

CITY OF CRETE, NEBRASKA  
CITY COUNCIL REGULAR MEETING

December 1, 2020

Notice of the meeting was given by posting and publishing in The Crete News, the appointed method for giving notice as shown by the Proof of Publication attached to the minutes. Advance notice of the meeting was also given to the Mayor and City Council. Pursuant to Section 84-1412(8) of the Nebraska Open Meetings Act, the City has posted a current copy of the Open Meetings Act, Laws of the State of Nebraska in the back of the Council Chambers. Additional copies are available to read. The City may consider items listed on the agenda in random order. All proceedings shown were taken while the meeting was open to the attendance of the public.

Those in attendance pledged allegiance to the flag.

1. Open Meeting  
Committee Chair Jack Oelschlager called the meeting to order at 5:23pm.
2. Roll Call  
Ryan Present  
Hinz:  
Jack  
Oelschlag Present  
er:  
Dale Present  
Strehle:  
Present: 3.

Also present: City Administrator Tom Ourada, City Clerk Judi Meyer, Finance Director Jerry Wilcox, City Attorney Kyle Manley, Mayor Dave Bauer, other members of City Council, members of the public.

3. Items of Business
- A. Consider change to on-call transfer pay for weekend shifts from two hours of pay per 24-hour shift to two hours of pay per 12-hour shift.

Direct City Attorney to create an ordinance to amend City Code to change the Fire Department weekend on-call pay to two hours of pay per 12-hour shift. Carried with a motion by Ryan Hinz and a second by Dale Strehle.

Ryan Hinz: Aye, Jack Oelschlager: Aye, Dale Strehle: Aye  
Aye: 3, No: 0

Council Member Ryan Hinz asked if the increased expense is budgeted. James Yost reported that the

funding is paid through ambulance service revenues.

- B. Consider directing Fire Department to begin the process of replacing ambulance 99-2, 2010 Ford Lifeline with 99k plus miles.

Direct the Fire Department to proceed with the process of replacing ambulance 99-2, Ford Lifeline.

Carried with a motion by Dale Strehle and a second by Ryan Hinz.

Ryan Hinz: Aye, Jack Oelschlager: Aye, Dale Strehle: Aye

Aye: 3, No: 0

- C. Consider recommendation to City Council regarding contract with Medi-Waste disposal for sharps containers.

Recommend City Council approve contract with Medi-Waste for disposal of sharps containers.

Carried with a motion by Dale Strehle and a second by Ryan Hinz.

Ryan Hinz: Aye, Jack Oelschlager: Aye, Dale Strehle: Aye

Aye: 3, No: 0

- D. Consider recommendation to City Council regarding Fire Department request for five new sets of gear totaling \$18,007.80.

James Yost reported that this was previously approved by Council and was mistakenly requested to be added to the agenda. No fire gear is needed to be ordered at this time.

4. Officers' Reports

5. Adjournment

The meeting was adjourned at 5:34pm.

Mayor

(SEAL)

City Clerk

I, Judi Meyer, City Clerk for the City of Crete, hereby certify that the foregoing is a true and correct copy of the proceedings had and done by the Mayor and Council. I hereby certify that a copy of the Open Meetings Act was posted in the back of the Council Chambers. I certify that all of the subjects included in the foregoing proceedings were contained in the agenda for the meeting, kept continually current and available for public inspection at the office of the City Clerk. I certify that such subjects were contained in said agenda for at least twenty-four hours prior to said meeting and that at least one copy of all reproducible material discussed at the meeting was available at the meeting for examination and copying by members of the public. I certify that the minutes were in written form and available for public inspection within ten working days and prior to the next convened meeting of the City Council. I certify that all news media

requesting notification concerning meetings of the City Council were provided with advance notification of the time and place of said meeting and the subjects to be discussed.

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City Clerk

(S E A L)



Crete Fire & Rescue  
 210 E 14th Street  
 Crete, NE 68333  
 (402) 418-1854

9/15/2020

Agreement effective date:

Other service locations in this agreement:

Container Specifications

Quantity	Container Type	Frequency	Schedule of Charges	Start Date
1	Large Box (45 lb. max)	On-Call	\$50 ea.	
	Box Dimensions 21.5 T x 17.5 W x 20 L			
	Price is as stated. No fuel surcharges, environmental fees, energy fees, or other hidden charges.			

Description of Service/Equipment/Special Instruction:

**Note:** Hazardous boxes or totes with red liners are provided by Medi-Waste Disposal. According to DoT regulations, any hazardous container weighing more than 45 lbs can be subject to a second container fee.

For and in consideration of the mutual promises herein contained, **Medi-Waste Disposal, LLC**, hereafter referred to as “Contractor” and (**Crete Fire & Rescue**) hereafter referred to as “Customer,” agree as follows:

**ARTICLE I  
 DESCRIPTION OF SERVICES**

Customer grants to Contractor the exclusive right to collect and dispose of all of Customer's Waste Materials (as defined below) and agrees to make payments to Contractor as described herein, and Contractor agrees to furnish the services and equipment specified above, all in accordance with the terms of this Agreement.

## ARTICLE II TERM

The initial term (the “initial term”) of this Agreement is **THIRTY-SIX (36) MONTHS** from the effective date set forth above or from the date Contractor’s equipment is delivered to Customer, if later than the specified effective date. This Agreement shall **automatically renew** for successive thirty-six (36) month terms (each a “renewal term” and together with the initial term, the “term”) thereafter unless either party gives written notice of termination by U.S. certified or registered mail, postage prepaid and return receipt requested, to the other party at least sixty (60) days prior to the termination of the initial term or any renewal term. Any such notice, or any other notice permitted or required to be given hereunder, shall be sent to the other party at its address set forth on the first page of this Agreement, or to a different address if the change of address has been communicated in writing by the other party. A renewal term shall become effective (thereby extending the then-current term) upon either party’s failure to give notice of termination within the time period set forth above.

## ARTICLE III WASTE MATERIALS

The waste materials to be collected and disposed of by Contractor pursuant to this Agreement consist of all Regulated Medical Waste as defined by 49 C.F.R. § 173.134 or by any other federal, state, or local regulation which is generated or collected by Customer at the locations specified on the first page of this Agreement (the “Waste Materials”); provided, however, that the term “Waste Materials” specifically excludes, and Customer agrees not to deposit in Contractor’s equipment or place for collection by Contractor, any solid, radioactive, volatile, corrosive, highly flammable, explosive, toxic, or hazardous material as defined by applicable federal, state, or local laws or regulations (“Excluded Waste”).

## ARTICLE IV CONTRACTOR DUTIES

Contractor will collect all Customer-generated Waste Materials in containers supplied by Contractor. Contractor reserves the right to refuse any Excluded Waste or any package not sealed, properly packaged, overweight, leaking, or damaged. Contractor shall date and label all containers picked up and place new containers. Contractor shall also be responsible for filling out the Waste Manifest. Contractor hereby represents and warrants that it has obtained and will maintain through the Agreement term all necessary permits, licenses, or other authorizations required by federal, state, or local regulations in order to perform the duties assumed by Contractor hereunder. Contractor agrees to comply with all federal, state, and local laws, rules, and regulations applicable to performance of its services under this Agreement.

## ARTICLE V CUSTOMER DUTIES

Customer is responsible for sealing red bags squarely within containers provided by Contractor. Customer shall be responsible for keeping the Waste Manifest on file for a period of three (3) years and for following all federal, state, and local regulations dealing with the Waste Materials in discharging its responsibilities under this Agreement.

**ARTICLE VI  
TITLE**

Contractor shall acquire title to the Waste Materials when they are loaded into Contractor's truck. Title to and liability for any Excluded Waste shall remain with Customer and Customer expressly agrees to defend, indemnify, and hold harmless Contractor from and against any and all damages, penalties, fines, liabilities, and costs (including reasonable attorneys' fees) resulting from or arising out of the deposit of Excluded Waste in Contractor's trucks, containers, or other equipment.

**ARTICLE VII  
PAYMENTS**

Contractor will provide Customer with monthly, quarterly, or annual invoices. Customer agrees to pay Contractor on a monthly basis for the services and/or equipment furnished by Contractor in accordance with the charges and rates provided for herein. Payment shall be made by Customer to Contractor within the period of time set forth on each invoice. Contractor may impose, and Customer agrees to pay, a late fee for past due payments that are more than thirty (30) days old at the rate of one and one-third percent (1 1/3%) per month, provided that no such late charge shall exceed the maximum rate allowed therefor by applicable law.

**ARTICLE VIII  
RATE ADJUSTMENTS**

Contractor agrees that the charges and rates set out in this Agreement shall **not** be subject to any annual rate increase during the initial term or any renewal term of this Agreement, unless agreed to by the parties.

**ARTICLE IX  
SERVICE CHANGES AND AMENDMENTS**

Any amendment to this Agreement—including changes to the type, size, and amount of equipment, or to the type or frequency of services, along with any corresponding adjustments to rates—may only be made by the express written agreement of the parties; provided, however, that this Agreement shall continue in effect for the term provided herein and shall not be affected by any changes in Customer's service address if any new service address continues to be located within Contractor's service area.

**ARTICLE X  
RESPONSIBILITY FOR EQUIPMENT**

Any equipment furnished hereunder by Contractor shall remain the property of Contractor; however, Customer acknowledges that it has care, custody, and control of the equipment while at Customer's location and accepts responsibility for all loss or damage to the equipment (except for normal wear and tear or for loss or damage resulting from Contractor's handling of the equipment) and for its contents. Customer agrees not to overload (by weight or volume), move, or alter the equipment, and shall use the equipment only for its proper and intended purpose. Customer agrees to provide unobstructed access to the equipment on the scheduled collection day. If the equipment is inaccessible so that the regularly scheduled pick-up cannot be made, Contractor will promptly notify Customer and afford Customer a reasonable opportunity to provide the required access; however, Contractor reserves the right to charge an additional fee for such inaccessibility and/or delay or any additional collection service required by Customer's failure to provide such access. The word "equipment" as used in this Agreement shall mean all

containers used for the storage of Waste Materials, and such other on-site devices as may be specified on the first page of this Agreement.

## **ARTICLE XI TERMINATION**

Without prejudice to any other right or remedy the parties may have, this Agreement may be terminated as follows:

- a) By either party at the end of any term of this Agreement, upon not less than sixty (60) days' prior written notice in accordance with Article II.
- b) By Customer in the event that it changes its service address to a location outside Contractor's service area, upon thirty (30) days' written notice to Contractor.
- c) By either party in the event of the other party's material breach of this Agreement upon not less than thirty (30) days' prior written notice specifying the breach or default, provided that the allegedly breaching party is given the notice period in which to cure such breach or default to the notifying party's reasonable satisfaction.
- d) Upon the mutual written agreement of the parties, subject to the terms of any such writing.
- e) By either party at any time in the event that any court or governmental authority determines that either party, in carrying out its obligations hereunder, is in violation of any law or regulation, or if Customer reasonably determines, based upon threatened action or the advice of legal counsel, that either party is in violation of any law or regulation or that continuation of the Agreement creates a substantial risk of violation of such laws; and, as to all of the above, the parties do not or cannot promptly remedy such violation without substantially changing the material rights and obligations of the parties.
- f) Immediately by either party in the event that the other part ceases trading, enters into liquidation or bankruptcy, is appointed a receiver or administrator with respect to any of its assets or business, enters into any arrangement with its creditors, is unable to pay its debts as they come due, or undergoes any similar event under the law of any jurisdiction.

## **ARTICLE XII EFFECT OF TERMINATION**

Upon termination of this Agreement for any reason, Customer agrees to pay service fees for completed waste disposal services provided by Contractor through the effective date of termination. Outside of the circumstances permitting termination under Article XI, Contractor reserves the right to collect liquidated damages and equipment retrieval charges from Customer if Customer terminates this Agreement prior to the expiration of its term. Liquidated damages shall not exceed thirty percent (30%) of Customer's then-current rate times the number of months remaining until the expiration of the Agreement term. Equipment retrieval charges shall be \$50 per container.

## **ARTICLE XIII LIMITATION OF LIABILITY**

Each party agrees to accept and is responsible for its own acts and omissions in performing its obligations under this Agreement, as well as those acts and omissions of its employees and agents, and nothing in this

Agreement shall be construed as placing any responsibility for such acts or omissions on the other party, except as expressly provided.

#### **ARTICLE XIV INSURANCE**

Each party must purchase and maintain, at all times that services are being performed under this Agreement, general liability insurance with limits of not less than one million dollars (\$1,000,000) per occurrence and three million dollars (\$3,000,000) in the aggregate per policy year through responsible insurance companies authorized to do business in Nebraska, which shall be the limits of Contractors liability to Customer. Each party agrees to provide the other with proof evidencing compliance with this requirement upon request.

#### **ARTICLE XV INDEPENDENT CONTRACTORS**

The parties are independent contractors and nothing in this Agreement constitutes or shall be construed as creating a partnership, employment, joint venture, or agency relationship between the parties. Neither party has authority to bind the other in any respect.

#### **ARTICLE XVI EXCLUSION WARRANTY**

Each party hereby represents and warrants that it is not, nor at any time has been, excluded from participation in any federally funded health care program, including Medicare and Medicaid, or barred from any federal procurement or non-procurement program. Each party agrees to immediately notify the other of any threatened, proposed, or actual exclusion from any federally funded health care program or any federal procurement or non-procurement program. In the event that either party is excluded from a federal program in violation of this Article, or if at any time after the effective date of this Agreement it is determined that a party is in breach of this Article, the Agreement shall, as of the effective date of such exclusion or breach, automatically terminate. Both parties agree not to utilize any personnel in the performance of services hereunder who are themselves excluded from participation under any federally funded health care program or barred from any federal procurement or non-procurement program.

#### **ARTICLE XVII ACCESS TO BOOKS AND RECORDS**

To the extent § 1861(v)(1)(I) of the Social Security Act is applicable to this Agreement, Contractor agrees to make books and records available, and to require any subcontractors to make books and records available, upon written request of the Secretary of Health and Human Services or the Comptroller General of the United States for up to four (4) years following the furnishing of services hereunder. If the referenced provision should be found inapplicable to this Agreement, then this clause shall be deemed not to be a part of this Agreement and shall be null and void.

#### **ARTICLE XVIII WAIVER**

Any waiver by either party of a breach of any provision of this Agreement will not operate or be construed as a waiver of any other provision or a waiver of any subsequent breach of any Agreement term.

**ARTICLE XIX  
ASSIGNMENT**

This Agreement cannot be assigned or transferred by either party without the other party's prior written consent.

**ARTICLE XX  
GOVERNING LAW**

This Agreement shall be interpreted, construed, and governed by the laws of the state of Nebraska.

**ARTICLE XXI  
ENTIRE AGREEMENT**

This Agreement constitutes the entire agreement between the parties with respect to the subject matter hereof and supersedes all prior written or oral statements or understandings with respect to the matters provided for herein.

Authorization:

Customer City of Crete	Medi-Waste Disposal, LLC A Nebraska Limited Liability Company
Authorized Signature	Shawn Davis Business Development
Title Mayor	<a href="mailto:shawn.davis@mediwastedisposal.com">shawn.davis@mediwastedisposal.com</a> 402-261-4157
Date	9/15/2020