its time of performance delayed; provided, however, that, in no event, will a Force Majeure event affecting a Party excuse it from any obligation to make any payment for Services performed in accordance with this Agreement. Notwithstanding anything in this Section, should such delay exceed ninety (90) days, the party not claiming the Force Majeure may, at its sole election, terminate this Agreement. A Force Majeure for which said notice has not been given shall be an unexcused delay. The effects of said Force Majeure shall be remedied with all reasonable dispatch, and said Party giving notice shall use best efforts to eliminate and mitigate the consequences thereof.
3. If a Force Majeure event occurs which prevents or interferes with the provision of Services, the City shall be obligated for payments to the Contractor only to the extent of Services performed.
4. The Contractor shall not be paid for Services not performed as a result of a Force Majeure. In the event that the Contractor is unable to perform the Collection Services as a result of a Force Majeure, the City may enter into service agreements with others or take whatever action the City deems appropriate to cause the provision of Collection Services during the period of the Force Majeure.

Article 20. Governing Law

1. The laws of the State of Iowa shall be used to interpret this Agreement. The venue for all disputes is Fayette County, Iowa.

Article 21. Agreement Components

1. The following additional documents are incorporated into and constitute part of the entire Agreement between the City and the Contractor:
 - A. Signed and dated Residential Solid Waste Collection Agreement (this document), with Appendices, A and B
 - B. Notice of Hearing and Letting
 - C. Instructions to Bidders
 - D. The Contractor's response on the Bid Form
 - E. The Contractor's performance bond
 - F. The Resolution of the City Council approving this Agreement
2. While this Agreement instrument and the exhibits listed in Article 21 above constitute the entire Agreement between the parties, this Agreement instrument supersedes all other documents, proposals, or representations between the parties, whether written or oral, and this Agreement instrument shall govern in the event of a conflict or inconsistency between various documents.
3. No amendment shall be construed to release either party from any obligations of this Agreement, except as specifically provided for by written amendment.

Article 22. Signatures

CITY OF OELWIN, IOWA a MUNICIPAL CORPORATION OF FAYETTE COUNTY,

By: _____

Peggy Sherrets, Mayor

Date

By: _____

Dylan Mulfinger, City Clerk

Date

Seal of the City of Oelwein, Iowa

Black Hawk Waste Disposal Inc.

By: _____

Blane Benham,

Date