

SOLID WASTE TRANSPORTER LICENSE

This license agreement is made and entered into this ____ day of _____, 20____, by and between the City of Blair, Nebraska, a municipal corporation, hereinafter referred to as "Blair," and _____ hereinafter referred to as "Licensee."

Whereas, Blair has entered into an agreement with Douglas County, Nebraska, authorizing Blair to dispose of solid waste in the Douglas County Landfill; and,

Whereas, Licensee desires to provide nonexclusive solid waste disposal services for residents and businesses in Blair.

NOW, THEREFORE, in consideration of the mutual obligations set forth herein, the parties hereby agree as follows:

0.1 For the purpose of this agreement solid waste shall have the same meaning as set forth in Sec. 81-1502(26) R.R.S. Neb. and shall further include but not be limited to garbage, rubbish, and junk as set forth in Sec. 81-1502 et seq. R.R.S. Neb. and shall also include lead acid batteries, tires, waste oil, construction debris, and all hazardous wastes. Yard Waste is hereby specifically excepted from the definition of solid waste.

0.2 Blair hereby grants to Licensee a nonexclusive license to operate a solid waste and yard waste collection business in Blair for the term of this agreement. Blair reserves the right to grant similar licenses and the use of the streets of Blair to any other person or company at any time during the period of this license.

0.3 In consideration of the grant of this nonexclusive license, Licensee agrees to pay to Blair an annual license fee for the term of this agreement in the amount of \$300.00. City of Blair will invoice the Licensee each year for this fee. Said license fee shall be due and payable upon execution of this agreement and each thereafter by September 30 and prior to Licensee collecting solid waste in Blair under this agreement.

0.4 This license shall be in full force and effect until September 30 of each year unless terminated by mutual agreement of the parties prior to September 30 of any given year, or upon default of the Licensee under the terms and conditions of this agreement and/or non-payment of the annual renewal fee of \$300.00.

0.5 The Licensee represents and warrants that:

A. The Licensee has the full power, authority, and legal right to enter into and perform this Agreement, and that by the execution, delivery, and performance by the Licensee of this Agreement, Licensee (i) has the requisite approval of all governmental bodies, (ii) will not violate any judgment, order, law, or regulation applicable to the

Licensee, and (iii) said Agreement is not a conflict with or constitute a default under any agreement or instrument to which the Licensee is a party or by which the Licensee may be bound or affected.

B. This Agreement has been duly authorized, executed, and delivered by the Licensee; and this Agreement constitutes the legal, valid, and binding obligations of the Licensee, enforceable in accordance with its terms, except as enforcement may be limited by bankruptcy, insolvency, reorganization, moratorium, or similar laws affecting the enforcement of creditor's rights generally or by general equitable principles concerning remedies.

0.6 The solid waste and yard waste collected by the Licensee shall be disposed of in a manner which fully complies with the Integrated Solid Waste Management Act of Nebraska, hereinafter referred to as "The Act," and shall further comply with all rules and regulations promulgated and adopted thereunder, all federal, state, and local laws, regulations, and ordinances dealing with environmental protection as administered and supervised by the Department of Environmental Quality, the E.P.A., and other regulatory agencies.

0.7 The Licensee shall cause all solid waste collected, generated, or processed from Blair to be disposed of at the present landfill of Douglas County, Nebraska, located near Elk City, Nebraska. The Licensee shall not dispose of any solid waste from Blair at any other site or location other than the present Douglas County Landfill without written consent from Blair.. Licensee shall not deliver and unload at the Douglas County Landfill any solid waste or hazardous waste not accepted by the Douglas County Landfill. Disposal of solid waste from Blair at any site other than the Douglas County Landfill, except as specifically permitted by Blair pursuant to the terms of this agreement, shall result in immediate termination of this Agreement and Licensee's right to collect solid waste within the municipal limits of the City of Blair.

0.8 The Licensee shall not collect or transport any solid waste which has been commingled with yard waste. The Licensee shall not deposit any Yard Waste in the Douglas County Landfill located near Elk City, Nebraska, nor any other landfill. yard waste shall be transported by the Licensee and deposited only at a location which is permissible for the disposition of yard waste under "The Act," the rules and regulations of the Department of Environmental Quality, the EPA, and other regulatory agencies.

0.9 All waste shall be unloaded at the Douglas County Landfill in accordance with generally applied practices of the Douglas County Landfill as specified by Douglas County or its operating agent.

10.0 Disposal of lead acid batteries, waste oil, waste tires, and discarded household appliances shall be made only in accordance with The Act and all rules and regulations promulgated and adopted thereunder, all federal, state, and local laws,

regulations, and ordinances dealing with environment protection as administered and supervised by the Department of Environmental Quality, the EPA, and other regulatory agencies. Any hazardous wastes derived from discarded household appliances shall be disposed of only in landfills or facilities licensed for the disposal of such hazardous wastes. Licensee may dispose of lead acid batteries, waste oil, waste tires, and discarded household appliances at any landfill other than the Douglas County Landfill only after receiving authorization in writing from Blair and after certifying to Blair the location at which such items are being disposed and shall certify, warrant, and guarantee to Blair that the disposal of said items is in full compliance with the requirements hereof.

11.0 Licensee shall be responsible for collection from its respective customers any fees charged by the Licensee. Licensee shall be responsible for and shall pay to Douglas County or its operating agent all fees charged by the Douglas County Landfill for the disposing of solid waste by the Licensee according to the rate schedule as agreed to by Blair and Douglas County. The Licensee agrees it will indemnify and save harmless Blair from any and all charges incurred by the Licensee for disposing of solid waste as the Douglas County Landfill.

12.0 Licensee shall further pay any additional charges established from time to time by Douglas County for asbestos special waste, tires, and uncovered loads, and other circumstances requiring imposition of higher charges.

13.0 All vehicles, conveyances, containers, and all other equipment used by the Licensee shall be kept and maintained in a sanitary condition. All trucks used by the Licensee for collection and hauling solid waste and similar material shall be maintained in a safe operating condition. All operators of trucks or other vehicles used by the Licensee for collection and hauling solid waste and similar material shall be duly licensed to operate the vehicles.

14.0 Prior to commencing operation under this Agreement and at all time during the course hereof the Licensee shall obtain and keep in full force and effect all forms and types of insurance which may be required by federal, state, and local law and regulatory agencies. Without limitation of the foregoing, Licensee shall provide policies of insurance of the types hereinafter described with limits of liability corresponding to the higher of those required by federal, state, or local regulatory and licensing agencies, or the following:

(A) Worker's Compensation Insurance for all of the contractor's employees.

(B) Commercial General Liability coverage which provides for assumed contractual liability as imposed by this Agreement in minimum amounts of \$1,000,000.00 per person and \$2,000,000.00 per occurrence for bodily injury, and \$100,000.00 for property damage.

All insurance policies referred to herein shall be issued and underwritten by solvent insurance companies licensed to do business in the State of Nebraska and shall provide

that notice of cancellation shall be required to be given by such companies to Blair at least thirty (30) days prior to effective dates of cancellation. Failure to provide and maintain insurance as required shall constitute a breach of this Agreement. All insurance policies referred to herein shall be available for review by Blair upon request.

15.0 The Licensee agrees that it shall protect, indemnify, and hold harmless Blair and its officers, members, employees, and agents from and against all liabilities, suits, or actions and attorney's fees, and shall defend Blair in any suit, including appeals arising out of the negligence or willful misconduct of the Licensee or any of its agents or employees in connection with its obligations or rights under this Agreement.

16.0 Licensee shall maintain records specifying the tonnage of solid waste hauled by the Licensee from Blair under this agreement. Licensee shall make these records available to Blair upon request.

17.0 In accepting this Agreement, Licensee acknowledges that its rights hereunder are subject to the police power of Blair to adopt and enforce general ordinances necessary for the safety and the welfare of the public; and Licensee agrees to comply with all applicable general laws and ordinances enacted by Blair pursuant to such power.

Without limitation of the foregoing, Licensee agrees to comply with all ordinances and regulations pertaining to the collection, hauling, and disposal of solid waste, and all traffic and related regulations pertaining to the use of the streets for such collection, hauling, and disposal.

Licensee does further agree to obtain, keep current, and pay for all licenses, permits, and inspections required under this Agreement and to be responsible and pay for all damages, penalties, and/or fines imposed by any governmental authority for failure to obtain and keep current such required licenses or permits, or to comply with laws, ordinances, regulations, or special conditions applicable to this Agreement.

Licensee does further recognize, undertakes, and promises not to discriminate nor permit discrimination in the performance of this Agreement because of race, national origin, sex, age, religious or political opinions or affiliations, or handicapped status.

The Licensee shall operate and maintain all of its equipment, including trucks, in full compliance with all safety and health standards required under federal, state, and local laws, rules and regulations and ordinances, as well as such standards required by industry generally.

Licensee shall at all times employ ordinary care and shall install, maintain, and use commonly accepted methods and devices for preventing failures and accidents which are likely to cause damages, injuries, or nuisances to the public.

The clean up of any spillage caused by Licensee during collection, while in transport, and during disposal shall be the sole responsibility of Licensee.

Blair shall at any time and without prior notice have the right and authority to inspect any of Licensee's trucks, whether in or out of service, storage bins, transfer stations, and other facilities utilized in the performance of this Agreement for the purpose of spot checking the contents of Licensee's trucks by gate control or while tipping at Douglas County Landfill, and to examine, after reasonable advance notice, the books and records of the Licensee which relate to Licensee's obligations under this Agreement, including tipping receipts to insure full performance with law and the terms of this Agreement. Blair shall also have the right and authority to examine the records of Douglas County or its operating agent to examine Licensee's weigh tickets, including vehicle gross weight, tare weight, date of delivery, and rates applicable to each delivery load.

Licensee shall provide and maintain a toll free number for Blair residents at its office and an attendant to answer telephone calls throughout the day between the hours of 8:00 o'clock A.M. and 5:00 o'clock P.M. and/or as long as trucks are on the streets picking up waste material, whichever is longer, Monday through Saturday excluding holidays. The attendant shall receive calls from citizens in a courteous and polite manner and shall resolve all complaints in an expeditious manner within a twenty-four (24) period.

No solid waste shall be allowed to remain in any truck located in Blair overnight.

Licensee under this Agreement is an independent contractor. Employees of the Licensee do not, for any purpose, become loaned or borrowed employees of Blair. This Agreement does not create a joint venture, partnership, or any other business entity between Blair and Licensee.

Licensee shall make available for inspection by Blair a list of all of Licensee's customers within Blair's municipal limits specifying the name, address, and telephone number of each customer. Such list shall be made available at City Hall at any reasonable times designated by Blair and shall be in a format or formats as specified by Blair.

The following shall constitute events of default.

A. A party's failure to timely perform any material obligation under this Agreement;

B. (i) A party's being or becoming insolvent or bankrupt or ceasing to pay its debts as they mature or making an arrangement with or for the benefit of its creditors or consenting to or acquiescing in the appointment of a receiver, trustee, or liquidator for any substantial part of its property, or (ii) a bankruptcy, winding up, reorganization, insolvency, arrangement or similar proceeding instituted by or against a party under the laws of any jurisdiction which proceeding has not been dismissed within thirty (30) days, or (iii) any

action or answer by such party approving of, consenting to, or acquiescing in any such proceeding, or (iv) the levy of any distress, execution, or attachment upon the property of a party which shall substantially interfere with its performance hereunder.

If within a period of ten (10) days after a party gives written notice to the other party that an event of default has occurred and is continuing, and the party in default has not remedied such event of default, then the party that is not in default may terminate this Agreement by giving written notice to the other party. This remedy shall be in addition to all other remedies that the parties may have under the law and in equity.

Licensee shall not enter into any scavenger or salvage operations of any of the solid waste collected by the contractor. The Licensee shall not use the City name or other words implying municipal ownership on stationery or equipment.

Blair shall have the right to prohibit Licensee from using unpaved alleys or streets during any time the Director of Public Works determines damage may be caused by Licensee's vehicles to such alleys and streets.

Notwithstanding anything to the contrary contained in this Agreement, neither the Licensee nor Blair shall be liable to the other for any failure or delay in performance of any obligation under this Agreement due to the occurrence of an event constituting force majeure and any such failure or delay shall not constitute an event of default under this Agreement.

An event constituting force majeure means any act, event, or condition which is beyond the reasonable control of the parties adversely affected thereby that has had or may reasonably be expected to have but requiring present action, a material adverse effect on the rights or the obligations of the parties under this Agreement, or a material adverse affect on the facility, or the ownership, possession, or operation by the facility. Such events shall include but not be limited to the following: an act of God, fire, explosion, flood, war, sabotage, change in law, or condemnation.

The party experiencing an event constituting force majeure shall promptly notify the other party of such event and its estimated duration and impact or obligations under this Agreement. Additionally, such party shall provide prompt notice of the cessation of such event of force majeure. Whenever such event of force majeure shall occur, the party claiming to be adversely affected thereby shall as quickly as reasonably possible use best efforts to eliminate the cause therefor and resume performance under this Agreement.

This Agreement may not be assigned by either party without the prior consent of the other party which consent shall not be unreasonably withheld.

Any notices or communication required or permitted hereunder shall be in writing and sufficiently given if delivered in person, by facsimile, or sent by certified or registered mail, return receipt requested, postage prepaid, as follows:

If to Blair:

Brenda Wheeler
City Clerk
218 South 16th Street
Blair, Nebraska 68008
Telephone No. 402-426-6694
Fax No. 402-426-4195

If to Licensee:

Attention: _____
Telephone No. _____
Fax. No. _____

Changes in the respective addresses to which such notices may be directed may be made from time to time by any party by written notice to the other party.

The waiver by either party or a default or a breach of any provision of this Agreement by the other party shall not operate or be construed to operate as a waiver of any subsequent default or breach. The making or the acceptance of a payment by either party which knowledge of the existence of a default or breach shall not operate or be construed to operate as a waiver of any default or breach.

The provisions of this Agreement shall constitute the entire agreement between the parties for the disposal of solid waste superseding all prior agreements and negotiations, and shall not be modified, unless provided herein to the contrary, only by written agreement duly executed by both parties.

In the event any provision of this Agreement shall for any reason be determined to be invalid, illegal, or unenforceable in any respect, the parties hereto shall negotiate in good faith and agree to such amendments, modifications, or supplements of or to this Agreement or such other appropriate actions as shall to the maximum extent practicable in light of such determination implement and give effect to the intentions of the parties as reflected herein, and the other provisions of this Agreement shall as so amended, modified, or supplemented, or otherwise affected by such action, remain in full force and effect.

This Agreement shall be binding upon the heirs, executors, and personal representatives of the parties hereto.

City of Blair, Nebraska
A Municipal Corporation

By _____
Melinda K. Rump, Mayor

ATTEST:

Brenda Wheeler, City Clerk

LICENSEE

By _____
Title