

ORDINANCE NO. 9697-88

AN ORDINANCE APPROVING
AN AMENDMENT TO AN AGREEMENT WITH
ABC SANITARY HAULING/RECYCLING
(To Provide Recycling Drop-Off Services)

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF URBANA, ILLINOIS, as follows:

Section 1. That an Amendment to an Agreement to Provide Recycling Drop-Off Services by and between the City of Urbana, Illinois and ABC Sanitary Hauling/Recycling, in the form of the copy of said Agreement attached hereto and hereby incorporated by reference, be and the same is hereby authorized and approved.

Section 2. That the Mayor of the City of Urbana, Illinois, be and the same is hereby authorized to execute and deliver and the City Clerk of the City of Urbana, Illinois, be and the same is hereby authorized to attest to said execution of said Amendment to an Agreement as so authorized and approved for and on behalf of the City of Urbana, Illinois.

PASSED by the City Council this 3rd day of February, 1997.

AYES: Hayes, Kearns, Patt, Pollock, Ryan, Taylor, Whelan

NAYS:

ABSTAINED:



Phyllis D. Clark
Phyllis D. Clark, City Clerk

APPROVED by the Mayor this 3rd day of February, 1997.

Tod Satterthwaite
Tod Satterthwaite, Mayor



**AMENDED
AGREEMENT FOR RECYCLING DROP-OFF SERVICES
BY AND BETWEEN THE CITY OF URBANA, ILLINOIS AND
ABC SANITARY HAULING/RECYCLING**

In consideration of the mutual covenants and conditions contained in this Agreement, the City of Urbana, Illinois, a municipal corporation (hereinafter called "City"), and ABC Sanitary Hauling/Recycling (hereinafter called "Contractor") agree as follows:

Section 1.00 Term.

This Agreement shall begin on October 1, 1996 and shall terminate on October 1, 1998, unless sooner terminated as provided herein. At the expiration of the contract term, the parties, by mutual agreement, may exercise an option to extend the Agreement for a one (1) year period beginning October 1, 1998, provided such an extension shall have been negotiated and formally agreed upon by the City and the Contractor by written notice prior to September 1, 1998.

The parties further agree that services may begin prior to October 1, 1996 and payment shall be prorated based upon any such service actually provided during the month of September 1996.

Section 2.00 Compliance with Laws.

The Contractor shall give all notices required by, and comply with, all applicable City, State of Illinois and Federal laws.

The Contractor certifies that it is not barred from bidding on this procurement as a result of a conviction for the violation of State of Illinois laws prohibiting bid-rigging or bid-rotating per 720 ILCS 5/33E-3 and 5/33E-4. The Contractor further certifies that it is not delinquent in the payment of any indebtedness owed to the City, or in payment of any tax administered by the Illinois Department of Revenue per 65 ILCS 5/11-42.1-1. The Contractor has executed the City of Urbana Certification of Compliance and has placed it on file with the City.

Section 3.00 Scope of Work.

3.01 General

The scope of work includes the collection and processing of recyclable materials, as described herein, which are deposited by the general public at a drop-off site.

3.02 Location

The location of the drop-off site is the northwest corner of the Jerry's IGA parking lot, 2010 S. Philo Rd., Urbana. It is understood by the parties that this drop-off site is a part of property leased to Jerry's IGA, and therefore subject to conditions of that lease. In the event that this property cannot continued to be used for a drop-off facility, the City will

endeavor to secure another suitable location, but makes no guarantee of securing such a site.

3.03 Accessibility

The drop-off site will be accessible to the public 24 hours per day, 7 days a week and will be an "unmanned site".

3.04 Materials to be Collected

The following materials will be collected at the drop-off site:

- Fibers: ONP - newspaper and any inserts, kraft paper bags,
OCC - corrugated cardboard, fiberboard;
OMG - magazines and catalogs; and
RMP - residential mixed paper (e.g. mail, computer paper, ledger, etc.)
- Containers: UFBC - food & beverage cans, and empty aerosol cans (steel, bimetal and aluminum);
UFBG - food & beverage glass containers (flint, green and amber); and
PET , SPI code #1 - natural and pigmented containers
HDPE, SPI code #2 - natural and pigmented containers
- Containers which contained toxic or hazardous materials (e.g. oil, antifreeze, solvents, pesticides/herbicides) will not be collected.

The contractor may request that certain materials be added or deleted by presentation to the City of appropriate justification, and the City will consider such requests and render decisions within a reasonable time.

3.05 Containers

The Contractor will provide an appropriate number of collection containers, with covers or lids, of such capacity to adequately contain the quantity of materials dropped-off between collection services. All recyclable materials will be commingled into the provided containers. The containers shall be kept in a clean and painted condition, placed to assure easy access to users, and shall be kept in safe working order.

3.06 Service frequency

Collection service will be provided seven days a week, Monday through Sunday, but shall not be required on the following holidays: New Years Day, Memorial Day, Independence Day, Labor Day, Thanksgiving Day, and Christmas Day.

3.07 Site maintenance, Penalty

3.07.01 Maintenance

The Contractor acknowledges that keeping and maintaining the site in clean and neat appearance is a paramount concern for both the City and Jerry's IGA. Therefore, the Contractor will inspect for, remove and dispose any garbage or debris in or immediately surrounding the drop-off site each day collection service is

provided, as a part of the Contractor's service responsibilities. The site shall be kept in such a manner so as to protect the health and safety of the users and meet the appearance requirements of the City and Jerry's IGA. Any deficiencies noted will be remedied by the Contractor, at its expense, within forty-eight (48) hours of any such written notice.

3.07.02 Penalty

The Contractor may be subject to a penalty of fifty dollars (\$50) per day, each day any deficiency continues unabated or which is not properly remedied by the Contractor after the forty-eight (48) hour period. Any such penalty levied by the City, at its discretion, shall be deducted from the Contractor's monthly payment.

Section 4.00 Equal Employment Opportunity

During the term of this Agreement, the Contractor and any subcontractor shall comply in all respects with the City's Equal Employment Opportunity Ordinance. The Contractor has executed the City of Urbana Equal Employment Opportunity Contractor and Vendor Qualification Form and has placed it on file with the City.

Section 5.00 Drug Free Workplace.

During the term of this Agreement, the Contractor and any subcontractor shall comply in all respects with the Drug Free Workplace Act of Illinois, 30 ILCS 580/1 et. seq. The Contractor has executed the City of Urbana Drug Free Workplace Certification Form and has placed it on file with the City.

Section 6.00 Subcontractors

The Contractor shall perform the work with its own personnel and under the management and supervision and control of its own organization unless otherwise approved by the City in writing. Any and all subcontractors used for collection or processing by the Contractor shall be acceptable to, and approved in advance, by the City. The City's approval of any such subcontractor shall not relieve the Contractor of full responsibility and liability for the performance of the work. All work performed under any subcontract shall be subject to all of the provisions of the Agreement, and every reference in the Agreement to "Contractor" shall be deemed also to refer to all subcontractors of Contractor.

Section 7.00 Taxes, Licenses and Permits

The Contractor shall pay all sales, use, property, income, and other taxes that are lawfully assessed against the City or the Contractor in connection with the Contractor's facilities and the work included in this Agreement. By law, the City is exempt from paying federal excise tax, state and local retailers' occupation tax, state and local service occupation tax, use tax and service use tax. The City's tax-exempt number shall be furnished upon request of the Contractor.

Immediately upon the execution of this Agreement, the Contractor shall secure and pay for, at its own expense, all necessary permits, licenses, and certificates of authority required to complete the work, and shall comply with all requirements of such permits, licenses, and certificates of authority to operate in the City, including inspections. The Contractor shall keep and maintain all such licenses, permits, and certificates of authority in full force and effect throughout the term of this Agreement.

Section 8.00 Insurance

The Contractor shall carry all insurance coverages required by law or which would normally be expected for the business of refuse/recycling collection and processing services. In addition, the Contractor shall carry, at its own expense, at least the following insurance coverages:

Workers' Compensation and Occupational Diseases Insurance: Statutory amount for Illinois.

General Liability Insurance: Bodily injury, property damage, including broad form contractual insurance, with limits of not less than \$1,000,000 each occurrence/\$2,000,000 aggregate.

Automotive Liability Insurance:

Bodily injury, property damage, with limits of not less than \$1,000,000 each occurrence. This insurance must include non-owned, hired, leased, or rented vehicles, as well as owned vehicles.

The Contractor shall include the City as an additional named insured on both General Liability and Automotive Liability insurance policies. The insurance coverages shall be written with insurance companies acceptable to the City. The Contractor shall furnish to the City a Certificate of Insurance attesting to the respective insurance coverage for the full Agreement term. These coverages are not required of the Contractor at the time of proposal submittal, however the Agreement will not be signed with the successful Contractor until proof of coverage and additional named insured has been received and reviewed for acceptability by the City's Corporation Counsel.

All insurance policies and certificates of insurance shall contain a provision indicating that the insured and any additional named insured shall receive not less than thirty (30) days prior written notice prior to the effective date of any cancellation or reduction in coverage.

Section 9.00 Contractor's Indemnity

The Contractor agrees to and shall defend, hold harmless and unconditionally indemnify the City, its officers and employees, against and for all liabilities, costs, expenses, (including attorney's fees and expenses of investigation), claims and damages which the City may at any time suffer or sustain or become liable for by reason of any accidents,

damages or injuries (including injuries resulting in death) either to persons or property or both, of Contractor or City or employees of either party, or to any other parties, in any manner caused by or resulting from acts or failures to act by the Contractor or its employees or agents in the performance of this Agreement. The Contractor expressly understands and agrees that any performance security 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.

Section 10.00 No Waiver by Payment

Payment for any work under this Agreement shall not relieve the Contractor from its responsibility for failure to abide by the terms of this Agreement and upon written notice to the Contractor, the Contractor shall promptly correct any violations of the Agreement or of law

Section 11.00 Risk of Loss

The work and everything pertaining thereto, except promotion activities, shall be performed and maintained at the sole risk and cost of Contractor. Contractor shall have no claim against the City because of any damage or loss to the work or Contractor's equipment, materials, or supplies arising out of this contract other than a claim for negligence by the City, its employees or a claim for payment hereunder.

Section 12.00 Assignment of Agreement 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, which consent shall not be withheld without just cause; in the event of any assignment, the assignee shall assume the liability of the Contractor.

Section 13.00 Ownership of Materials.

All recyclable materials collected by the Contractor shall become property of the Contractor.

Section 14.00 Public Advertising

The Contractor may promote the use of this site to the general public, but is specifically denied the right of using in any for or medium the name of the "City of Urbana" for public advertising, unless written permission is granted by the Public Works Director.

Section 15.00 Processing and Marketing.

15.01 Cost

All aspects of processing, including but not limited to, the delivery, sorting, preparation, shipping, marketing, and alternative disposal; shall be provided by the Contractor at no additional cost to the City.

15.02 Primary Goal

The Contractor shall deliver all recyclable materials collected to a processing facility or facilities. The primary goal, and responsibility of the Contractor and facility, shall be to sort, prepare and otherwise process materials in a manner to maximize their value for sale and/or delivery to markets that will return such materials to the economic mainstream in the form of new raw materials or recycled products. These processing and marketing activities shall be the first and best efforts of the Contractor, and the Contractor shall initiate or take necessary actions, within its control, so as to recover ninety-five (95) percent of the gross quantity of materials collected each and every month during the term of this Agreement.

15.03 Secondary Measures

It is recognized that lack of markets and/or market conditions may arise during the term of the Agreement which are beyond the control of the Contractor and would preclude the primary goal. In such a case, the Contractor shall notify the City by submitting a written explanation of the situation, expected duration, and the Contractor's attempts to secure other markets or alternatives which could include re-use of materials in a secondary application. After reasonable consideration of the situation, the City will submit a written response advising the Contractor of the City's decision to allow use of any such alternatives. Implementation of any alternatives shall be of a secondary measure, and the Contractor understands that it shall continue with efforts to find and secure markets that meet the primary goal.

15.04 Alternative Disposal While the Contractor shall make every reasonable effort to collect and deliver materials in a condition to maximize the quantities to be processed, it is recognized that small quantities may be delivered in a condition making them unsuitable for processing or unable to meet market specifications. These quantities will not be required to be sold or delivered for use as production inputs and may be alternatively disposed of, including being landfilled. However, if the quantity of materials alternatively disposed of exceeds five (5) percent by weight of the monthly total of materials received for processing, then the Contractor shall submit, as a part of monthly reporting, a written explanation of the cause and recommendations to maintain recyclable waste below this percentage. The Contractor shall record any and all materials alternatively disposed as a part of reporting requirements.

Section 16.00 Records, Reporting.

The Contractor will accurately record all materials and weights collected at the drop-off on a daily basis and provide the City a monthly summary within fifteen (15) days following the end of the month. This summary shall also include any materials alternatively disposed.

Section 17.00 Payments.

The City shall pay a flat monthly fee of Three thousand one hundred dollars (\$3100.00) for the service period October 1, 1996 to September 30, 1997 ; and Two thousand four hundred dollars

(\$2400.00) for the service period October 1, 1997 to September 30, 1998. Payment for services will be made within thirty (30) days of receipt of billing for satisfactory service provided in the previous month.

Section 18.00 Termination and Suspension.

This Agreement will continue in full force and effect during the term as described in Section 1 herein unless it is terminated at an earlier date by either party, as outlined below:

(1) The City or the Contractor may terminate this Agreement by giving not less than thirty (30) days' written notice of the intent to terminate this Agreement. Notice shall be considered given when deposited in the United States Mail, postage prepaid and addressed to Contractor or the City.

(2) In the event the Contractor voluntarily petitions for bankruptcy or is adjudged bankrupt or makes a general assignment for the benefit of creditors or if a receiver is appointed on account of the Contractor's insolvency or in the event that any of the provisions of this Agreement are violated by the Contractor, the City may terminate the Agreement.

(3) In the event that any of the provisions of this Agreement are violated by the Contractor or the City, the aggrieved party may serve written notice upon the other of the intention to terminate this Agreement, such notice to contain the reasons for such intention.

(4) In the event of termination, the Contractor will be paid by the City for all services properly performed which were actually, timely and faithfully rendered up to the receipt of the notice of termination, and thereafter, upon the express written direction of the City, until the date of termination. The Contractor will provide all work documents developed up to the date of termination prior to the City rendering final payment for service, which documents become the property of the City.

Section 19.00 Force Majeure.

The performance provisions of this Agreement are subject to the following limitation: If by reason of force majeure the Contractor or the City is unable in whole or in part to carry out the obligations on its part contained in this Agreement, neither party shall be deemed in default during the continuance of such inability. The term "force majeure" as used herein shall mean as the City in writing approves: acts of God, strikes, lockouts or other industrial disturbances; acts of public enemies; orders of any kind of the government of the United States or of the State of any of their departments, agencies, or officials, or any civil or military authority; insurrections; riots; epidemics; landslides; lightning; earthquake; fire; storms; floods; washouts; droughts; restraint of government and utilities; or any similar cause or event not reasonably within the control of the Contractor or City.

The Contractor agrees, however, to remedy with all reasonable dispatch the cause or causes preventing the Contractor from carrying out its representations, undertakings, and agreements, provided that the settlement of strikes, lockouts and other industrial disturbances shall be entirely

within the discretion of the Contractor, and the Contractor shall not be required to make settlement of strikes, lockout, and other industrial disturbances by acceding to the demands of the opposing part or parties when such course is in the judgment of the Contractor unfavorable to the Contractor.

The Contractor shall advise the City at the earliest possible moment concerning any events constituting a force majeure hereunder.

Section 20.00 Notices.

Notice given hereunder shall be given to:

To the City at:

Public Works Director
City of Urbana
706 South Glover Av.
Urbana, Illinois 61802

To the Contractor at:

Mr. Steve Smith
ABC Sanitary Hauling/Recycling
401 W. Eureka St.
Champaign, Illinois 61820

Section 21.00 No personal liability of officials of the City.

No covenant or agreement contained in this Agreement shall be deemed to be the covenant or agreement of any official, agent, employee or attorney of the City, in his or her individual capacity, and neither the members of the City Council nor any official of the City shall be liable personally under this Agreement or be subject to any personal liability or accountability by reason of the execution, delivery and performance of this Agreement.

Section 22.00 Effective Date.

The parties hereby agree that the effective date of this Agreement shall be the date the Agreement is executed by the City as indicated by the date beneath the Mayor's signature.

IN WITNESS WHEREOF the City and the Contractor have caused this Agreement to be executed by their duly authorized officers.

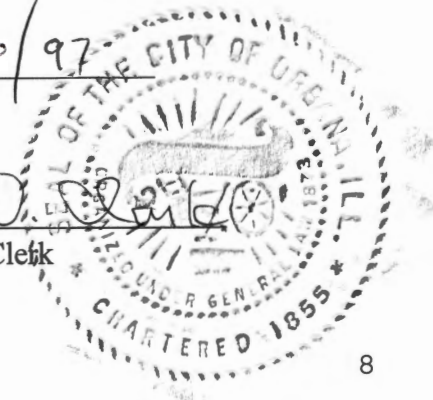
City of Urbana, Illinois

By: Tod Satterthwaite
Tod Satterthwaite
Mayor

Date: 2/10/97

ATTEST

Phyllis Clark
Phyllis Clark, City Clerk



ABC Sanitary Hauling/Recycling

By: Steve Smith
Steve Smith
Owner/Operator

Date: 2-7-97