

CONTRACT BETWEEN

CITY OF NOBLESVILLE, INDIANA
BOARD OF PUBLIC WORKS AND SAFETY

AND

“CONTRACTOR”

FOR THE DISPOSAL OF YARD WASTE AND COMPOST
MATERIALS
FROM THE CITY OF NOBLESVILLE, INDIANA

MAYOR
JOHN DITSLEAR

BOARD OF PUBLIC WORKS AND SAFETY
JOHN DITSLEAR, MAYOR
LARRY STORK, MEMBER
JACK MARTIN, MEMBER

CONTRACT

DISPOSAL OF YARD WASTE AND COMPOST MATERIALS

IN THE CITY OF NOBLESVILLE, INDIANA

THIS CONTRACT, is made and entered into on June 26, 2018, between the City of Noblesville Public Works and Safety, hereinafter referred to as "City" and CLC Organics, LLC, a corporation duly organized under the laws of the State of Indiana, and being duly licensed to do business in the State of Indiana, hereinafter referred to as "Contractor".

WITNESSETH, that the City and the Contractor mutually agree as follows:

COMPONENT PARTS OF THIS CONTRACT

This contract shall include the terms and conditions set forth, as well as the terms and conditions set forth in the following documents, all of which are a part of this contract as if set out verbatim, or if not attached, as if attached:

GENERAL PROVISIONS

1. Contract Term and Effective Dates
2. Independent Contractor Status
3. Non-Discrimination
4. Indemnity
5. Force Majeure
6. Assignment of Contract
7. Contractor's Default
8. Revocation
9. Termination
10. Waiver
11. Amendments to Contract
12. Severability
13. Applicable Laws
14. Binding Effect
15. Sub-Contractors and Labors
16. Definitions
17. Contract Specifications

All provisions of the contract shall be strictly complied with and conformed to by the Contractor and no modification or amendment to this contract shall be made except upon the written consent of both parties, which consent shall not be unreasonably withheld. No amendment shall be construed to release either party from any obligation of the contract except as specifically provided for in such amendment.

This contract is intended to conform in all respects to applicable statutes of the State of Indiana, and if any part or provision of this contract conflicts therewith, the statute shall govern.

In addition, all provisions, required by law to be inserted into this contract shall be deemed to be inserted whether they are actually included or not. Any provision of this contract or any of the incorporated documents shall be interpreted in such a way that they are consistent with all provisions required by law to be inserted into the contract.

SCOPE OF SERVICES

The Contractor shall receive from the City of Noblesville compostable materials and provide all labor, equipment, materials, tools, insurance, supervision, and all other items necessary to provide for disposal services as specified and described in the specifications and contract documents.

CONTRACT PRICE

1. The City agrees to supply the Contractor compostable material collected by the City of Noblesville Street Department from citizen curb side pickup at no charge between January 1st through December 31st for the length of this contract. There shall be no charge to the City from the Contractor for receiving and processing said materials.

GENERAL PROVISIONS

1. CONTRACT TERMS AND EFFECTIVE DATES
 - A. The contract(s) shall become effective on the day of execution and approval by the City of Noblesville, Board of Public Works and Safety and the Contractor.
 - B. The term of the contract for "Leaves and Yard Waste", will be for an approximate three (3) year period with service beginning on June 26, 2018, and ending on January 31, 2021, unless otherwise terminated by either party in accordance with the terms and conditions of the contract
 - C. Upon written approval of the contracting parties, the contract(s) may be extended for an additional one (1) year period from the termination date under the same terms and conditions set forth herein. The City of Noblesville will provide the Contractor notice in writing at least 90 days before the termination of their current term ending if it desires to extend the contract.
 - D. A report of actual tonnages and or compacted cubic yardage collected for each month will be kept by the City.
 - E. The contractor(s) shall supply proof of current policies pertaining to insurance, bonding and liability. The contractor shall hold the city harmless of any damage/harm that would occur on city property while fulfilling the obligations of this agreement.

2. INDEPENDENT CONTRACTOR STATUS

- a. The Contractor(s) performing services under a contract with the City shall be deemed an independent contractor and operate as a separate entity from the City of Noblesville. The City shall be, in no way, responsible for any acts or omissions of the Contractor or its employees.

3. NON-DISCRIMINATION

- a. The contractor hereby assures that it will comply with all federal and Indiana civil rights laws, including, but not limited to Indiana Code 22-9-1-10. The contractor certifies and agrees that the contractor or any subcontractors, or any other person acting on behalf of the contractor or subcontractor shall not discriminate against any employee or applicant for employment, to be employed in the performance of the contract with the City of Noblesville, with respect to said employee's hire, tenure, terms, conditions, and privileges of employment or any other matter directly or indirectly related to employment of the employee's or applicant's race, color, religion, age, gender, disability, national origin or ancestry. Also, in this regard the pursuant to Indiana Code 36-1-12-15(b), the Contractor agrees that the provisions of Indiana Code 5-16-6-1 are hereby incorporated by reference into these specifications and contract documents as if they were fully set forth herein, and shall be binding upon the Contractor. Breach of this covenant may be regarded as a material breach of contract.

4. INDEMNITY

- a. The Contractor shall agree to indemnify and hold harmless and blameless the City of Noblesville, its officers, agents, officials, and employees from and against any and all liability, obligations, claims, actions, causes of action, judgments, liens, damages, penalties, injuries, or accidental deaths arising out of any negligent acts of omission by the Contractor or any of its officers, agents, officials, and indemnity shall include attorney's fees and all costs and other expenses incurred by the City, and shall not be limited to reason of insurance required under the provisions of these specifications and contract documents.

5. FORCE MAJEURE

- a. Neither the Contractor nor the City shall be liable for the failure to perform their duties nor for any resultant damage, loss, etc., if such failure is caused by catastrophe, riot, war, government order or regulation, strike, fire, act of God or other similar or different contingency beyond the reasonable control of the Contractor or City.
- b. If such circumstances persist for more than 14 days or if after their cessation the Contractor is unable to render full or substantial

performance of the service for a period of 14 days, the Contractor or the City may terminate this contract upon written notice given at least 30 days in advance to the other party.

6. ASSIGNMENT OF CONTRACT

- a. The Contractor shall not subcontract or assign any right or interest under the contract, without having the prior written approval from the City of Noblesville Board of Public Works and Safety. Any attempt by the Contractor to subcontract or assign any portion of the contract shall not be construed to relieve the Contractor from any responsibility to fulfill its obligations in accordance with the provisions of these specifications or any contract documents.

7. CONTRACTOR'S DEFAULT

- a. If the Contractor fails to provide services in accordance with the provisions of these specifications or any contract document, or fails to provide services in a satisfactory manner, the City shall have the right to demand in writing a statement that explains the reasons for non-performance, or the delayed, partial or substandard performance of service, along with adequate assurance from the Contractor that steps have been or are being taken to rectify the situation. The Contractor must, with five days of receipt of such demand, return a written statement to the Board of Public Works and Safety or its designated representative. The Contractor also has the option to appear before the Board.
- b. It shall be mutually agreed that if the Contractor fails to provide services in accordance with the provisions of these specifications or any contract document, and the Contractor is not able to correct the breach within 24 hours, the City may have provided temporary disposal services without actually terminating the contract.
- c. If the Contractor fails to provide services in accordance with the provisions of these specifications except under conditions of force majeure, the City may, after giving the contractor five days written notice of the nature of the breach, terminate the contract. The City shall find another suitable entity to provide for disposal services.
- d. The Contractor may be considered in default by the City if any of the following occur:
 - i. The Contractor is adjudged bankrupt or makes an assignment for the benefit of creditors.
 - ii. Proceedings are instituted by or against the Contractor or an order is made or entered granting an extension of time for payment, composition, adjustment, modification, settlement or satisfaction of its debts and liabilities.
 - iii. A receiver or trustee is appointed for the Contractor or the Contractor's property.

- iv. The contract is subcontracted without the consent of the City of Noblesville Board of Public Works and Safety.
 - v. The contract or any right, monies or claims are assigned by the contractor without the consent of the City of Noblesville Board of Public Works and Safety.
 - vi. There is a substantive breach of any obligation or duty owed under the provisions of these specifications or any contract document.
- e. The City shall also be entitled as a matter of right to an injunction against any breach of the provisions of the contract.
- i. If it becomes necessary for the City to institute legal proceedings to enforce the provisions of these specifications or any contract document, the Contractor shall be responsible for the City's costs of such litigation, including reasonable attorney's fees.

8. REVOCATION

- a. Should the City find that after 120 days the contractor is not doing satisfactory job, the City has the right to revoke the agreement based on daily performance after a hearing before the Board of Public Works and Safety with written notice to Contractor prior to said meeting.

9. TERMINATION

- a. The contract may be terminated at any time by mutual written consent of both the City and the Contractor.
- b. Either party may terminate the contract without cause by giving the other party written notice of its intent to terminate the contract. In the event such written notice is given, the contract shall terminate on the date set forth in the written notice, which date shall be at least 90 days after receipt of the notice by the other party.
- c. If under the conditions of force majeure, either party may terminate the contract by giving the other party a 30 day written notice of its intent to terminate the contract. In the event such written notice is given, the contract shall terminate on the date set forth in the written notice, which date shall be at least 30 days after receipt of the notice by the other party.
- d. If the Contractor fails to provide services in accordance with the provisions of these specifications or any contract document, except under conditions of force majeure, the City may terminate the contract by giving the contractor a five day written notice of its intent to terminate the contract. In the event such written notice is given, the contract shall terminate on the date set forth in the written notice, which date shall be at least five days after receipt of the notice by the contractor.

- e. Notwithstanding all other terms and conditions, the contract is subject to annual appropriations by the Common Council of the City of Noblesville, Indiana.

10. WAIVER

- a. A waiver by either party of any breach of any provision of these specifications or any contract document shall not be taken or held to be a waiver of any succeeding breach of such provision or as a waiver of any provision itself. No inspection, observation, payment or acceptance of compensation for any period subsequent to any breach shall be deemed a waiver of any right or acceptance of defective performance. Where the condition to be waived is to material part of the contract such that a waiver would affect the essential bargains to the parties, the waiver must take the form of a contract modification as provided for elsewhere in these specifications and contract documents.

11. AMENDMENTS TO CONTRACT

- a. Any modification or amendment to the terms and conditions of the contract shall not be binding unless made in writing and signed by both parties. Any verbal representations or modifications concerning the contract shall be of no force and effect.

12. SEVERABILITY

- a. In the event that any provision, term or other portion of the contract, or any document or item referred to in the contract, shall be found to be invalid or unenforceable, then such provision, term or other portion shall be reformed in accordance with applicable law. The invalidity or unenforceability of any provision, term or other portion of the contract, or any document item referred to in the contract, shall not affect the validity or enforceability of any other provision, term or other portion of the contract, or any document or item referred to in the contract.

13. APPLICABLE LAWS

- a. The parties to the contract shall agree that the laws of the State of Indiana shall govern the validity, construction, interpretation and effect the contract. The Contractor shall provide all services under these specifications and contract documents in compliance with all applicable federal, state and local laws, regulations and ordinances, as the same shall be in full force and effect upon the date of the contract.
- b. In the event it becomes necessary to litigate any term or condition of the contract, the parties shall agree that the County of Hamilton, State of Indiana shall be proper venue to settle such disputes.

14. BINDING EFFECT

- a. All provisions, covenants, terms and conditions of the contract apply to bind the parties and their legal heirs, representatives, successors and assigns.

15. SUB-CONTRACT AND LABORS

- a. No subcontractor(s) shall be employed by the Contractor for any work on this project without the written consent of the City. The City retains the unrestricted right to refuse permission to the contractor to use any subcontractor(s) that the City deems to not be in the best interest of the City.
- b. The Contractor agrees to be fully responsible to the City for all acts or omissions of his subcontractor(s) and of anyone employed directly or indirectly by the Contractor. The Contractor agrees to bind every subcontractors and each subcontractor shall agree to be bound by the terms of these contract documents. The contract documents shall not create any contractual relationship between the subcontractor(s) and the City.

16. DEFINITIONS

- a. Compost: A mixture of vegetable matter leaves and grass etc. used for fertilizing land.
- b. Yard Waste: Any vegetation collected for the purpose of manufacturing compost; leaves, grass, etc.
- c. Solid Waste: All putrescible and non-putrescible matter, including garbage and rubbish, but excluding hazardous materials and other matter that is specifically excluded elsewhere in these contracts no comments and specifications.
- d. Garbage: Putrescible animal or vegetable waste resulting from handling, preparation, cooking, serving or consumption of food, and including all paper wrappings, boxes and cartons used to contain such food.
- e. Construction Debris: Any material designed for the purpose of fabricating a man made structure. Any material designed not to decompose under natural process.
- f. Small Load: A vehicle or container that carries a load capacity of approximately 1 ton of weight.
- g. Large Load: A vehicle or container that carries over a 1 ton in weight capacity.
- h. Bio-Degradable: Material that breaks down into compost by natural events.

- i. Bag: A flexible container with sufficient strength to maintain physical integrity when lifted by the top and hauling a capacity not exceeding 30 gallons in volume or weighing more than 40 pounds when full.

CONTRACT SPECIFICATIONS

1. INTENT AND PURPOSE

- A. Residential Solid Yard Waste Collection and Disposal. It is the intent of the City of Noblesville to provide a comprehensive yard waste collection and disposal service consisting of weekly pick-up of bagged, containerized and loose yard waste from all eligible residential dwelling units, and all eligible residential dwelling units located within subdivisions that are within the corporate limits of the City.
- B. Urban Forestry Compliance. It is the intent of the City of Noblesville to provide comprehensive Urban Forestry development and maintenance programs in accordance with state and federal guidelines.
- C. Storm damage. It is the intent of the City of Noblesville to have a means for efficient and effective disposal of compostable material in the event there is a disaster or storm that would alter the daily activities of the City of Noblesville.

2. SERVICES TO BE PROVIDED BY CONTRACTOR


- A. The Contractor shall receive from the City compostable material, leaves and miscellaneous yard waste collected by the City from citizens by curbside pickup, post-storm cleanup or other means as determined by the City.
- B. The Contractor shall supply an alternate location at no expense and within a 15 mile radius if for any reason the Contractor cannot receive delivery from the original designated location.
- C. The Contractor agrees that no additional work will be required of the City other than the delivery of leaves and/or yard waste material to the agreed site.
- D. The Contractor agrees in the event additional work is required by the City, a monthly charge will be made on an hourly rate per current Federal Environmental Management Administration Billing Standards.
- E. The Contractor shall make available all information that would benefit the City as a result of entering into this contract.

3. SERVICES TO BE PROVIDED BY THE CITY

- A. The City shall supply Contractor compostable material, leaves and yard waste collected by the City from citizens by curbside pickup, post-storm cleanup or other means as determined by the City.
- B. The City shall deliver yard waste to the Contractor as free from solid waste, garbage and construction debris as possible.
- C. The City shall deliver all bagged leaves in a pre approved bio-degradable bag.
- D. The City shall deliver all loose leaf yard waste by means of industry designed equipment for this specific application.
- E. The City shall maintain all necessary records for compliance of State and/or Federal regulations regarding MS IV requirements.
- F. The City shall make available any and all information that would benefit the contractor as a result of entering into this contract.
- G. The City shall compensate the contractor for work performed by request that is outside the terms of this agreement. The City and the Contractor shall agree to terms and conditions prior to work scheduling.

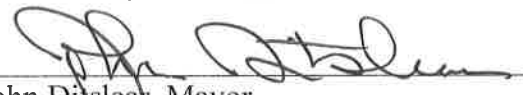
IN WITNESS WHEREOF, the parties have executed this contract, on the day and year first written above.

CONTRACTOR
CLC Organics, LLC
18377 Deshane Avenue
Noblesville, IN 46060


John Haas, Owner

7/2/18
Date


CITY
Noblesville Board of Public Works and Safety
16 S. 10th Street
Noblesville, IN 46060


John Dinslear, Mayor

6-26-2018
Date

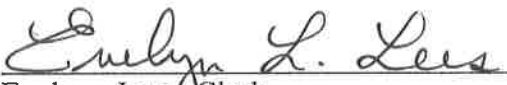

Lawrence Stork, Member

6-26-2018
Date


Jack Martin, Member

6-26-2018
Date

Attest:


Evelynn Lees, Clerk

6-26-2018
Date



Street Department

TO: Board of Public Works and Safety

FROM: Patty Johnson

DATE: June 21, 2018

Attached is a renewal contract between the City of Noblesville and CLC Organics, LLC for disposal of yard waste and compost materials. This contract allows the City to supply CLC Organics LLC with compostable material collect by the Street Department from residential curb side pickup at no charge. Please feel free to contact me if you have further questions. Thank you