

## WASTE DISPOSAL SERVICES CONTRACT

The State of Texas §  
§  
County of Hale §

This Agreement made and entered in to as of the 19<sup>th</sup> day of Aug, 2013, by and between the City of Abernathy, Texas, hereinafter designated as the "CITY," and South Plains Waste Service, Inc., hereinafter designated "CONTRACTOR".

### WITNESSETH:

WHEREAS, the CITY desires to retain the services of a waste disposal company; and

WHEREAS, CONTRACTOR is a competent and qualified waste disposal company and desires to provide services according to the terms and conditions stated herein;

**NOW THEREFORE**, in consideration of the mutual covenants contained herein, the parties do agree as follows:

### 1. TERM

1.01 The initial term of this Contract shall be for a period of five (5) years commencing on the **14<sup>th</sup> day of September, 2013**, and terminating on the 13<sup>th</sup> day of September, 2018. This agreement may be renewed for up to two additional five year terms at the option of the City. The City may exercise its option by delivering a written notice of its intent to extend the agreement to Contract at least six months prior to the expiration of the original term of this agreement or any subsequent term.

### 2. WARRANTY

- 2.01 CONTRACTOR warrants and represents that it is qualified to engage in the business of waste disposal. In the event that certain certification or licensing is necessary as a result of state of federal law to perform the services to be provided, CONTRACTOR agrees to secure such certification or license as required by the certifying or licensing entity.
- 2.02 In performing all services required of it under this contract, CONTRACTOR shall comply with all applicable federal, state, county, and city statutes, ordinances and regulations. If such compliance is impossible for reasons beyond its control, CONTRACTOR shall immediately notify the CITY of the fact and the reasons therefore. In such event, CITY shall have the right to take action to provide services for its citizens to protect the health and welfare and, if necessary, terminate this contract.
- 2.03 CONTRACTOR warrants and represents it will neither cause, suffer, allow or permit the occurrence:

- a. of any act or omission in the execution and performance under this contract which act or omission may be or could result in or give rise to any violation of any federal law, state or local law, regulation, ordinance or licensing or permitting requirement;
  - b. of any act or omission which might give rise to any action at law or equity for personal injury or wrongful death or for damage to property. Specifically, CONTRACTOR agrees to comply with the Comprehensive Environmental Response, Compensation and Liability Act of 1980 and/or its successor legislation, in addition, with pertinent provisions of both the Texas Water Code and the Texas Waste Disposal Act.
- 2.04 CONTRACTOR warrants and represents that all sub-contractors, superintendents, foremen, and workers employed by CONTRACTOR shall be competent and careful workers, skilled in their respective trades. The CONTRACTOR shall not employ on this contract any person who repeatedly engages in misconduct or is incompetent or negligent in the due and proper performance of his or her duties. The CONTRACTOR shall furnish such supervision and equipment as is necessary for fulfillment of the terms of this contract in a manner acceptable to CITY.
- 2.05 The CONTRACTOR shall prohibit the use of intoxicating substances by its drivers and crew members while on duty or in the course of performance of their duties under this contract. Employees driving CONTRACTOR'S vehicles shall at all times possess and carry valid insurance and a Commercial Drivers License of the class appropriate to the weight of the vehicle being driven, issued by the State of Texas.
- 2.06 CONTRACTOR warrants and represents to the CITY that it is familiar with the CITY and that it is qualified by experience, adequate financing and equipment to perform this contract.
- 2.07 CITY warrants and represents that it shall timely perform its obligations hereunder and shall at no time request CONTRACTOR to take any action with regard to waste disposal services which would or could violate any federal, state, county and/or city statutes, ordinances, laws, regulations, licensing or permitting requirements.
- 2.08 Additionally, CITY warrants and represents that it has taken all actions which are necessary in accordance with all federal, state, county, city, laws, ordinances, and regulations to legally enter into and execute this agreement so as to render the same effective and binding upon the CITY under the terms and conditions stated herein.

### **3. SERVICES PROVIDED**

- 3.01 CONTRACTOR shall provide all labor, supervision, and equipment necessary to provide waste disposal services to the CITY for the consideration set out herein. It is expressly understood and agreed that CONTRACTOR shall collect and deliver for disposal all garbage, trash, brush and the refuse accumulated within the CITY, except for the waste collection which the CITY expressly agrees to provide as stated in paragraph 3.08.

CONTRACTOR will provide waste pickup based on the following schedule:

RESIDENTIAL - Once per week.

COMMERCIAL - Twice per week.

SCHOOL – Twice per week.

- 3.02 CONTRACTOR and the CITY shall mutually agree to, and publish for public notice, the day on which residential and commercial pickups will occur, and any change in such cycle of pickups shall be mutually agreed to by CONTRACTOR and the CITY. In the event any dumpster becomes full due to unusual and/or special circumstances (i.e. CITY function, party, special celebration) upon notice to CONTRACTOR by the CITY such dumpster will be serviced by CONTRACTOR at no additional charge within a reasonable time after notice by the CITY.
- 3.03 No pickup shall occur before the hour of 5:00 a.m. or after the hour of 7:00 p.m. on any day, except with the express written permission of the CITY. In the event that New Year's Day, Memorial Day, Independence Day, Labor Day, Thanksgiving Day or Christmas Day falls on a day regularly scheduled for trash pickup, the schedule shall be readjusted for that period by agreement between the CITY and CONTRACTOR. The schedule may also be altered for inclement weather that makes it reasonably impossible to transport the waste to the dump site. Notice of any such change in pickup shall be agreed to between the CITY and CONTRACTOR with at least twenty-four (24) hour advance notice, except when circumstances such as inclement weather and/or act of God reasonably prevent such notice.
- 3.04 The compensation provided herein for the CONTRACTOR does not include amounts for the collection and disposal of any increased volume resulting from a flood, hurricane or other act of God over which the CONTRACTOR has no control. In the event of such flood, hurricane or other act of God, the CONTRACTOR and CITY shall negotiate the payment to be made to the CONTRACTOR. In the event that CITY and CONTRACTOR are unable to agree to the additional compensation to be paid CONTRACTOR within three (3) days of the event which creates the additional waste, then CITY shall have the right to negotiate with other parties for removal of the additional waste.
- 3.05 CONTRACTOR shall not pick up or haul waste that is prohibited under federal or state law. Further, CONTRACTOR shall not pick up or dispose of any type of medical waste, liquid waste, automotive tires, oil filters, lead acid batteries, petroleum products and by-products or explosive materials, or any other landfill prohibited material, as part of this service for the fee specified. In the event such waste or products are found in the containers, CONTRACTOR shall not pick up the same or the containers in which the waste or waste products are located and shall notify the CITY within forty eight (48) hours of discovery of the same. CONTRACTOR and CITY acknowledge that CONTRACTOR is not legally permitted to haul hazardous waste. However, CONTRACTOR agrees to consult with and

