



AGENDA
COMMITTEE OF THE WHOLE
Tuesday, May 19, 2020
6:30 p.m.

Webinar Link: <https://us02web.zoom.us/j/83742370640?pwd=MVVaZHGwNXVWaHdldDBnTEIxUFlyQT09>

Webinar ID: **837-4237-0640**

Password: **441655**

Telephone Dial: US: (312) 626-6799

- To attend a meeting, click on the link provided or dial in with the phone number provided on the meeting agenda. You may need to create a Zoom account if you access the meeting online.
- You will participate as an attendee, not a panelist. You will be muted by the meeting moderator.
- To participate/speak during a meeting when allowable, you will need to “raise your hand”. Online you will find a ‘raise hand’ option in the menu bar. Via phone, you can press *9.
- All meetings are recorded and subject to the Wisconsin Open Meetings Law.

Mayor Jeannie Hefty
Susan Kott, Alderman, 1st District
Theresa Meyer, Alderman, 1st District
Bob Grandi, Alderman, 2nd District
Ryan Heft, Alderman, 2nd District
Steve Rauch, Alderman, 3rd District
Jon Schultz, Council President, Alderman, 3rd District
Thomas Preusker, Alderman, 4th District
Todd Bauman, Alderman, 4th District

Student Representatives:

Thomas Martin, Student Representative (BHS)
Peter DeSmidt, Student Representative (CCHS)

1. **Call to Order - Roll Call**
2. **Citizen Comments:** Telephone Dial: US: (312) 626-6799, Webinar ID: **837-4237-0640**
3. **Introduction of Richard Lynch by Mayor Hefty**
4. **Approval of Minutes** (*S. Kott*)
 - A. To approve the May 5, 2020 Committee of the Whole Meeting Minutes.
5. **DISCUSSION:**
 - Discussion regarding the July 4, 2020 Fireworks.
6. **RESOLUTIONS:**

- A. **Resolution 5011(7)** - To approve an agreement with The Lakota Group for the development and preparation of a Comprehensive Plan for the City of Burlington.
- B. **Resolution 5012(8)** - To approve a Contract for Solid Waste and Recyclables Collection and Disposal with ASDA Enterprises, Inc.
- 7. **ORDINANCES:**
 - A. **Ordinance 2059(2)** - To amend Section 187-7(F)(1), Classes of Licenses and Fees, to authorize the City Clerk as a designated municipal official to issue Operator's Licenses.
- 8. **MOTIONS:**
 - A. **Motion 20-968** - To Ratify, Approve and Adopt an Emergency Declaration by the City of Burlington for a Personal Protective Equipment (PPE) Decontamination Services Agreement with Battelle Memorial Institute.
- 9. **ADJOURNMENT** (*T. Meyer*)

Note: If you are disabled and have accessibility needs or need information interpreted for you, please call the City Clerk's Office at 262-342-1161 at least 24 hours prior to the meeting.



COMMITTEE OF THE WHOLE

ITEM NUMBER 4A

DATE: May 19, 2020

SUBJECT: MEETING MINUTES - To approve the May 5, 2020 Committee of the Whole Meeting Minutes.

SUBMITTED BY: Diahnn Halbach, City Clerk

BACKGROUND/HISTORY:

The attached minutes are from the May 5, 2020 Committee of the Whole meeting.

BUDGET/FISCAL IMPACT:

N/A

RECOMMENDATION:

Staff recommends approval of the attached minutes from the May 5, 2020 Committee of the Whole meeting.

TIMING/IMPLEMENTATION:

This item is scheduled for final consideration at the May 19, 2020 Common Council meeting.

Attachments

COW Minutes



City Clerk
300 N. Pine Street, Burlington, WI, 53105
(262) 342-1161 - (262) 763-3474 fax
www.burlington-wi.gov

CITY OF BURLINGTON
Committee of the Whole Minutes
Jeannie Hefty, Mayor
Diahnn Halbach, City Clerk
Tuesday, May 5, 2020

1. **Call to Order - Roll Call**

Mayor Jeannie Hefty called the Committee of the Whole Meeting via Zoom to order at 6:30 p.m. Roll Call: Present - Alderman Susan Kott, Alderman Theresa Meyer, Alderman Bob Grandi, Alderman Ryan Heft, Alderman Steve Rauch, Alderman Jon Schultz, Alderman Tom Preusker, Alderman Todd Bauman. Excused: None

Student Representatives: Present - None. Excused - Thomas Martin (BHS), Peter DeSmidt (CCHS).

Staff present: City Attorney John Bjelajac, City Administrator Carina Walters, Assistant City Administrator/Zoning Administrator Megan Watkins, Finance Director Steven DeQuaker, Public Works Director Peter Riggs, Fire Chief Alan Babe, Police Chief Mark Anderson, Human Resource Manager Jason Corbin, and City Intern Nicholas Faust.

2. **Citizen Comments** - Telephone Dial: US: (312) 626-6799, Webinar ID: **837-4237-0640**

3. **Approval of Minutes** - To approve the April 8, 2020 Committee of the Whole Meeting Minutes. Motion: Alderman Kott. Second: Alderman Meyer. With all in favor, the motion carried.

4. **PRESENTATIONS:**

A. Burlington Community Aquatic Center 2019 Financial Results.

Administrator Walters explained that the pool's financial results aren't able to be presented in the same year due to numbers not being tallied and entered into the books until January/February of the following year. Chip Bahr then joined the meeting and presented the results for 2019. Bahr stated that both admittance and memberships were up in 2019, as well as swim lessons and that overall it was a good year.

Alderman Preusker asked what the plans are for 2020 and suggested more opportunities for fundraising. Bahr responded that fundraising has been discussed at the board meetings, but no plans have been made yet. Alderman Grandi suggested there may be some opportunity to set up a subcommittee for fundraising, along with some other ideas that would increase revenue, such as contacting persons who are lower on the donor board and asking if they could increase their contributions. Grandi stated that the proposed beer garden is also still in the works. Grandi then commented on the opening of the pool and what's entailed including filling the pool, running the pumps, water being treated with the proper chemicals, and hiring staff.

Alderman Schultz asked what is the worst case scenario if the pool can't open and how much it would

cost for running the equipment. Grandi responded that he would gather that information and report back.

Alderman Rauch asked how much money is currently in the bank. Bahr responded that the balance at the end of the year was \$36,000; also, there is a balance of \$762,000 in the Community Fund. Grandi stated that they also have \$128,333 in outstanding pledges that should be collected in the next couple of years.

Alderman Preusker liked the idea of a beer garden and stated that in other communities it produces 1/3 of the revenue. Preusker then asked about the Burlington Service Clubs and their contributions. Bahr responded there are four service clubs, and they each contribute \$3,000.

Alderman Bauman asked if the pool board is still selling memberships and what will happen if they are unable to open due to the pandemic situation. Grandi responded that memberships are currently being refunded upon request but memberships are also still being purchased. Grandi further stated that the pool board would need to look at revenue vs. expenses to determine whether to continue running the pool if it can't be opened, or to shut it down.

5. **RESOLUTIONS:**

- A. **Resolution 5005(1)**- To approve the Award of Traffic Signal Improvement Project to MP Systems, Inc. for signals located at Bridge Street and Adams Street, Bridge Street and Jefferson Street, and Milwaukee Avenue and Pine Street.

Director Riggs provided an overview of this project and stated that it is part of the railroad siding extension project which includes signal-rail interoperability improvements and signal controller battery backup installation at all three sites in addition to reprogramming of signals to allow a left turn phase and installation of head signals. Riggs stated that CN would be providing the majority of the funding for this project, but will require a net \$11,186.70 from the General Fund if the Council decides to proceed with the MP Systems proposal.

Alderman Bauman asked if the intersection of Pine and Milwaukee will still allow a left turn and if so, he felt it was still a bad idea and that the left turn should be eliminated. Alderman Schultz asked if the left turn signal is only triggered during a gate closure or every cycle. Riggs responded that it is currently signaled during the gate closure phase.

Mayor Hefty asked what the timeframe is to complete this project. Riggs responded that it would be completed in less than 30 days.

- B. **Resolution 5006(2)** - To consider approving a Certified Survey Map for property located at 2457 Browns Lake Drive.

Watkins provided an overview of the resolution stating that the owner wishes to subdivide one parcel into three parcels, and proposed Lot 2 to be fully zoned as RM-2 instead of the two zoning districts it currently has. Watkins further stated that this resolution coincides with Ordinance 2058(1).

Alderman Kott asked what the plans were for its use if sold. Watkins responded that there is an offer to buy the senior apartments in Lot 1; however there are no plans to sell or demolish the other 2 parcels and plans to keep everything as it currently is for the time being. Alderman Grandi asked if there were future plans for additional senior living. Watkins responded that there have only been ideas and thoughts at this point, and they are still deciding what to do.

- C. **Resolution 5007(3)** - To approve a Community Development Investment Grant Agreement between the Wisconsin Economic Development Corporation and the City of Burlington for the Low Daily, LLC.

Laura Million, RCEDC, provided an overview of the project stating that this is the last leg of the grant application request. Million then provided an overview of the financial report. There was no further discussion.

- D. **Resolution 5008(4)** - To adopt a Memorandum of Agreement between the City of Burlington and Federal Aviation Administration (FAA).

Watkins provided an overview of this resolution and stated that this Memorandum of Understanding is simply a renewal of the current agreement. There was no further discussion.

- E. **Resolution 5009(5)** - To approve an Agreement with Flight For Life (FFL) to provide the City of Burlington Paramedic Intercept Services.

Fire Chief Alan Babe provided the background history and reason for the intercept services with FFL stating that the relationship with them will provide CBFD with an in-house solution to have paramedic level service. Dan Burns, Executive Director with Flight for Life and Scott Rinzel was available to answer questions.

Alderman Bauman asked Chief Babe to provide an example of a call that would require paramedic level service versus Advanced Emergency Medical Technician service. Chief responded that paramedic service provides the level of service that an ER could provide.

Alderman Heft asked how would patients be billed. Chief responded that patients would be billed for services when used.

Alderman Rauch asked how many ambulances would be stationed at the fire department. Chief said there would be a total of three, including FFL.

All officials commented and agreed that having the FFL team in the City of Burlington is an amazing opportunity and commended Chief Babe for the work he put forth to help make this happen. Chief Babe also commended Joshua Spencer for his involvement with this relationship.

- F. **Resolution 5010(6)** - To Terminate and Withdraw from the Wisconsin Service Award Program for the Burlington Rescue Squad, Inc.

Walters provided some background history on the Award Program and stated that this is a housekeeping item and is necessary to do in order for BRS to close out their books. There was no further discussion.

6. **ORDINANCES:**

- A. **Ordinance 2058(1)** - To consider approval of a Rezone Map Amendment request at 2457 Browns Lake Drive from I-1 District to Rm-2 District.

This item was discussed along with Resolution 5006(2).

7. **MOTIONS:**

- A. **Motion 20-965** - To approve the 2019 Housing Affordability Report.

Watkins provided an overview of the background history stating that in 2018, Wisconsin Legislature enacted Act 243, which created two new reporting mandates that municipalities with a population of 10,000 or more must comply with. Ben McKay, Deputy Director for SEWRPC, then reviewed the Housing Report and future recommendations.

- B. **Motion 20-966** - To Ratify, Approve and Adopt an Emergency Declaration by the City of Burlington for a two-month garbage and recycling collection contract with Johns Disposal.

Walters gave a brief overview of this motion stating that the extension allows for continued service of garbage and recycling pick up during the time period of the Declaration of Emergency and that the extension will begin on May 1, 2020 and terminate on June 30, 2020.

- C. **Motion 20-967** - To consider the annual insurance renewal with Ansay & Associates, LLC.

Walters provided an overview of the renewal and then introduced Corina Kretschmer to review the 2019 activities and the 2020-2021 Stewardship Report. Alderman Schultz asked Kretschmer to review the Year in Review section in more detail and what each of the six categories entail.

8. **ADJOURNMENT**

Motion: Alderman Meyer. Second: Alderman Bauman. Roll Call Vote: Aye - 8. Nay - 0. With all in favor, the motion carried and the meeting adjourned at 8:12 p.m.

Minutes respectfully submitted by:

Diahnn C. Halbach
City Clerk
City of Burlington



DATE: May 19, 2020

SUBJECT: **RESOLUTION 5011(7)** - To approve an agreement with The Lakota Group for the development and preparation of a Comprehensive Plan for the City of Burlington.

SUBMITTED BY: Carina Walters, City Administrator

BACKGROUND/HISTORY:

A comprehensive plan is a tool kit designed for municipalities describing physical, social, and economic development of the community. Comprehensive plans are not meant to serve as land use regulations in themselves; instead, they provide a rational basis for local land use decisions for future planning and community decisions.

In 2008, Racine County communities completed a singular Comprehensive Plan. As of 2010, the State of Wisconsin mandates municipalities to update their comprehensive every ten years. In 2018 the County was going to update the plan; however, as FoxConn was developing and other municipalities began updating their own comp plans due to such growth, County recommended municipalities update their own comp plan.

While a local government may choose to include additional elements, a comprehensive plan must include at least all the nine elements below as defined by the Comprehensive Planning Law, including issues and opportunities, housing, transportation, utilities and community facilities, agricultural, natural and cultural resources, economic development, intergovernmental cooperation, land use and implementation.

Staff has been diligently reviewing the two proposals received for the future Comprehensive Plan exercise that included The Lakota Group and Graef (our current Planner). Staff sought a proposal from Meade; however, they did not provide a proposal.

Staff recommends engaging The Lakota group for many reasons to include: the engagement/response seen by Council at the November Bear Development Discussion (STH. 83), a fresh set of eyes, and the knowledge base Lakota has with completing various comprehensive plans in the county.

The total process could extend three to four months, which includes a multiphase Overall Community Vision Plan that addresses a 20-year vision for the City of Burlington community, The Plan should focus on a range of core community issues such as but not limited to:

- Land Use Mix
- Housing
- Retail/Commercial Mix
- Transportation/Transit Network
- Pedestrian/Bicycle mobility and connectivity
- Community Infrastructure Network/Capacities
- Open Space Network
- Employment
- Education
- Health and Wellness
- Special Districts and Corridors
- Cultural/Heritage, Arts and Preservation
- Community character and Urban Design
- Resiliency and Sustainability
- Fiscal Sustainability

BUDGET/FISCAL IMPACT:

A general professional fee budget range for the three -phase planning process as outlined above would be as follows:

- Phase 1 – Analyze budget range : \$8,000 - \$12,000
- Phase 2 – Visioning budget range: \$16,000 - \$18,000
- Phase 3 – Final Vision Plan budget range: \$12,000 - \$14,000

Graef's projected costs were within the same price range of Lakota Group. The total project budget range: \$36,000 - \$44,000, which was included in the 2020 Annual Budget.

RECOMMENDATION:

Staff recommends approval of the agreement with the Lakota Group to prepare a Comprehensive Plan for the City of Burlington.

TIMING/IMPLEMENTATION:

This item is for discussion at the May 19, 2020 Committee of the Whole meeting, and is scheduled for final consideration at the June 2, 2020 Common Council meeting.

Attachments

Res 5011(7) Lakota Group Agreement
Lakota Agreement

**A RESOLUTION APPROVING AN AGREEMENT WITH THE LOKOTA GROUP FOR
THE DEVELOPMENT AND PREPARATION OF A COMPREHENSIVE PLAN FOR
THE CITY OF BURLINGTON**

WHEREAS, the City of Burlington from time to time seeks to prepare a Comprehensive Plan; and,

WHEREAS, Lakota Group has been recommended for such services; and,

WHEREAS, the fee for such services from the Lakota Group will not exceed \$44,000, as indicated in the attached agreement, attached hereto as Attachment "A".

NOW, THEREFORE, BE IT RESOLVED by the Common Council of the City of Burlington that a retaining the Lakota Group to develop and prepare a Comprehensive Plan for the City of Burlington is hereby approved.

BE IT FURTHER RESOLVED that the Mayor be and are hereby authorized and directed to execute such agreement on behalf of the City.

Introduced: May 19, 2020
Adopted:

Jeannie Hefty, Mayor

Attest:

Diahnn Halbach, City Clerk

MEMORANDUM

DATE: February 17, 2020

TO: Jenny Trick, Executive Director
Racine County Economic Development Corporation
2320 Renaissance Boulevard
Sturtevant, WI 53177

Carina Walters, City Administrator
300 N Pine Street
Burlington, WI 53105

FROM: Scott Freres, President
The Lakota Group
116 W. Illinois St., Floor 7
Chicago, IL 60654

116 West Illinois Street
Floor 7
Chicago, Illinois 60654
p 312.467.5445
f 312.467.5484

thelakotagroup.com

RE: Burlington Wisconsin - Vision Plan 2040

Vision Plan 2040 Overview/Outline

Implement a multiphase Overall Community Vision Plan that addresses a 20-year vision for the City of Burlington community, The Plan should focus on a range of core community issues such as but not limited to:

- Land Use Mix
- Housing
- Retail/Commercial Mix
- Transportation/Transit Network
- Pedestrian/Bicycle mobility and connectivity
- Community Infrastructure Network/Capacities
- Open Space Network
- Employment
- Education
- Health and Wellness
- Special Districts and Corridors
- Cultural/Heritage, Arts and Preservation
- Community character and Urban Design
- Resiliency and Sustainability
- Fiscal Sustainability

Our team of urban planners and designers will work with the City's economic and fiscal advisor to provide an efficient and focused community planning process primarily targeting key opportunity sites in the downtown, key corridors, and the business park areas. The plan seeks to visualize and assess the appropriate land use character and mix for that adds value to the community character and economic development needs and connects the Burlington community. This vision plan scope will not provide a robust level of community engagement, but does provide for strategic community input opportunities at several open houses at key milestones in the planning process.

Proposed Scope

Phase 1 - Analyze

The goal of **Phase 1 Analyze** is for our team to better understand the existing community character, demographic, competitive marketplace, land use mix, and infrastructure systems. We will utilize current information and maps provided by the city and regional planning agencies to examine current conditions, policies, and regional impacts. Please note that our team will build off current city planning as well as our own work developed as part of the Western Racine County Target Development Area study.

As part of Phase 1 our team will coordinate with the City to conduct a community-wide survey (using the City's POLCO), two (2) focus groups consisting of civic leaders and staff and business/property owners and key stakeholders, and one Open House, which will report the existing conditions analysis.

This Phase will produce a series of maps and exhibits that will be summarized in a State of the Community Memo.

Anticipated Timeline: 2-3 months

Phase 2 - Visioning

The goal of **Phase 2 Visioning** is for our team to explore, and test a range of ideas, strategies and policies for future physical improvements to the key target opportunity areas of the City of Burlington. Plans, illustrations, visual imagery and other data and support materials will be utilized to explore these ideas with the City leaders and staff. The range of ideas will be shaped and will evolve into redefined plans and ideas as we move into the Final Vision 2040 Plan Phase.

Anticipated Timeline: 2-3 Months

Phase 3 - Final Vision 2040 Plan

The compilation of all our community dialogue, studies, and plans will be cultivated into both a draft and final Vision Plan document to be vetted by our steering committee, plan commission, and eventually adopted by the City Council. The plan initiatives and projects will be linked to key implementation strategies and timelines into the Final adopted document.

Anticipated Timeline: 2-3 months

A general professional fee budget range for the **three -phase** planning process as outlined above would be as follows:

Phase 1 - Analyze budget range :	\$8,000 - \$12,000
Phase 2 - Visioning budget range:	\$16,000 - \$18,000
Phase 3 - Final Vision Plan budget range:	\$12,000 - \$14,000
Total project budget range:	\$ 36,000 - \$44,000

Lakota Billing Rates (2020):

President	\$310
Principal	\$270
Vice President	\$235
Senior Associate	\$195
Project Planner/Designer/Manager	\$170
Admin./Clerical support	\$95



DATE: May 19, 2020

SUBJECT: RESOLUTION 5012(8) - To approve a Contract for Solid Waste and Recyclables Collection and Disposal with ASDA Enterprises, Inc.

SUBMITTED BY: Peter Riggs, Director of Public Works

BACKGROUND/HISTORY:

The City of Burlington solicited bids for garbage and recyclable's collection services. Bids were opened on February 28, 2020. ASDA Enterprises Inc. and John's Disposal Service Inc. were the only two bidders. Waste Management attended a pre-bid meeting but declined to bid citing logistical problems with the timeline and cart distribution. Advanced Disposal was contacted by phone to inform them of the bid, but we received no response.

The bids submitted by ASDA Enterprises and John's Disposal were discussed by the Council on April 8, 2020 and May 5, 2020. On May 5, 2020, the Council passed a resolution that authorized staff to begin negotiations of a contract with ASDA Enterprises. Staff has completed negotiations with ASDA Enterprises and a mutually agreed upon and signed contract by ASDA Enterprises is attached.

The core services provided by the contract are unlimited weekly trash collection, unlimited weekly recyclable's collection, and unlimited weekly bulky item collection. The contract is very similar to previous trash and recyclables collection contracts. Some notable changes include the addition of language that provides residents a choice for the container to use for recyclables collection and includes an option to purchase a 96-gallon cart from ASDA. The provision for standards of care and cleanliness was expanded to ensure ASDA performs and sets consequences should they fail to perform. Recyclable materials were amended to be consistent with those items required by state law.

If approved, ASDA would begin collection on July 1, 2020. Carts, totes, and dumpster retrieval and distribution would occur in the last two weeks of June and would be coordinated by City staff with John's Disposal and ASDA.

BUDGET/FISCAL IMPACT:

This contract will result under expending the 2020 operating budget (\$598,285) by approximately \$25,000. The 2021 budget would be \$558,999, which is a decrease of \$39,286 (-6.5%). The 2022, 2023, and 2024 budgets would increase slightly to \$560,960, but would maintain the same level of funding for three years. The budgets for 2022, 2023, 2024 are \$37,325 less than the 2020 budget.

Having this line item essentially level funded through 2024 provides many benefits to the financial management and planning efforts of the City.

RECOMMENDATION:

Staff recommends approval of the contract with ASDA.

TIMING/IMPLEMENTATION:

This item is for discussion at the May 19, 2020 Committee of the Whole meeting, and is scheduled for final consideration at the June 2, 2020 Common Council meeting.

Attachments

Res 5012(8) ASDA Garbage Contract

A RESOLUTION APPROVING A CONTRACT WITH ASDA ENTERPRISES, INC. FOR SOLID WASTE AND RECYCLABLES COLLECTION AND DISPOSAL SERVICES

WHEREAS, The City of Burlington has a need for solid waste and recyclables collection services; and,

WHEREAS, a Request for Proposal (RFP) was distributed for solid waste and recyclables collection services with two bids received and opened on February 28, 2020; and,

WHEREAS, the lowest cost bid was submitted by ASDA Enterprises, Inc.; and,

WHEREAS, ASDA Enterprises, Inc. provides solid waste and recyclables collection and disposal services for municipalities; and,

WHEREAS, The City of Burlington believes that it is in the City's best interest to contract with ASDA Enterprises, Inc. for solid waste and recyclables collection and disposal services for a term of 54 months commencing on July 1, 2020.

NOW, THEREFORE, BE IT RESOLVED by the Common Council of the City of Burlington, that the City of Burlington shall enter into an agreement with ASDA Enterprises, Inc. for solid waste and recyclables collection and disposal services for a period of 54 months beginning July 1, 2020, hereto attached as Attachment "A".

BE IT FURTHER RESOLVED that the City Administrator is hereby authorized and directed to execute this award on behalf of the City.

Introduced: May 19, 2020

Adopted:

Jeannie Hefty, Mayor

Attest:

Diahn Halbach

AGREEMENT

Curbside Collection of Solid Waste and Recyclables

This agreement (“Agreement”) is made and entered into this ____ day of May, 2020, by and between:

- a) ASDA ENTERPRISES, INC., being a Wisconsin corporation with offices located at 6320 McHenry Street, Burlington, Wisconsin 53105 (hereinafter referred to as “Contractor”); and
- b) The CITY OF BURLINGTON, WISCONSIN, being a municipal corporation organized under the laws of the State of Wisconsin, with its City Hall located at 300 North Pine Street, Burlington, Wisconsin 53105 (hereinafter referred to as the “City”).

Introduction

Contractor is in the business of collecting and then lawfully disposing of solid waste and recyclable materials that are placed at the curbside, as a part of a municipal collection program, by the residents of municipalities who contract with Contractor for such collection services.

The City wishes to contract with Contractor to have Contractor provide such collection services to the residents of the City, all under the terms and provisions of this Agreement. Contractor is willing to provide such collection services to the City, and the parties are entering into this Agreement for such purposes.

NOW, THEREFORE, IN CONSIDERATION OF THE MUTUAL COVENANTS AND PROMISES CONTAINED HEREIN, THE ABOVE-NAMED PARTIES HEREBY AGREE AS FOLLOWS:

1. Introduction is Correct. The above "Introduction" is correct, and is hereby incorporated herein by reference.

2. Collection Services. The Contractor shall provide the following collection services (collectively, the "Collection Services") to the residents of the City during the term of this Agreement:

- a) On a weekly basis, pursuant to a schedule to be agreed upon by the Contractor and the City, (i) collect solid waste, refuse, and garbage that is not recyclable (collectively, "Non-Recyclable Trash") that is placed by the residents at the curbside of their properties in the manner required under this Agreement, and (ii) collect bulk items ("Bulk Items", as described below in Paragraph No. 12 of this Agreement) that are placed by the residents at the curbside of their properties in the manner required under this Agreement.
- b) On a weekly basis, pursuant to a schedule to be agreed upon by the Contractor and the City, collect recyclable materials ("Recyclables") that are placed by the residents at the curbside of their properties in the manner required under this Agreement. The collection of the Recyclables shall be done on a "single-stream" basis, such that all types of Recyclables may be commingled in one or more recycling containers, with no sorting of the types of Recyclables being necessary.

- c) Contractor shall provide these Collection Services to each separate residential unit (“Unit”) contained in a single-family dwelling, a duplex, apartment buildings of four (4) Units or less, and all Units of a condominium.

3. Special Services to City Properties. As a part of this Agreement, and at no cost to the City, Contractor shall provide dumpster collection services for Non-Recyclable Trash and Recyclables, whenever needed, and as needed, no matter how often the need may be, for (i) all buildings owned (presently and in the future) by the City, and (ii) all other locations on City owned property, including City parks, that the City deems necessary for dumpster collection service, whether presently or in the future, during the term (and/or renewed term(s)) of this Agreement.

4. Collection Schedule. With respect to the Collection Services described in above Paragraph No. 2, the collection shall be done in accordance with a specific collection schedule, established and maintained by the Contractor and approved by the City. The schedule shall designate collection areas, days of collection, and approximate time of collection. Unless the Contractor gives the City or affected residents at least thirty (30) days advance notice, all regular collections, for any designated area, shall occur on the same day each week. The Contractor shall collect Recyclables in each designated collection area on the same day Non-Recyclable Trash is collected in that area. The Contractor shall lay out collection routes and provide adequate equipment and labor so as to complete scheduled collections on the designated collection day. When a designated collection is scheduled for pick-up on a holiday (which is hereby defined as New Year’s Day, Memorial Day, Independence Day, Labor Day, Thanksgiving, and Christmas), collection for that area shall be made on the next business day following the said holiday.

5. Collection Hours and Curb Location. Non-Recyclable Trash and Recyclables shall be collected between the hours of 7:00 a.m. and 5:00 p.m. There shall be no collection between

5:01 p.m. and 6:59 a.m. the next day. The Contractor shall not be required to collect any Non-Recyclable Trash or Recyclables which are not placed at curb locations or other designated areas adjacent to the street, alley, or roadway by 7:00 a.m. on the scheduled collection day. Notwithstanding the foregoing provisions, however, if the City notifies the Contractor in writing that a particular resident of the City has a disability (such that the resident does not have the ability to place the Non-Recyclable Trash or Recyclables at the above required locations), as determined by the City, then Contractor shall provide doorway service to that resident at no additional cost.

6. Items of Allowed Non-Recyclable Trash. The items of Non-Recyclable Trash that Contractor shall collect as a part of its Collection Services shall be general household trash and refuse. This shall include, but not be limited to, food wastes, paper, rags, sweepings, pottery ware, metallic ware, glassware, and similar discarded residential wastes. Items that will not be collected as Non-Recyclable Trash shall include, but not be limited to: yard waste; earth; rocks; concrete; loose construction and/or demolition materials; trees, bushes, grass, or other vegetation; electronics; and hazardous or flammable or explosive or dangerous or toxic, or infectious materials, including any items recognized as special waste by the State of Wisconsin. (But see below Paragraph No. 12 pertaining to the collection of Bulk Items, which does provide for the collection of some of the otherwise prohibited items described above.)

7. Use of Containers for Non-Recyclable Trash. Except as provided in Paragraph No. 12 of this Agreement (related to the collection of Bulk Items) and Paragraph No. 16 (related to cleanliness of the collection site), all of the items of Non-Recyclable Trash that will be collected by the contractor must either be bagged or within a container not to exceed 32 gallons in capacity and/or 60 pounds in weight.

8. Items of Allowed Recyclables. The items of Recyclables that the Contractor shall collect as a part of its Collection Services shall be all items allowed and/or required under the laws of the State of Wisconsin to be recycled. This shall include, but not be limited to, glass containers; plastics No. 1 and No. 2; tin and aluminum containers; cardboard; mixed paper; computer paper; and newsprint. If the provisions of the laws of the State of Wisconsin in the future require other materials to be recycled, the Contractor shall then include the same as a part of its Collection Services at no additional charge.

9. Use of Containers for Recyclables. Except as provided in Paragraph No. 12 of this Agreement (related to the collection of Bulk Items) and Paragraph No. 16 (related to cleanliness of collection site), all of the items of Recyclables that will be collected by the contractor must be within a container not to exceed 96 gallons in capacity. Additionally, a recyclable cardboard box and/or a clear plastic bag will be an acceptable container for residents to use for the collection of Recyclables.

10. Provision of Containers for the Collection of Recyclables. Two (2) plastic totes shall be provided by the Contractor, at no cost, to each Unit described in Paragraph No. 2 of this Agreement. The Contractor shall deliver the totes to new Units after the City notifies Contractor of the same. The totes shall each have a volume capacity of Eighteen (18) Gallons. Additional totes may be obtained by the residents from the Contractor at no charge. Additionally, residents may request a 96 gallon wheel cart from the Contractor. The Contractor shall deliver said cart in a reasonable amount of time to the collection location of the requestor. The Contractor may charge a fee of not to exceed \$60.00 directly to the resident for the purchase and delivery of a 96-gallon wheeled cart. The resident will own each 96- gallon wheeled cart purchased from the Contractor and is also responsible for the cart's maintenance and replacement if necessary. With respect to

(i) recycling containers supplied by the Contractor, and/or (ii) the 96-gallon wheeled carts sold by the Contractor to the City's residents, all as provided above, the Contractor may affix whatever branding and/or logos to the said containers and wheeled carts as the Contractor may desire. The Contractor shall use stickers, decals, or other methods to mark the 96-gallon wheeled carts as being designated for Recyclables. The Contractor shall be responsible for the cost of making all such markings, and any such marking shall be subject to approval by the City.

11. Maintenance of the Containers. All totes are the property of the Contractor and will be maintained by the Contractor. The residents are responsible for keeping the totes clean. The residents are also responsible for damage, other than normal wear, such as melting from hot ashes, cuts from a saw, or other avoidable damage. In the event a resident is responsible for a damaged tote(s), the replacement cost of the tote shall be collected by the Contractor directly from the resident. The Contractor shall be responsible for normal wear to the tote and will replace the tote in a timely manner after the resident informs the Contractor of the problem. The Contractor shall be responsible for any damage to the tote caused from snow plows or passing vehicles, vandalism, theft, or any other cause not attributable to the resident.

12. Collection of Bulk Items. The Contractor shall, each week and as a contemporaneous part of the collection schedule described in Paragraph No. 4 of this Agreement for the collection of Non-Recyclable Trash, collect from the residents the bulk items ("Bulk Items") described below. There will be no need for the residents to call the Contractor for this weekly collection of Bulk Items. The Bulk Items that will be collected by the Contractor are:

- a) Furniture, bedding, mattresses, and carpeting.
- b) Appliances (including microwaves and items containing CFC's such as refrigerators).

- c) Automotive tires, truck tires, and tractor tires, provided that tires over 42" in diameter are quartered (2 per week, 8 per year).
- d) Loose construction and demolition materials are included with the Bulk Items collection if contained in thirty-two (32) gallon cans (or less) that weigh less than sixty (60) pounds (no limit on the number of cans).
- e) Extra Non-Recyclable Trash and/or Recyclables in garbage cans, bins, or bags.

13. Disposal of Items Collected. The Contractor shall dispose of all items collected under this Agreement in full compliance with all applicable laws, codes, rules, and regulations. Throughout the term of this Agreement, the Contractor shall own, co-own, rent, lease, control, or otherwise have access, at its cost, to a properly-licensed and permitted landfill of sufficient capacity for the disposal of all collected Non-Recyclable Trash and Bulk Items. Upon the request of the City, the Contractor shall provide proof that such facilities comply with all laws and regulations. This shall not preclude the Contractor from changing the disposal location to a reasonable alternate site, but the Contractor shall notify the City in advance of any changes. Upon request of the City, the Contractor shall furnish evidence of arrangements assuring availability of adequate landfill capacity for disposal of the Non-Recyclable Trash and Bulk Items collected under this Agreement. Additionally, throughout the term of this Agreement, the Contractor shall own, co-own, rent, lease, or otherwise control, or have access, at its cost, to a suitable storage/processing facility for the purpose of sorting and preparing and ultimately recycling all of the collected Recyclables at either a processor(s) or broker(s) experienced in processing, recycling, and marketing Recyclables or to a recycling market itself. This processing facility, commonly referred to as a Material Recovery Facility (MRF), shall comply with all state and federal law and shall be certified by the Wisconsin Department of Natural Resources. The Contractor shall be responsible for all collection and

transportation costs necessary to bring the Recyclables to the storage/processing/recycling facility. The Contractor shall be responsible for payment of all necessary processing/recycling costs for Recyclables.

14. Contractor's Employees. The Contractor shall employ such persons as may be necessary to satisfactorily comply with the provisions of this Agreement. All such persons shall be the employees of Contractor (and/or any permitted subcontractor), and not employees of the City. The Contractor shall comply with all of the applicable laws, rules, and regulations regarding the employment of such persons.

15. Conduct of Contractor's Employees. The Contractor shall perform all Collection Services in a neat, orderly, and efficient manner; use care and diligence in the performance of this Agreement; provide neat, orderly, competent, trained, and courteous personnel on its collection crews; and provide courteous and knowledgeable personnel in its customer service function. The Contractor shall conduct itself both in relations with the City and City residents in a personable, professional manner. All employees of the Contractor shall be dressed in a neat, professional-like manner and shall carry official company identification. All drivers shall carry a valid Wisconsin state driver's license for the class of vehicle operated.

16. Cleanliness of the Community: The Contractor shall ensure that no Non-Recyclable Trash and/or Recyclables are spilled during the collection process, and that any such spillage (if and when it occurs) shall be immediately picked up and collected. The Contractor shall clean and collect any spillage that may have occurred prior to collection activity due to blowing wind, animals, tipped containers, or any other event that may result in the spillage of Non-Recyclable trash or Recyclables placed out for collection. In the event the Contractor fails to ensure the cleanliness standards of this provision, the City may notify and direct the Contractor to clean

the spillage. Should the Contractor fail to adequately address the spillage, the City may direct City staff to clean up the spillage and invoice the Contractor for all incurred labor, equipment, material and disposal charges, with a minimum of One (1) Hour of labor per occurrence. In addition, after the containers are emptied, they shall not be left on the streets, alleys, or roads in a manner or at a location such that they obstruct vehicular traffic in the public right of way.

17. Vehicles and Equipment. All of the vehicles and equipment used by the Contractor for its Collection Services shall (i) be in a clean, sanitary, safe, and good working order, (ii) be maintained and operated in a manner to minimize, as much as possible, any noise during the collection process (e.g. equipped with good exhaust mufflers and good brakes), (iii) not leak vehicle fluids, and (iv) display the name of the Contractor, the Contractor's telephone number, and an identification number on the vehicle, that is clearly visible, on both sides of the vehicle. The Contractor's vehicles and equipment shall not remain parked on City streets when not in use. All vehicles shall be operated in a way that no collected items fall off of or blow off the vehicle and/or leak any fluids. Should any collected items fall off of or blow off a vehicle, such items shall be immediately retrieved and collected by the Contractor.

18. Fees Due the Contractor. The City shall pay the following fees to the Contractor for the Collection Services and other duties performed by the Contractor under this Agreement:

- 1) Calendar Year 2020 and 2021:
 - a) Non-recyclable trash/bulky items per unit per month: \$10.00
 - b) Recycling collection per unit per month: \$4.25
 - c) Monthly total per unit: \$14.25
- 2) Calendar Year 2022 and 2024:
 - a) Non-recyclable trash/bulky items per unit per month: \$10.00

- b) Recycling collection per unit per month: \$4.30
- c) Monthly total per unit: \$14.30

The above fees due the Contractor shall be paid by the City to the Contractor within Thirty (30) Days after the end of each month for such month during the term of this Agreement. For each such month that fees are payable by the City to the Contractor, the Contractor shall submit a written invoice, having a form and categories of content satisfactory to the City, that itemizes (i) the fees attributable to the collection of Non-Recyclable Trash, (ii) the fees attributable to the collection of Recyclables, (iii) the total number of Units in each category receiving Collection services that month, and (iv) the tonnage collected in each category, based on weigh scale tickets (for full loads or estimated slips for partial loads). The Collection Services provided to the City under the provisions of above Paragraph No. 3 shall also be similarly and separately itemized in the invoice (except for separate tonnage amounts), but no fees shall be due the Contractor for the same (per the provisions of Paragraph No. 3). Additionally, upon the request of the City, Contractor shall prepare and deliver to the City such other written information and records regarding the Collection Services provided by Contractor under this Agreement. This shall include, but not be limited to, any such information needed by the City to comply with reports required of the City by other governmental bodies regarding the said Collection Services.

19. Number of Units. The specific number of Units receiving Collection Services from the Contractor, and for which fees would then be payable by the City to the Contractor, shall be determined by the City for each calendar year during the term of this Agreement. Such determination shall be made by the City for each calendar year during the term of this Agreement, on or before the date of December 1 that precedes the calendar year in question. The number of Units so determined by the City for a calendar year shall remain constant throughout the entire

calendar year for the purpose of calculating the fees due the Contractor for that year, notwithstanding any additions and/or deletions of Units receiving Collection Services during that calendar year. The Contractor shall immediately provide Collection Services to any new Units after the City notifies the Contractor of the same during the course of a calendar year, at no additional cost to the City during that calendar year. Any such new/added Units, however, shall be added to the City's calculation of the total number of Units to receive Collection Services (and for which Contractor is then entitled to a fee) for the next calendar year during the term of this Agreement, provided the said new/added Units then still need Collection Services. It is the express intent of the parties that, for each calendar year during the term of this Agreement, the monthly fees paid by the City to the Contractor shall be a constant amount, notwithstanding any fluctuations in the actual numbers of Units receiving Collection Services from the Contractor during that calendar year.

20. Required Changes in Collection. In the event that during the term of this Agreement there is any change in the applicable laws, rules, codes, or regulations that mandates the collection of Non-Recyclable Trash, Bulk Items, and/or Recyclables in a manner significantly different from the manner in which the Contractor is then-presently providing its Collection Services under this Agreement, then the City and the Contractor shall, by mutual written agreement, amend this Agreement to adjust the compensation due the Contractor under this Agreement in a fair and equitable manner. Any such adjustment, however, shall be limited to the additional expenses required to be incurred by the Contractor under the new change(s) to the said laws, rules, codes, or regulations.

21. Ownership of the Recyclables. The Recyclables shall be deemed owned by, and the personal property of, the Contractor, at the time the Recycling items are placed into the vehicle

used by the Contractor to collect the same. All monies thereafter received by the Contractor as a result of the recycling (or other lawful disposition) of the Recyclables shall solely be the funds of the Contractor, for the Contractor's own use.

22. Disposal Costs. Any and all costs, expenses, fees, taxes, or similar charges imposed by (i) any applicable governmental body, or (ii) any third party having the lawful right to impose and exact the same (such as, but not limited to, the owner of a landfill site), shall be timely and fully paid by the Contractor as a part of its duties and obligations under this Agreement. Additionally, the fees paid by the City to the Contractor under this Agreement shall be deemed to be compensation for any of the foregoing costs, expenses, fees, taxes, or similar charges that would otherwise be payable by the City (whether by law or otherwise), and the Contractor shall accordingly timely and fully pay the same on behalf of the City. The foregoing costs, expenses, fees, taxes, and similar charges shall expressly include, but not be limited to, (i) all financial obligations incurred by Contractor in the lawful disposal of the Non-Recyclable Trash and Bulk Items, such as "dumping fees" or "tipping fees", and (ii) all financial obligations incurred by the Contractor in the transportation, storage, processing, and/or recycling of the Recyclables.

23. Insurance. During the term of this Agreement, the Contractor shall, at its own cost and expense, procure and maintain the following policies of insurance, issued by an insurer licensed by the State of Wisconsin for such purposes:

- a) Commercial general liability insurance (with the City named as additional insured), with a limit of liability of not less than Two Million Dollars (\$2,000,000.00) for each accident, providing coverage for personal injury, bodily injury (including death), and damage to property.
- b) Vehicular/automobile liability insurance (with the City named as an additional

insured), with a limit of liability of not less than One Million Dollars (\$1,000,000.00) for each accident.

- c) An umbrella policy of insurance (with the City named as an additional insured), in an amount of not less than Five Million Dollars (\$5,000,000.00).
- d) A worker's compensation policy of insurance, having limits and provisions required by the State of Wisconsin for compliance with its Worker's Compensation laws.
- e) Employer's liability insurance, with a limit of liability of not less than One Million Dollars (\$1,000,000.00) per accident.

All of the policies of insurance described above shall be in a form, and have terms and provisions, satisfactory to the City. On or before June 19, 2020, the Contractor shall provide to the City a copy of all of the said insurance policies for review by the City. Additionally, each policy of insurance shall provide that in the event of a cancellation of any such policy for any reason whatsoever, the City shall be notified in writing by the insurer by mail at least Thirty (30) Days prior to any such cancellation.

24. Indemnification/Hold Harmless Agreement. Contractor hereby expressly agrees to indemnify and hold the City and its agents, consultants, officials, officers, and employees harmless from and against all claims, judgments, damages, penalties, fines, costs, or loss (including actual reasonable fees for attorneys and consultants) and liability of every kind and nature, for any injury (including death) or damage received or sustained by any person or entity in connection with, or on account of, the performance (or failure of performance) by Contractor, of the duties and obligations imposed upon Contractor under this Agreement, except to the extent as such claims or liability arise by virtue of the negligent and/or intentional conduct on the part of the City or any of

its agents, consultants, officials, officers, or employees.

25. Performance Bond. On or before the date of June 19, 2020, the Contractor shall, at its own cost and expense, file with the City a Performance Bond (the "Bond") in an amount of Five Hundred, Sixty Thousand, Nine Hundred and Sixty Dollars (\$560,960.00) and having an effective date commencing on July 1, 2020, and an expiration date of December 31, 2020. Thereafter, the Contractor shall obtain and keep in force (i) a renewal Bond effective January 1, 2021, through December 31, 2021, (ii) another renewal Bond effective January 1, 2022, through December 31, 2022, (iii) another renewal Bond effective January 1, 2023, through December 31, 2023. The final Bond for calendar year 2024 shall expire on December 31, 2024, unless a legal action is then pending between the City and the Contractor and/or Bond company. The Bond shall be issued by a commercial Wisconsin-licensed bond company, shall have terms and provisions satisfactory to the City, and shall guarantee the full, complete, and proper performance by Contractor of the duties and obligations imposed upon Contractor under this Agreement (including, but not limited to, the Indemnification obligations contained in above Paragraph No. 24). A similar performance bond(s) shall be obtained by the Contractor, at the Contractor's own cost and expense, (i) in the same manner and complying with the same requirements stated above, and (ii) in such an amount(s) that is in keeping with the then-existing financial terms, during any renewal term(s) of this Agreement.

26. Failure of Performance. In the event a party to this Agreement fails to perform any of its duties or obligations imposed under this Agreement, the other party may give to the non-performing party a written notice of such failure of performance. The non-performing party shall then have a period of Ten (10) calendar days to cure any failure of performance with respect to the payment of money, and a period of Thirty (30) calendar days to cure any failure of performance other than the payment of money. The said 30-day time frame to cure the failure of performance

(for other than the payment of money) shall be extended as reasonably necessary if the remedial action required to cure the failure of performance reasonably requires additional time to remedy the failure, and (ii) the non-performing party commences the required remedial action within the said 30-day time period and then thereafter continues to diligently proceed, in good faith, with the required remedial action until the failure of performance is cured. If the non-performing party fails to comply with the steps described above, however, the nonperforming party shall then be in default and in breach of this Agreement, and the other party shall then have available to it all of its rights and remedies available under the law, and additionally, the right to terminate this Agreement under the provisions of below Paragraph No. 28.

27. Term. The term of this Agreement shall be for Fifty-Four (54) Months, commencing at 12:01 a.m. on the date of July 1, 2020, and terminating at 11:59 p.m. on the date of December 31, 2024.

28. Termination of Agreement. This Agreement may be terminated in the following manner:

- a) By the mutual written agreement of the parties; and/or
- b) When and if a party becomes in default under this Agreement under the provisions of above Paragraph No. 26, the other non-defaulting party may give a written notice to the defaulting party of the termination of this Agreement, with the effective date of termination stated in the written notice; and/or
- c) When and if the Common Council of the City of Burlington adopts, in its sole and absolute discretion, a resolution declaring that an emergency situation exists with respect to the collection of Non-Recyclable Trash and/or Bulk Items and/or Recyclables in the City of Burlington, then the City may terminate this Agreement

by giving a written notice of such termination to the Contractor, with the effective date of termination stated in the written notice.

29. Governing Law and Venue. This Agreement shall be governed, controlled, construed, and interpreted by and under the laws of the State of Wisconsin. The venue for any legal action pertaining to and/or arising under this Agreement shall solely and exclusively be Racine County Circuit Court in Racine County, Wisconsin.

30. Attorney Fees. In the event of a legal action arising under and/or pertaining to this Agreement, the prevailing party shall, in addition to any other relief or remedy granted by the Court, be awarded its actual reasonable attorney fees incurred in the action.

31. Entire Agreement. All bid requests, bid proposals, negotiations, promises, discussions, understandings, and agreements heretofore made or had between the parties are merged in this Agreement, and this Agreement alone fully and completely expresses the final agreement of the parties.

32. Amendments. This Agreement shall not be modified or amended except in a written document signed by the City and Contractor, and then approved by the City of Burlington Common Council.

33. Notices. All notices or other communications required or permitted under this Agreement shall be in writing and delivered (i) personally, or (ii) by certified mail, return receipt requested, postage prepaid, or (iii) by a commercial overnight courier (such as Federal Express), or (iv) by facsimile or electronic mail transmission with a copy to follow by certified mail, return receipt requested, postage prepaid or by overnight courier, addressed as follows:

If to Contractor:

ASDA Enterprises, Inc.
6320 McHenry Street
Burlington, Wisconsin 53105
Attention: Andrew Naber, President
Telephone: (262)539-2086
E-mail: Andy@asdarefuse.com

If to the City:

City of Burlington
300 North Pine Street
Burlington, Wisconsin 53105
Telephone: (262)342-1161
Facsimile: (262)763-3474
E-mail: cwalters@burlington-wi.gov

All notices given in accordance with the terms hereof shall be deemed received (i) on the next business day if sent by a commercial overnight courier, (ii) on the same day if sent by facsimile or electronic mail before 3:00 p.m. (Central Standard Time) on a business day (Monday-Friday) (provided the supplemental notice described above is sent as soon as reasonably possible thereafter), (iii) on the date of actual receipt when sent by the United States Mail by certified mail with postage prepaid and return receipt requested, or (iv) on the date of service when delivered personally to the City of Burlington City Clerk's Office. Either party hereto may change the address for receiving notices or other communications by notice sent in accordance with the terms of this Agreement. Holidays recognized and observed by the federal government shall not be deemed a "business day" for the purpose of giving or receiving notice.

34. Assignments. The rights, duties, and obligations of each party to this Agreement may not be assigned or transferred to any third party without the prior written consent of the other party, which consent the other said party may grant or deny in its sole discretion. In the event of such a permitted assignment or transfer, however, the assignee party shall first execute and deliver

to the City a written agreement obligating the assignee party to fully and timely perform all of the duties and obligations imposed upon the Contractor under this Agreement, and Contractor shall continue to be liable under this Agreement for the full and timely performance of its duties and obligations under this Agreement, whether performed by Contractor or the assignee party.

35. Special Provisions.

- a) Pickup Refusal. Contractor shall keep a written record of the address(es) where the Collection Service is refused by the Contractor to the resident, and give a written notice of the same to the resident and the City the same day as the refusal. The notice shall have a form and content satisfactory to the City, and shall, among other information, include the date and time of the refusal, the name and address of the resident so refused, and an explanation for the refusal.
- b) Contractor's Office. Contractor shall, during the term of this Agreement:
 - (1) Maintain an office where Contractor may be contacted directly by the City personnel and/or members of the public; and
 - (2) Have a local telephone number that may be used for the same purpose described in above Subsection (1); and
 - (3) Have the office equipped with sufficient staff and sufficient telephones, such that a responsible employee of Contractor may be contacted in person or by telephone by the City personnel or the public during the collection hours of 7:00 a.m. to 5:00 p.m., Monday through Friday, except during a holiday.
 - (4) Contractor's employee/representative shall be available, as described above, to receive and respond to, in a polite and professional manner, any

inquiries or complaints regarding the Collection Services provided by Contractor under this Agreement. The City will publish the telephone number and address of the office used by Contractor for these purposes on the City's website.

(5) In the event Contractor wishes to publish or distribute ads, leaflets, brochures, pamphlets, or other information or materials to the residents of the City regarding the Collection Services being provided by Contractor, Contractor shall first get the written approval of the City for the same.

(6) Contractor shall provide to the City a separate telephone number that will enable City staff to contact a responsible employee/representative of Contractor 24-hours a day, throughout every day (including holidays) during the term of this Agreement. The City shall not give out this telephone number to the general public.

c) Truck Rental. The City may wish to rent from Contractor up to two (2) refuse-collection trucks, during the months of September, October, and November in one or more calendar years during the term of this Agreement, to be used for leaf collection. If so desired by the City, the parties shall negotiate such a rental arrangement, and if there is a mutual agreement regarding the same, the rental arrangement shall be memorialized and finalized through a separate written agreement.

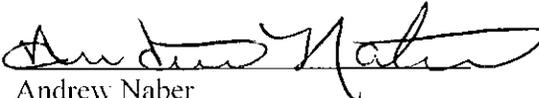
36. Common Council Approval. This Agreement shall be contingent upon the City of Burlington Common Council Approving the same.

IN WITNESS WHEREOF, this Agreement has been executed effective as of the date and year first written above.

CITY:
City of Burlington, Wisconsin

CONTRACTOR:
ASDA Enterprises, Inc.

By: _____
Jeannie Hefty
Mayor

By: 
Andrew Naber
President

Attest: _____
Diahnn Halbach
City Clerk



DATE: May 19, 2020

SUBJECT: **ORDINANCE 2059(2)** - To amend Section 187-7(F)(1), Classes of Licenses and Fees, to authorize the City Clerk as a designated municipal official to issue Operator's Licenses.

SUBMITTED BY: Diahnn Halbach, City Clerk

BACKGROUND/HISTORY:

The City of Burlington has adopted and incorporated into its Municipal Code, Wisconsin State Statute Chapter 125, Alcohol Beverages, and therefore must amend our code in order to stay current with any State changes. On March 3, 2020, Governor Evers signed an Act to amend 125.17 (1)(a) through 125.17(6)(b) of the statutes; relating to: issuance by municipalities of alcohol beverage operator's licenses.

Section 1. 125.17 (1) of the State Statutes has been amended to read:

- 125.17 (1) Authorization. Every municipal governing body shall issue an operator's license to any applicant who is qualified under s. 125.04 (5), *except that the municipal governing body may by ordinance authorize a designated municipal official to issue operator's licenses.* Operators' licenses may not be required other than for the purpose of complying with ss. 125.32 (2) and 125.68 (2) or s. 125.06 (3g). Operators' licenses may be issued only upon written application.

Section 187-7(F)(1) of the City of Burlington Municipal Code currently states and proposes to be amended as follows:

- F. (1) Operators' licenses may be granted to individuals by the Common Council *and/or by the City Clerk* for the purposes of complying with §§ 125.32(2) and 125.68(2), Wis. Stats.

F. (6) With respect to its issuance of an Operator's License under the provisions of above Subsection (F)(1) by the City Clerk, (i) the City Clerk may refer the application to the Common Council for its consideration and decision, (ii) the applicant may appeal the denial of its application by the City Clerk to the Common Council for its consideration and decision, and (iii) the Common Council itself may review a decision of the City Clerk with respect to the granting and/or denial of an application for an Operator's License, for the Common Council's own consideration and decision on the application.

Any such appeal by the applicant to the Common Council, however, (i) shall be made by the applicant through a written notice to the City Clerk, within thirty (30) days after the date of the decision by the City Clerk on the application, and (ii) if not so timely appealed, the ability to make such an appeal by the applicant to the Common Council shall automatically be deemed to be waived by the applicant

Applications will still be required to have background checks and be approved by the police department. Approval of this amendment will allow Operator's Licenses to be issued on a more timely and frequent basis. Currently, licenses are only issued twice per month after each Common Council meeting.

BUDGET/FISCAL IMPACT:

There is no budget/fiscal impact.

RECOMMENDATION:

Staff recommends approval of this amendment.

TIMING/IMPLEMENTATION:

This item is for discussion at the May 19, 2020 Committee of the Whole meeting, and due to timing of the upcoming issuance of renewals for the 2020-2021 licensing year, is scheduled for final consideration at the same evening Common Council meeting.

Attachments

Ord 2059(2) Amended Authorization to Issue Operator's Licenses

AN ORDINANCE TO AMEND SECTION 187-7(F)(1), CLASSES OF LICENSES AND FEES, AUTHORIZING THE CITY CLERK AS A DESIGNATED MUNICIPAL OFFICIAL TO ISSUE OPERATOR'S LICENSES.

The Common Council of the City of Burlington do ordain as follows:

Section 1. Section 187-7(F)(1), Classes of licenses and fees, is hereby amended to read as follows:

F. **(1)** Operators' licenses may be granted to individuals by the Common Council and/or by the City Clerk for the purposes of complying with §§ 125.32(2) and 125.68(2), Wis. Stats.

F. **(6)** With respect to its issuance of an Operator's License under the provisions of above Subsection (F)(1) by the City Clerk, (i) the City Clerk may refer the application to the Common Council for its consideration and decision, (ii) the applicant may appeal the denial of its application by the City Clerk to the Common Council for its consideration and decision, and (iii) the Common Council itself may review a decision of the City Clerk with respect to the granting and/or denial of an application for an Operator's License, for the Common Council's own consideration and decision on the application.

Any such appeal by the applicant to the Common Council, however, (i) shall be made by the applicant through a written notice to the City Clerk, within thirty (30) days after the date of the decision by the City Clerk on the application, and (ii) if not so timely appealed, the ability to make such an appeal by the applicant to the Common Council shall automatically be deemed to be waived by the applicant.

Section 2. This ordinance shall take effect and be in full force after its passage and publication as required by law.

Introduced: May 19, 2020
Adopted:

Jeannie Hefty, Mayor

Attest:

Diahn Halbach, City Clerk



DATE: May 19, 2020

SUBJECT: MOTION 20-968 - To Ratify, Approve and Adopt an Emergency Declaration by the City of Burlington for a Personal Protective Equipment (PPE) Decontamination Services Agreement with Battelle Memorial Institute.

SUBMITTED BY: Carina Walters, City Administrator

BACKGROUND/HISTORY:

This motion adopts a contract with Battelle Memorial Institute, described in "Attachment A", for Personal Protective Equipment (PPE) Decontamination Services during the time period of the Declaration of Emergency signed by Mayor Jeannie Hefty, all pursuant to the provisions of Section 31-6 of the City of Burlington Municipal Code, adopted pursuant to the provisions of Section 323.52 of the Wisconsin Statutes.

The Food and Drug Administration issued an Emergency Use Agreement (“EUA”) on March 29, 2020 authorizing Battelle Memorial Institute to operate the Battelle Critical Care Decontamination System™ for use in decontaminating compatible N95 or N95-equivalent respirators for reuse by healthcare personnel during the COVID-19 pandemic.

Battelle will provide decontamination service, store contaminated PPE prior to decontamination and repackage PPE. Battelle will deliver a chain of custody form (or equivalent) indicating conditions of the decontamination implementation process, in addition to chemical indicators which will be used to qualify each decontamination cycle will be provided for each decontamination cycle performed for all PPE upon retrieval. Battelle will comply with the terms and conditions of the EUA.

This Agreement shall begin upon execution and last indefinitely until any one of the following occurrences:

- a. The Client notifies Battelle in writing that it no longer wishes to participate in the program;
- b. The DLA Contract under which this program operates expires or is terminated by the US Government;
- c. The US Government directs Battelle to no longer operate at the site location used by Client and an alternate location is not available;
- d. The EUA is revoked by the FDA pursuant to Section 564(b)(2) of the Federal Food, Drug, and Cosmetic Act;
- e. The participating healthcare facility violates the terms and conditions of this agreement, or any applicable US law or regulation governing this program, or whose status changes so that it no longer qualifies as an eligible healthcare facility; or
- f. Funding of the program is exhausted and is not available to continue processing N95 respirators.

BUDGET/FISCAL IMPACT:

Under this program, qualifying customers can submit qualifying PPE to be decontaminated at a Battelle approved facility without cost to the customer.

RECOMMENDATION:

Staff recommends approval of this agreement with Battelle Memorial Institute for PPE decontamination services.

TIMING/IMPLEMENTATION:

This item is for discussion at the May 19, 2020 Committee of the Whole meeting, and is scheduled for final consideration at the same evening Common Council meeting.

Agreement

PERSONAL PROTECTIVE EQUIPMENT (PPE) DECONTAMINATION SERVICES AGREEMENT

WHEREAS, on March 12, 2020, the World Health Organization declared COVID-19 a pandemic. On March 13, 2020, the President of the United States declared a National Emergency Concerning the Novel Coronavirus Disease (COVID-19) Outbreak;

WHEREAS, the Food and Drug Administration on March 29th, 2020 issued an Emergency Use Agreement (“EUA”) authorizing Battelle Memorial Institute to operate the Battelle Critical Care Decontamination System (CCDS)[™] for use in decontaminating compatible N95 or N95-equivalent respirators (“compatible N95 respirators”) for reuse by healthcare personnel (HCP)¹ to prevent exposure to pathogenic biological airborne particulates when there are insufficient supplies of Filtering Facepiece Respirators (FFR) during the COVID-19 pandemic;

WHEREAS, on April 10th, 2020 the Defense Logistics Agency, under authority of 10 U.S.C. 2304(c)(2), FAR Part 6.302-2, issued a contract to Battelle Memorial Institute to operate the CCDS[™], in accordance with conditions of the EUA, to decontaminate compatible N95 respirators at site locations throughout the United States as directed by the U.S. Government (the “DLA Contract”). Under this program, qualifying customers can submit qualifying PPE to be decontaminated at a Battelle approved facility without cost to the customer;

WHEREAS, Client and Battelle acknowledge and understand that the provision of these services is intended to be within the scope of the Public Readiness and Emergency Preparedness Act (“PREP Act”) and the PREP Act COVID-19 declaration by the U.S. Department of Health and Human Services, effective as of February 4, 2020;

WHEREAS, the EUA directs and requires Battelle to enter into agreements with customers requesting decontamination of compatible N95 respirators prior to providing such services to the facility; and

THEREFORE, now comes Battelle and The City of Burlington, Wisconsin (and at Client’s option, its affiliates and/or subsidiaries) (“Client”), referred to herein individually as a “Party” and collectively as the “Parties”, to set forth the terms and conditions under which a customer can elect to participate in this program.

1. DURATION OF AGREEMENT

This Agreement shall begin upon execution and last indefinitely until any one of the following occurrences:

- a) The Client notifies Battelle in writing that it no longer wishes to participate in the program;
- b) The DLA Contract under which this program operates expires or is terminated by the US Government;
- c) The US Government directs Battelle to no longer operate at the site location used by Client and an alternate location is not available;
- d) The EUA is revoked by the FDA pursuant to Section 564(b)(2) of the Federal Food, Drug, and Cosmetic Act;
- e) The participating healthcare facility violates the terms and conditions of this agreement, or any applicable US law or regulation governing this program, or whose status changes so that it no longer qualifies as an eligible healthcare facility; or

¹ Healthcare personnel (“HCP”) refers to all paid and unpaid persons serving in healthcare settings who have the potential for direct or indirect exposure to patients or infectious materials, including body substances (e.g., blood, tissue, and specific body fluids); contaminated medical supplies, devices, and equipment; contaminated environmental surfaces; or contaminated air. These HCP include, but are not limited to, emergency medical service personnel, nurses, nursing assistants, physicians, technicians, therapists, phlebotomists, pharmacists, dentists and dental hygienists, students and trainees, contractual staff not employed by the healthcare facility, and persons not directly involved in patient care, but who could be exposed to infectious agents that can be transmitted in the healthcare setting (e.g., clerical, dietary, environmental services, laundry, security, engineering and facilities management, administrative, billing, and volunteer personnel).

- f) Funding of the program is exhausted and is not available to continue processing N95 respirators.
- g) Battelle may terminate this agreement at its convenience for any reason.
- h) Battelle is unable to continue to process PPE for decontamination due to a force majeure event as described in Section 10 below.

Battelle will notify Client upon occurrence of any of the preceding events as soon as practical. In no event will Battelle be responsible to process PPE submitted by Client after occurrence of any of the preceding events regardless of Client's expectations or reliance on the program. Battelle will not be liable for any costs of substitute decontamination services sought by Client subsequent to the end of this program.

2. SERVICES PROVIDED

Battelle will provide decontamination services to Client for hospital Personal Protective Equipment (PPE), limited to the PPE approved by the FDA as set forth in EUA for decontamination processing. Battelle will receive and store contaminated PPE prior to decontamination. Battelle will decontaminate and repackage PPE. Battelle will deliver a chain of custody form (or equivalent) indicating conditions of the decontamination implementation process in addition to chemical indicators which will be used to qualify each decontamination cycle will be provided for each decontamination cycle performed for all PPE upon retrieval. Battelle will comply with the terms and conditions of the EUA. If Client wishes to have Battelle assist in the transportation of PPE to and from Client, Client can request such assistance. In response, and at Battelle's sole discretion, Battelle may provide a subcontractor to coordinate transportation of PPE to and from the Battelle approved decontamination facility to Client location. These services will be provided to the Client at no cost.

3. CLIENT'S RESPONSIBILITIES

- a. Client will be responsible for preparing PPE for transportation in the manner described in the instructions provided to Client
- b. Client shall make available to HCP who are or may be using the decontaminated respirators the authorized Fact Sheet for Healthcare Personnel that is required to be provided by Battelle.
- c. Client shall monitor HCP who use such respirators for the signs and symptoms of potential infection with SARS-CoV-2 or other respiratory infection and promptly report such information to Battelle, so that Battelle can provide a weekly report to FDA. Reports of adverse health indications should be reported up to and including 14 days after the last contact with suspected SARS-CoV-2 virus.
- d. Client shall inspect the decontaminated respirators upon receipt from Battelle. Any discoloration or other signs of degradation with a decontaminated respirator should promptly be reported to Battelle, and the healthcare facility should dispose of such respirator.
- e. The maximum number of times a N95 respirator can undergo the decontamination cycle is twenty (20) and the Client shall not submit N95 respirators that have reached this limit for decontamination.
- f. Client shall provide Battelle with a complete list of all subsidiaries and/or affiliates who utilize Services provided for in this Agreement. Client is responsible for obtaining a three-digit site code for each Client location that will be utilizing the Services provided for in this Agreement.
- g. Client shall make the literature listed in Section 4 below available to all subsidiaries and/or affiliates who utilize the Services provided for in this Agreement.

- h. Client shall certify that the personnel benefiting from the use of the Services herein are Healthcare Personnel as provided for in the EUA.

4. RECEIPT OF LITERATURE

Client acknowledges that it has received the following literature from Battelle related to this program.

- Instructions for Healthcare Personnel: Preparation of Compatible N95 Respirators for Decontamination by the Battelle Memorial Institute Using the Battelle Decontamination System (“Instructions for Healthcare Personnel”);
- Instructions for Healthcare Facilities: Preparation and Collection of Compatible N95 Respirators for Decontamination by the Battelle Memorial Institute Using the Battelle Decontamination System (“Instructions for Healthcare Facilities”); and
- Labeling and instructions for use developed by Battelle that include the Fact Sheet, Instructions for Healthcare Personnel, and Instructions for Healthcare Facilities.

5. WARRANTY AND LIMITATION OF LIABILITY

ALL SERVICES ARE PROVIDED TO CLIENT AS-IS. BATTELLE MAKES NO OTHER WARRANTY OR GUARANTEE, EXPRESS OR IMPLIED, INCLUDING, WITHOUT LIMITATION, WARRANTIES OF FITNESS FOR A PARTICULAR PURPOSE, MERCHANTABILITY, OR FOR ANY PARTICULAR RESULT.

Notwithstanding any other provision of this Agreement to the contrary, in no event shall either Party be liable to the other for any indirect, incidental, special, punitive, or consequential damages, arising from or in connection with this Agreement and regardless of the cause of action or theory of law asserted.

In no event shall Battelle’s maximum cumulative liability, regardless of the cause of action or theories of law asserted, exceed the total amount paid by Client to Battelle under this Agreement.

6. If Client is prohibited by law from indemnifying Battelle against third-party claims, then Section 6.A. will apply. If Section 6.A. does not apply, then Section 6.B. shall apply.

A. LIABILITIES

Each Party agrees to be responsible for any liability, claim, loss, damage or expenses, including without limitation, reasonable attorney fees, arising from its negligent acts or omissions in connection with its performance of this Agreement, or its failure to comply with the terms of this Agreement, as determined by a court of competent jurisdiction.

B. INDEMNIFICATION

Client agrees to indemnify, defend, and hold Battelle, its affiliates, and their respective directors, officers, employees, consultants, and agents harmless from any and all liabilities, demands, damages, costs and expenses (including reasonable attorneys’ fees and court costs) arising from any third-party suits or claims to the extent based upon or resulting from Client’s use of Battelle’s services provided pursuant to this Agreement. Notwithstanding the foregoing, Battelle shall not be entitled to indemnification protection for claims related to its willful misconduct or gross negligence.

7. COMPLIANCE WITH LAWS

The Parties agree to comply with all laws and regulations applicable to the performance of their respective obligations under this Agreement, including those related to export control, and neither Party shall export nor re-export any tangible goods, service or information related to this Agreement without first obtaining any required export licenses or other governmental approvals, if required by law. Each Party is responsible for its own compliance with this provision.

8. NON-ENDORSEMENT AND USE OF NAME

Client agrees that it will not use or imply Battelle's name or marks, or use Battelle's reports, for advertising, promotional purposes, raising of capital, recommending investments, or in any way that implies endorsement by Battelle without Battelle's prior written approval.

9. FORCE MAJEURE

Neither Client nor Battelle shall be liable for any expenses, losses or damages (except payment of monetary obligations) resulting from delay or failure to perform caused by acts beyond the control of the Party delayed or unable to perform including, without limitation, acts or failure to act of government, war, acts of terror, civil unrest, extreme weather conditions, and pandemics (a "Force Majeure Event"). In the event of any delay or failure to perform occasioned by the foregoing, the time for performance will be extended by a period of time equal to the time lost by reason of such delay or failure to perform and any other affected provision(s) of the Agreement including, without limitation, price, shall be equitably adjusted provided that the Party delayed or unable to perform provided the other Party with written notice of the occurrence and impact of the Force Majeure Event.

10. MISCELLANEOUS

Each Party is, at all times, acting as an independent contractor under this Agreement and not as an agent, employee, joint venturer or partner of the other.

This Agreement may not be assigned in whole or in part without the prior written consent of both Parties, which shall not be unreasonably withheld or delayed. This Agreement shall be binding upon, inure to the benefit of, and be enforceable by and against the successors and permitted assigns of each Party.

Battelle makes no commitments with regards the time necessary to complete the decontamination process once PPE is received from the Client. Processing time will be dependent on the amount of PPE received from numerous health care providers.

The failure by one Party to require performance of any provision or to exercise any right, remedy or option available under this Agreement shall not affect that Party's right to require performance or to exercise such right, remedy or option at any time thereafter, nor shall a waiver of any breach or default of this Agreement constitute a waiver of any subsequent breach or default or a waiver of the provision itself.

If any part of this Agreement shall be held invalid or unenforceable, such invalidity or unenforceability shall not affect any other part of this Agreement.

This Agreement may be modified or amended only by mutual agreement in writing. Battelle may require additional conditions of participation at any time in order for client to continue participation. No course of dealing, usage of trade, waiver, or non-enforcement shall be construed to modify or otherwise alter the terms and conditions of this Agreement.

This Agreement represents the entire agreement of the Parties and supersedes any prior discussions or understandings, whether written or oral, relating to the subject matter hereof and neither Party makes any representations other than as expressly set forth in this Agreement. In the event of any conflict or inconsistency between these terms and conditions and those of any Task Order, these terms and conditions shall control.

This Agreement shall be construed in accordance with the laws and enforced within the jurisdiction of the State of Ohio, without regard to its conflicts of law principles.

Clauses 5, 6, 7, 8, 9, and 10 shall survive termination or expiration of this Agreement.

IN WITNESS WHEREOF, the terms and conditions of this agreement are accepted by Client.

[signature page to follow]

CLIENT

BY: The City of Burlington, Wisconsin

NAME: *Carina G. Walters*

Carina G. Walters

TITLE: City Administrator

DATE: May 6, 2020

Battelle Memorial Institute

BY: _____ *Courtney M. Brooks* _____

NAME: Courtney Brooks

TITLE: Sr. Contracts Representative

DATE: May 7, 2020
