

AGREEMENT
BETWEEN
SANDY CITY
AND
MOMENTUM RECYCLING, LLC

THIS AGREEMENT is between SANDY CITY, a municipal corporation and political subdivision of the State of Utah, herein called the "City", and MOMENTUM RECYCLING, LLC, a limited liability company with offices located at 658 South 4050 West, Salt Lake City, UT 84104, herein called "Contractor". The City and Contractor may be referred to herein individually as a "Party" and collectively as the "Parties".

RECITALS

1. Contractor wishes to provide curbside glass collection for residents within the City who are eligible for Sandy City waste collection services and who subscribe to the glass collection service ("Subscriber"); and
2. The City wishes to provide curbside glass collection for its residents; and
3. Contractor is a sole source local curbside glass collection provider with expertise and specialized equipment for glass collection and recycling; and
4. Contractor currently has the only glass recycling facility in the Salt Lake Valley;

THEREFORE, in consideration of the covenants set forth herein, the Parties agree as follows:

AGREEMENT

1. SCOPE OF SERVICES

The scope of services will include, but is not limited to the following:

- a. The City will:
 - i. At a potential Subscriber's request, subscribe residents who are eligible for Sandy City waste collection services to the glass collection service, and communicate the Subscriber's information to Contractor through email, direct input to Contractor's control center, or other method agreed upon by the Parties, including the Subscriber's notification preference (email, text message, or automated phone call). The City is not required to retain any Subscriber information, except the information used by the City for monthly billing.

ii. Provide reasonable assistance as requested by the Contractor for outreach efforts, including marketing in regular City mailings, City events and other reasonable methods.

iii. Bill Subscribers as determined by the City in the City's fee schedule. Pay Contractor pursuant to the terms and conditions of this Agreement.

iv. Bill each new Subscriber a startup fee as determined by the City in the City's fee schedule. Pay Contractor pursuant to the terms and conditions of this Agreement.

v. Address customer service issues related to billing.

vi. City will receive sign-up and cancellation requests and requests for change in number of glass collection containers. City will report to Contractor the following: new service accounts; changes in number of glass collection containers for existing service accounts; and terminated service accounts.

vii. Ensure resident's collection day information is available on the City's web site.

viii. Designate locations and pay a one-time startup fee and collection fee for up to ten glass recycling pods, number and location to be determined by the City.

b. Contractor will:

i. Clean up glass or tipped glass collection containers at Subscriber locations when providing service to Subscribers. When notice is received by either Party of spilled or broken glass at a glass recycling pod location, Contractor will make reasonable effort to clean up the glass within 12-hours of receiving notice and will otherwise ensure the glass is cleaned up within 24-hours of receiving notice.

ii. Provide outreach to solicit subscriptions and increase participation.

iii. Report to City any new Subscribers that are recommended by Contractor, to be approved by City.

iv. Provide and deliver to the Subscribers glass collection containers specific to match with Contractor's equipment. Contractor shall own the glass collection containers.

v. Provide service and or replacement of damaged glass collection containers.

vi. Provide collection services to each Subscriber once a month and notify subscribers within the City of their collection day once a month.

vii. Provide collection services of glass recycling pods at least once a month and weekly at all high use locations.

- viii. Provide to the City monthly collection totals from curbside containers and glass recycling pods.
- ix. Provide the City information on routing and collection days.
- x. Provide monthly reports to include tonnage, number of subscriptions, and set out rates.
- xi. At the request of City, report other information as necessary to keep subscription information updated and current.
- xii. Provide customer service support to Subscribers including contact information and response.
- xiii. Provide can to curb assistance for a Subscriber who receives similar assistance with garbage collection services. For purposes of this subsection, "can to curb assistance" means that Contractor will pick up glass recycling containers that are located on Subscriber's property, visible from the public street and accessible over an unobstructed path to the curb. Contractor will not enter any: (A) structure, including without limitation a residence, garage, shed or other accessory structure outbuilding; or (B) fenced or gated area; or (C) other area that is deemed to be unreasonable by the Contractor, employee or agent.
- xiv. Communicate with City staff to gain approval on all promotional materials.
- xv. Repair and replace glass recycling pods as reasonably necessary.
- xvi. Address mechanical issues, including any hydraulic leak, immediately.

2. **COMMENCEMENT OF SERVICES**

Curbside glass collections under this Agreement shall commence on a date mutually agreed upon by the Parties (the "Commencement Date"), which is anticipated to be during the 2019 calendar year. If the Parties do not mutually agree upon a Commencement Date within 180 days after the Effective Date, this Agreement shall be null and void.

3. **EFFECTIVE DATE/TERM**

This Agreement shall have an Effective Date of July 1, 2019, provided that it has been executed by both Parties on or prior to that date. Failure to execute by either Party on or before the Effective Date shall render this Agreement null and void. This Agreement shall continue for a term of four years from the Effective Date ("Initial Term"). The Agreement may be renewed for up to two additional two- year terms (each a "Renewal Term"), as mutually agreed by the Parties.

4. **FEES AND PAYMENTS**

a. The City shall pay to Contractor a startup fee of \$23.00 per Subscriber for each new Subscriber that is charged a startup fee of at least \$23.00. This fee may be waived by Contractor for promotion periods, the timing of which will be mutually determined by City and Contractor. If a Subscriber relocates to a new address within Sandy City to an area eligible to receive Sandy City waste collection services and also relocates the Subscriber's glass collection container to the new

address, then the City will not charge or pay a startup fee. If an existing glass collection container remains at an address, and a new resident at that address becomes a Subscriber, then the City will not charge or pay a startup fee.

b. The City shall pay to Contractor \$7.75 per month per glass collection container per Subscriber. Contractor will provide monthly invoice statements, which will include the total number of Subscribers and the amount charged for each Subscriber. Invoice statements will be delivered to the City by the 10th working day of each month, for the previous month, and the City shall pay for services properly invoiced by the 10th working day of the month by the last day of the month. The City will not pay a fee for a Subscriber whose glass collection container(s) are not picked up within one business day of notification of a missed pick-up.

c. The City will determine and set billing rates for startup and monthly fees in the City's sole discretion and may adopt minimum required startup fees to be collected by the City even during periods in which Contractor waives Contractor's startup fee. If Contractor elects to waive Subscribers' startup fees for promotion or any other reason, City will continue to collect startup fees, and Contractor will provide a rebate to Subscribers. Any change to this practice shall be mutually agreed upon by the City and Contractor.

d. The City will pay a one-time startup fee of \$600.00 for each glass recycling pod and a pickup fee of \$7.75 per glass collection container per pickup.

5. INDEPENDENT CONTRACTOR AND TAXES

The relationship of Contractor to the City under this Agreement shall be that of an independent contractor. Each Party shall have the entire responsibility to discharge all of the obligations related to the independent contractor relationship under federal, state, and local law, including but not limited to, those obligations relating to employee supervision, benefits and wages; taxes; unemployment compensation and insurance; social security; worker's compensation; disability pensions and tax withholdings, including the filing of all returns and reports and the payment of all taxes, assessments and contributions and other sums required of an independent contractor. Nothing contained in this Agreement shall be construed to create the relationship between the City and Contractor of employer and employee, partners, or joint venture.

The Parties agree that Contractor's obligations under this Agreement are solely to the City. This Agreement shall not confer any rights to third Parties unless otherwise expressly provided for under this Agreement.

6. AGENCY

No agent, employee or servant of Contractor or the City is or shall be deemed to be an employee, agent or servant of the other Party. None of the benefits provided by each Party to its employees including, but not limited to, workers' compensation insurance, health insurance and unemployment insurance, are available to the employees, agents, or servants of the other Party. Contractor and the City shall each be solely and entirely responsible for its acts and for the acts of its agents, employees, and servants during the performance of this Agreement. Contractor and the City shall each make all commercially reasonable efforts to inform all persons with whom they are involved in connection with this Agreement to be aware that Contractor is an independent contractor.

7. **CITY REPRESENTATIVE**

The City Representative who will assist in the administrative management of this Agreement and coordinate performance of the services to be provided by Contractor under this Agreement is the Sandy City Public Works Director or designee. The City will notify Contractor of any change.

8. **CONTRACTOR REPRESENTATIVE**

Contractor hereby appoints the Vice President of Operations as Contractor's representative to work with the City and to coordinate the performance of its obligations under this Agreement. Contractor is authorized to designate another representative at any time by notifying the City of such change.

9. **STANDARD OF PERFORMANCE/PROFESSIONALISM**

Contractor acknowledges the standard of performance and professionalism required in the performance of its services under this Agreement. Contractor agrees to perform the services under this Agreement consistent with: (a) all applicable laws and regulations; (b) the level of professionalism expected in its industry/profession; and (c) the degree of knowledge, skill and judgment normally exercised by professional firms and individuals with respect to services of a similar nature. Further, Contractor, while performing its obligations under this Agreement, will conduct itself in such a manner that will promote the best interests of the City. Contractor further agrees that it will not accept any fee or financial remuneration from any entity or person other than the City for its performance under this Agreement.

10. **CONTRACTOR INDEMNIFICATION, INSURANCE AND BOND**

Contractor shall provide indemnification, insurance and bond pursuant to the terms of Exhibit A of this Agreement, which is attached hereto and incorporated herein by this reference.

11. **GOVERNMENTAL IMMUNITY**

The City is a governmental entity subject to the Governmental Immunity Act of Utah, Utah Code Ann. §§ 63G-7-101 to -904 (the "Act"). The Parties agree that the City shall only be liable within the parameters of the Governmental Immunity Act. Nothing contained in this Agreement shall be construed in any way, to modify the limits of liability set forth in that Act or the basis for liability as established in the Act.

12. **NON-FUNDING CLAUSE.**

The City cannot obligate funds to pay Contractor under this Agreement except during the current fiscal year, commencing July 1, 2018 and ending June 30, 2019. If funds are not available beyond June 30 of any effective fiscal year of this Agreement, the City's obligation for performance of this Agreement beyond that date shall be null and void. This Agreement shall create no obligation on the City as to succeeding fiscal years and shall terminate and become null and void on the last day of the fiscal year for which funds were budgeted and appropriated, except as to those portions of payments agreed upon for which funds were appropriated and budgeted. Said termination shall not be construed as a breach of this Agreement or an event of default under this Agreement and said termination shall be without penalty, whatsoever, and no right of action for damages or other relief shall accrue to the benefit of Contractor, its successors, or its assigns, as to this Agreement, or any portion thereof, which shall terminate and become null and void.

If funds are not appropriated for a succeeding fiscal year to fund performance by the City under this Agreement, the City shall notify Contractor of said non-funding and the termination of this Agreement as soon as reasonably practicable but in no event less than 30 (thirty) days prior to the expiration of the fiscal year for which funds were appropriated.

13. CITY INSURANCE

- a. The City represents that it is fully insured pursuant to the provisions of Utah Law.

14. EARLY TERMINATION

a. Termination for Default. The City may terminate this Agreement for an "Event of Default" as defined below, upon written notice from the City to Contractor.

b. Termination by Contractor for Default. Contractor may terminate this Agreement for an Event of Default, as defined below, upon written notice from Contractor to the City.

c. Event of Default. As used in this Agreement, the term "Event of Default" means (a) a Party fails to make any payment or fails to perform services as agreed upon herein when the same becomes due and such failure continues for a period of 45 (forty-five) days after written notice to the Party failing to make such payment; (b) a Party fails to perform any of its material obligations and such failure continues for a period of 90 (ninety) days after written notice to such defaulting Party; (c) any material representation or warranty of a Party contained in this Agreement proves to be untrue or incorrect in any material respect when made; or (d) Contractor repeatedly violates cleanup requirements, has repeated customer service problems or fails to continually maintain licensing, insurance and bonds.

d. Force Majeure. Neither Party shall be liable for any failure of or delay in the performance of this Agreement for the period that such delay is due to causes beyond its reasonable control, including but not limited to acts of God, war, strikes or labor disputes, embargoes, government orders, fires, floods, unusually severe weather, or any other force majeure event. If such condition continues for a period in excess of 60 days, Contractor or the City shall have the right to terminate this Agreement without liability or penalty effective upon written notice to the other Party.

e. No Limitation of Rights. The rights and remedies of the Parties hereto are in addition to any other rights and remedies provided by law or under this Agreement. The Parties agree that the waiver of any breach of this Agreement by either Party shall in no event constitute a waiver as to any future breach.

f. Removal of Glass Collection Containers upon Termination. Contractor shall remove all glass collection containers within fifteen calendar days after termination.

15. COMPLIANCE WITH LAWS

Each Party agrees to comply with all applicable federal, state and local laws, rules and regulations in the performance of its duties and obligations under this Agreement. Any violation by Contractor of applicable law shall constitute an Event of Default under this Agreement and Contractor shall be liable for and hold the City harmless and defend the City from and against any and all liability arising out of or connected with the violation, to include all attorney fees and costs

incurred by the City as a result of the violation. Contractor is responsible, at its expense, to acquire, maintain and renew during the term of this Agreement all necessary permits and licenses required for its lawful performance of its duties and obligations under this Agreement.

16. NON-DISCRIMINATION

Contractor and any agent of Contractor agree that they shall comply with all federal, state and county laws, rules and regulations governing discrimination and they shall not discriminate in the engagement or employment of any professional person or any other person qualified to perform the services required under this Agreement.

17. DELINQUENT SUBSCRIBERS

Either Party may discontinue glass collection service to a Subscriber who has any of the following:

- a. Two or more notices of bin contamination;
- b. Unpaid glass collection fee, which shall be addressed according to the laws, regulations, policies and procedures of the City related to unpaid utility fees;
- c. Two or more reports of lost or stolen glass collection container; or
- d. One or more incident of threatening or abusive behavior toward Contractor reported to City.

18. LABOR REGULATIONS AND REQUIREMENTS

Contractor agrees to comply with all applicable provisions of Title 34 of the Utah Code, and with all applicable federal, state and local labor laws. Contractor shall indemnify and hold the City harmless from and against any and all claims for liability arising out of any violation of this paragraph or the laws referenced by Contractor, its agents or employees.

19. EMPLOYEE STATUS VERIFICATION SYSTEM

The Status Verification System is an electronic system operated by the federal government, through which an authorized official of a state agency or a political subdivision of the state may inquire by exercise of authority delegated pursuant to 8 U.S.C. § 1373 to verify the citizenship or immigration status of an individual within the jurisdiction of the agency or political subdivision. Contractor is individually responsible for verifying the employment status of only new employees who work under Contractor's supervision or direction and not those who work for another contractor or subcontractor, except each contractor or subcontractor who works under or for another contractor shall certify to the main contractor by affidavit that the contractor or subcontractor has verified, through the Status Verification System, the employment status of each new employee of the respective contractor or subcontractor. The contractor shall comply in all respects with the provisions of Utah Code Ann. § 63G-12-302. Contractor's failure to so comply may result in the immediate termination of this Agreement.

20. CONFIDENTIALITY

Contractor shall hold all information provided to it by the City for the purposes of its performance of this Agreement, whether provided in written or other form, in strict confidence, shall make no use thereof other than for the performance of the Agreement, and shall not release any of said information to any third Party, any member of Contractor's firm who is not involved in the performance of services under this Agreement, or to any representative of the news media without prior written consent of the City. Materials, information, data, reports, plans, analyses, budgets and similar documentation provided to or prepared by Contractor in performance of this

Agreement shall also be held confidential by Contractor. The City shall have the sole obligation or privilege of releasing such information as required by law. City agrees to take all necessary precautions to protect all information or data relating to Contractor's (a) service fees, operations and sale techniques; (b) business partners, service providers, affiliates, and other information related to Contractor's partners; (c) policies, procedures, and business plans; and (d) internal systems owned by Contractor, including Contractor's "Control Center" that City staff will be granted access to and will not copy, reverse engineer, or attempt to derive the composition of Contractor's internal systems. The Parties agree not to divulge the terms of this Agreement and related documentation.

21. GOVERNMENT RECORDS ACCESS MANAGEMENT ACT

Contractor acknowledges that the City is a governmental entity subject to the Utah Government Records Access and Management Act ("GRAMA"), Utah Code Ann. §§ 63G-2-101 to -901. As a result, the City is required to disclose certain information and materials to the public, upon request. Contractor agrees to timely refer all requests for documents, materials and data in its possession relating to this Agreement and its performance to the City's Representative for response by the City.

Generally, any document submitted to the City is considered a "public record" under GRAMA. Any person who provides to the City a record that the person believes should be protected under Utah Code Ann. §§ 63G-2-305(1) or (2) shall provide both: (1) a written claim of business confidentiality and (2) a concise statement of reasons supporting the claim of business confidentiality. Generally, GRAMA only protects against the disclosure of trade secrets or commercial information that could reasonably be expected to result in unfair competitive injury.

22. ASSIGNMENT

Contractor shall not assign or transfer its duties of performance nor its rights to compensation under this Agreement, without the prior written approval of the City, which shall not be unreasonably withheld. The City reserves the right to assert any claim or defense it may have against Contractor and against any assignee or successor-in-interest of Contractor.

23. SUBCONTRACTING

The City agrees that Contractor may subcontract out the "canvassing" of neighborhoods within the City for the promotion of the glass collection program and other promotional efforts on behalf of the City and its programs. Contractor agrees that it shall not subcontract to provide any other of the services under this Agreement or execute performance of its obligations under this Agreement without prior express written consent of the City. Contractor agrees that the use of coercion or undue pressure placed on residents to sign up shall be prohibited.

24. NOTICES

All notices to be given under this Agreement shall be made in writing and shall be deemed given upon personal delivery, upon the next business day immediately following the day sent if sent by overnight express carrier, or upon the third business day following the day sent if sent postage prepaid by certified or registered mail, return receipt requested, to the Parties at the following addresses (or to such other address or addresses as shall be specified in any notice given):

CITY: Sandy City Public Works Director
8775 South 700 West
Sandy, Utah 84070

CONTRACTOR: John Lair, President
658 South 4050 West
Salt Lake City, Utah 84104

25. GOVERNING LAW

It is understood and agreed by the Parties hereto that this Agreement shall be governed by the laws of the State of Utah, both as to interpretation and performance. All actions, including but not limited to court proceedings, administrative proceedings, arbitration and mediation proceedings, shall be commenced, maintained, adjudicated and resolved within the jurisdiction of the State of Utah.

26. COUNTERPARTS

This Agreement may be executed in several counterparts and all so executed shall constitute one agreement binding on all the Parties, notwithstanding that each of the Parties are not signatory to the original or the same counterpart. Further, executed copies of this Agreement delivered by facsimile shall be deemed an original signed copy of this Agreement.

27. SEVERABILITY

The City and Contractor agree that, whenever possible, each provision of this Agreement shall be interpreted in such a manner as to be consistent and valid under applicable law; but if any provision of this Agreement shall be invalid, prohibited or unenforceable under applicable law, such provision shall be ineffective to the extent of such invalidity or prohibition, without invalidating the remainder of such provision or the remaining provisions of this Agreement.

28. ENTIRE AGREEMENT/AMENDMENT

Except for Contractor's proposals and submitted representations for obtaining this Agreement, this Agreement supersedes any other agreements, either oral or in writing, between the Parties with respect to the rendering of services, and contains all of the covenants and agreements between the Parties with respect to said services. Any modifications of this Agreement will be effective only if it is in writing and signed by the Parties.

IN WITNESS WHEREOF, the Parties execute this Agreement the day and year recited above.

SANDY CITY

By: _____

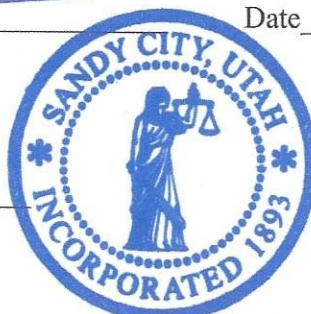
Mayor Kurt Bradburn

Date: _____

5/16/19

ATTEST:

City Recorder



SANDY CITY APPROVALS

Department _____
Risk Mgt. _____
Budget _____
Legal Form _____
Purchasing Compliance _____

"EXHIBIT A"

INSURANCE, BONDS and INDEMNIFICATION REQUIREMENTS FOR
ENTITIES CONTRACTING WITH SANDY CITY FOR:
GLASS RECYCLING (2019)

Contracting party shall procure and maintain for the duration of the contract insurance against claims for injuries to persons or damage to property which arise out of or in connection with the performance of the work hereunder by the Contracting party, his agents, representatives, employees or subcontractors. The cost of such insurance shall be included in the Contracting party's bid or proposal.

A. **MINIMUM LIMITS OF INSURANCE**

Contracting party shall maintain limits no less than:

1. **GENERAL LIABILITY:** \$5,000,000 combined single limit per occurrence, personal injury and property damage. \$10,000,000 aggregate or other limits acceptable to the City. Must contain "Pollution Liability Endorsement." Broad Form Commercial General Liability is required (ISO 1993 or better). Personal Injury, Premises-Operations, Products-Completed Operations, Independent Contractors and Subcontractors.

2. **AUTOMOBILE LIABILITY:** \$5,000,000 per occurrence, \$5,000,000 aggregate, "Any Auto" coverage is required. Must contain "Pollution Liability Endorsement."

3. **WORKER'S COMPENSATION:** Worker's compensation statutory limits as required by the Workers' Compensation Act of the State of Utah and Employers Liability limits at a minimum of \$300,000 per occurrence.

~~4. **PERFORMANCE BONDS:** In an amount of \$50,000.~~

B. **DEDUCTIBLES AND SELF-INSURED RETENTIONS**

Any deductibles or self-insured retention exceeding 5% limit of policy must be declared to and approved by Sandy City. At the option of Sandy City, either; (1) the insurer may be required to reduce or eliminate such deductibles or self-insured retention as respects Sandy City, its officers, officials and employees; or (2) the contracting party may be required to procure a bond guaranteeing payment of losses and related investigations, claim distribution and defense expenses.

C. **NOTICE OF INCIDENT OR ACCIDENT**

Contracting party shall agree to disclose to Sandy City, all incidents or occurrences of accident, injury, and/or property damage covered by the insurance policy or policies.

D. **OTHER INSURANCE PROVISIONS**

The policies are to contain, or be endorsed to contain, the following provisions:

I. Professional Liability and Automobile Liability Coverages

A. Sandy City, its officers, officials, employees and volunteers are to be covered as an additional insured as respects: liability arising out of activities performed by or on behalf of the contracting party; products and completed operations of the contracting party; premises owned, leased, hired or borrowed by the contracting party. The coverage shall contain no special limitations on the scope of protection afforded to Sandy City, its officers, officials, employees or volunteers.

B. The contracting party's insurance coverage shall be a primary insurance as respects to Sandy City, its officers, officials, employees and volunteers. Any insurance or self-insurance maintained by Sandy City, its officers, officials, employees or volunteers shall be in excess of the contracting party's insurance and shall not contribute with it.



C Any failure to comply with reporting provisions of the policies shall not affect coverage provided to Sandy City, its officers, officials, employees or volunteers.

D The contracting party's insurance shall apply separately to each insured against whom claim is made or suit is brought, except with respects to the limits of the insurer's liability.

II. Workers' Compensation and Employers Liability Coverage

The insurer shall agree to waive all rights of subrogation against Sandy City, its officers, officials, employees and volunteers for losses arising from work performed by the contracting party for Sandy City.

III. All Coverages

Each insurance policy required by this clause shall be endorsed to state that coverage shall not be suspended, voided, canceled by either party, reduced in coverage or in limits except after thirty (30) days' prior written notice by certified mail, return receipt requested, has been given to Sandy City.

E. ACCEPTABILITY OF INSURERS

Insurance and bonds are to be placed with insurers admitted in the State of Utah with a Bests' rating of no less than A-, IX, and in the limits as listed in this document, unless approved by the Director of Risk Management .

F. VERIFICATION OF COVERAGE

Contracting party shall furnish Sandy City with certificates of insurance and with original endorsements effecting coverage required by this clause. The certificates and endorsements are to be signed by a person authorized by that insurer to bind coverage on its behalf. The certificates and endorsements are to be furnished to and accepted by Sandy City before work commences. The City reserves the right to require complete, certified copies of all required insurance policies, with all endorsements, at any time.

G. SUBCONTRACTORS

Contracting party shall include all subcontractors as an insured under its policies or shall furnish separate certificates and endorsements for each subcontractor. All coverages for subcontractors shall be subject to all of the requirements stated herein.

H. INDEMNIFICATION / LIABILITY

Contracting party shall indemnify, defend and hold harmless the Customer, its officers, agents, employees and volunteers from all damages, costs or expenses in law or equity, including attorneys fee, that may at any time arise or be set up because of damages to property, bodily injury or personal injury received by reason of or in the course of providing the goods and services provided to the City which may be occasioned by any willful, negligent or wrongful act or omission of the contracting party, any of their employees or any subcontractors.

**BLANKET ADDITIONAL INSURED –
PRIMARY AND NON-CONTRIBUTORY**

This endorsement modifies insurance provided under the Businessowners Coverage Form.

- A. Section C "Who Is An Insured" is amended as follows:
3. Insured is amended to include as an insured any person or organization who you are required to add as an additional insured on this policy under a written contract or a written agreement, but only with respect to liability for bodily injury, property damage or personal and advertising injury cause in whole or in part by:
 1. Your acts or omissions; or
 2. The acts or omissions of those acting on your behalf; and resulting from;
 - a. Your ongoing operations performed for the additional insured
 - b. Your work completed as included in the products completed operations hazard performed for the additional insured.
- B. However, regarding of provisions A above:
1. We will not extend insurance coverage to any additional insured or organization
 - a. That is not provided to you in this policy; or
 - b. That is any broader coverage than you are required to provide to the additional insured person or organization in the written contract or written agreement.
 2. We will not provide Limits of Insurance to any additional insured or organization that exceed the lower of:
 - a. The Limits of Insurance provided to you in this policy; or
 - b. The Limits of Insurance you are required to provide in the written contract or written agreement.
- C. The insurance provided to the additional insured person or organization does not apply: Bodily injury, property damage, or personal and advertising injury arising out of our rendering of, or the failure to render, any professional architectural, engineering or surveying services including:
1. The preparing, approving or failing to prepare or approve maps, shop drawings, opinions, reports, surveys, field orders, change of orders or drawings and specifications; and
 2. Supervisory inspection, architectural or engineering activities
- D. For the coverage provided by this endorsement:
1. The insurance is primary insurance as respects our coverage for the additional insured person or organization where the written contract or written agreement requires this insurance by primary and non-contributory. In that event, we will not seek contribution from any other insurance policy available to the additional insured on which the additional insured person or organization is a Named Insured.
 2. This insurance is excess over any other insurance, whether primary, excess, contingent or an any other basis, available to an additional insured, in which the additional insured on our policy is also covered as an additional insured by attachment of an endorsement to another policy providing coverage for the same occurrence, claim or suit. This provision does not apply to any policy which the additional insured is a Named Insured on such other policy and where our policy is required by written contract or written agreement to provide coverage to the additional insured on a primary and non-contributory basis.

Paul Browning

From: John Lair <john@momentumrecycling.com>
Sent: Thursday, February 14, 2019 2:15 PM
To: Mike Gladbach; Jason Utgaard; Lynn Nicol
Cc: Darien Alcorn; Paul Browning
Subject: RE: RE: Contract Update

Hi Mike,

I'm sorry for the delay in responding; we were researching the modified requirements. The "stacking" of the umbrella policy on the auto policy is exactly the way it works, so that's covered. The pollution coverage, on the other hand, we feel is unnecessary. Once the material is placed in our bins, it becomes our responsibility, and our auto & liability coverage will protect us in the event that some sort of hazardous material is placed therein. Once it arrives in our plant, we have a full hazardous material inspection & mitigation process, which is part of our permitting requirements with the health department. Also, our bond with them adds extra protection. Thus, we feel that the added expense of pollution coverage is not warranted. I would close by pointing out that this has not been required by any of our other municipal or commercial partners, in the 11 years we've been operating. We hope that the same coverage levels that have been acceptable in the past be acceptable to Sandy City as well.

Please let us know your thoughts.

Thank you!
John

From: Mike Gladbach <MGladbach@sandy.utah.gov>
Sent: Friday, February 1, 2019 1:35 PM
To: John Lair <john@momentumrecycling.com>; Jason Utgaard <jason@momentumrecycling.com>; Lynn Nicol <lynn@momentumrecycling.com>
Cc: Darien Alcorn <dalcorn@sandy.utah.gov>; Paul Browning <PBrowning@sandy.utah.gov>
Subject: FW: RE: Contract Update

John,

We wore them down.

Actually, you can see Chase doesn't want the insurance to be a burden to the point of being a deal breaker. He has always been a reasonable guy to work with.

See below how Chase would like it packaged, as well as making sure the rest of the requirements in the Exhibit are met. Let me know if there are any other concerns.

Mike



sandy.utah.gov

Mike Gladbach, P.E.
Director

8775 South 700 West | Sandy, UT 84070
o: 801.568.2968
mgladbach@sandy.utah.gov



From: Chase H. Parker

Sent: Friday, February 01, 2019 9:09 AM

To: Mike Gladbach <MGladbach@sandy.utah.gov>; Paul Browning <PBrowning@sandy.utah.gov>

Cc: Erica Langenfass <elangenfass@sandy.utah.gov>

Subject: RE: RE: Contract Update

Mike:

Insurance was never meant to be a "deal killer." If Momentum's "blanket/umbrella" policy "stacks" on top of their auto coverage, thus providing \$3,000,000 in auto coverage, the general liability and automobile insurance identified in their certificate of insurance will be sufficient. Would you please inquire whether Momentum has pollution liability coverage. My fear is that a lazy homeowner or teenager may occasionally discard in the Momentum container hazard waste i.e. car batteries, paints, solvents etc.

Momentum will also need to comply with the other Exhibit A requirements like naming the city, its officers, officials, employees and volunteers as additional insureds on their general liability and automobile liability policies.

If you have additional questions or concerns, please feel free to contact me.

Chase

From: Mike Gladbach <MGladbach@sandy.utah.gov>

Sent: Thursday, January 31, 2019 5:43 PM

To: Chase H. Parker <chparker@sandy.utah.gov>

Subject: Fwd: RE: Contract Update

Take a look at the email and attached certificate from John Lair. Is this enough?

Mike

----- Forwarded message -----

From: John Lair <john@momentumrecycling.com>

Date: Jan 31, 2019 5:35 PM

Subject: RE: Contract Update

To: Mike Gladbach <MGladbach@sandy.utah.gov>, Jason Utgaard <jason@momentumrecycling.com>

Cc: Lynn Nicol <lynn@momentumrecycling.com>, Paul Browning <PBrowning@sandy.utah.gov>, Darien Alcorn <dalcorn@sandy.utah.gov>, Eric Richards <erichards@sandy.utah.gov>

Hi Mike,

Thanks for sending this. The insurance requirements laid out here are quite a bit more than we've had to provide in the past, including our other municipal contracts. Acquiring the additional coverage will be quite expensive, and may not even be possible with our current carrier (Midwest Family Mutual). I've attached our current Certificate of Insurance, and would ask that the City consider accepting our current coverages as commensurate with the services being provided. Please let us know your thoughts.

Thank you,



CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY)
5/3/2019

THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AFFIRMATIVELY OR NEGATIVELY AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW. THIS CERTIFICATE OF INSURANCE DOES NOT CONSTITUTE A CONTRACT BETWEEN THE ISSUING INSURER(S), AUTHORIZED REPRESENTATIVE OR PRODUCER, AND THE CERTIFICATE HOLDER.

IMPORTANT: If the certificate holder is an ADDITIONAL INSURED, the policy(ies) must be endorsed. If SUBROGATION IS WAIVED, subject to the terms and conditions of the policy, certain policies may require an endorsement. A statement on this certificate does not confer rights to the certificate holder in lieu of such endorsement(s).

PRODUCER Poulton Insurance Services 2137 East 3300 South Salt Lake City UT 84109		CONTACT NAME: Kristi Lawson PHONE (A/C, No, Ext): (801) 484-4477 E-MAIL ADDRESS: kristi@poultoninsurance.com FAX (A/C, No): (801) 486-7541	
INSURED Momentum Recycling LLC Denver Glass LLC 658 South 4050 West Salt Lake City UT 84104		INSURER(S) AFFORDING COVERAGE INSURER A: Midwest Family Mutual Insurance Co INSURER B: Workers Compensation Fund INSURER C: INSURER D: INSURER E: INSURER F:	
		NAIC # 23574 10033	

COVERAGES **CERTIFICATE NUMBER:** 2019*2020 **REVISION NUMBER:**

THIS IS TO CERTIFY THAT THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

INSR LTR	TYPE OF INSURANCE	ADDL INSR	SUBR WVD	POLICY NUMBER	POLICY EFF (MM/DD/YYYY)	POLICY EXP (MM/DD/YYYY)	LIMITS
A	GENERAL LIABILITY						
	<input checked="" type="checkbox"/> COMMERCIAL GENERAL LIABILITY						EACH OCCURRENCE \$ 1,000,000
	<input type="checkbox"/> CLAIMS-MADE <input checked="" type="checkbox"/> OCCUR	X		CPUT0560111310 - 4	5/7/2019	5/7/2020	DAMAGE TO RENTED PREMISES (Ea occurrence) \$ 300,000
	<input checked="" type="checkbox"/> Contractual						MED EXP (Any one person) \$ 5,000
	GEN'L AGGREGATE LIMIT APPLIES PER:						PERSONAL & ADV INJURY \$ 1,000,000
	<input type="checkbox"/> POLICY <input checked="" type="checkbox"/> PROJECT <input type="checkbox"/> LOC						GENERAL AGGREGATE \$ 2,000,000
							PRODUCTS - COMP/OP AGG \$ 2,000,000
							\$
A	AUTOMOBILE LIABILITY						
	<input type="checkbox"/> ANY AUTO						COMBINED SINGLE LIMIT (Ea accident) \$ 1,000,000
	<input checked="" type="checkbox"/> ALL OWNED AUTOS			CPUT0560111310 - 4	5/7/2019	5/7/2020	BODILY INJURY (Per person) \$
	<input checked="" type="checkbox"/> HIRED AUTOS						BODILY INJURY (Per accident) \$
	<input checked="" type="checkbox"/> SCHEDULED AUTOS						PROPERTY DAMAGE (Per accident) \$
	<input checked="" type="checkbox"/> NON-OWNED AUTOS						Uninsured/Underinsured Motori \$ 500,000
A	UMBRELLA LIAB						
	<input checked="" type="checkbox"/> EXCESS LIAB						EACH OCCURRENCE \$ 2,000,000
	<input type="checkbox"/> CLAIMS-MADE						AGGREGATE \$ 2,000,000
	DED <input checked="" type="checkbox"/> RETENTION \$ 10,000			CPUT0560111310 - 4	5/7/2019	5/7/2020	\$
B	WORKERS COMPENSATION AND EMPLOYERS' LIABILITY						
	ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? (Mandatory in NH)		Y/N				<input checked="" type="checkbox"/> WC STATUTORY LIMITS
	If yes, describe under DESCRIPTION OF OPERATIONS below		N	3033939 - Utah	3/1/2019	3/1/2020	OTHER
			N/A				E.L. EACH ACCIDENT \$ 1,000,000
							E.L. DISEASE - EA EMPLOYEE \$ 1,000,000
							E.L. DISEASE - POLICY LIMIT \$ 1,000,000
A	Leased and Rented Equipment			CPUT0560111310 - 4	5/7/2019	5/7/2020	Limit \$50,000
							Deductible \$1,000

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (Attach ACORD 101, Additional Remarks Schedule, if more space is required)
Sandy City, its employees, officers, agents, volunteers and assigns are included as an Additional Insureds as required by written contract per Endorsement form MFMAC009 01/15.

CERTIFICATE HOLDER		CANCELLATION	
pbrowning@sandy.utah.gov; jas Sandy City Corporation 10000 S. Centennial Pkwy. Sandy, UT 84070		SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS. AUTHORIZED REPRESENTATIVE Kristi Lawson/KRISTI 