

**PERMIT
FOR ROLL-OFF SERVICES**

The City of Bryan, Texas (City) grants **Pronto Services, LLC** (Contractor) a permit (Permit) to collect non-residential garbage, trash, brush and other refuse using 20yd³ through 40yd³ roll-off containers from residential customers subject to the following conditions:

1. Contractor is authorized to offer:
 - a) roll-off services to non-residential properties, construction, demolition and special cleanup sites;
2. Unless approved otherwise in writing by City, Contractor will use the Brazos Valley Solid Waste Management Agency (BVSWMA) landfill for disposal of all waste material collected by Contractor within the corporate limits of the City. Contractor will comply with all laws, policies, rules and regulation of the United States, State of Texas, BVSWMA, Brazos County and the City with regard to the operation of the landfill and disposal of solid waste, including but not limited to the requirements that Contractor's employees on the landfill premises wear a hard hat. All collections made under this permit will be made by Contractor without unnecessary noise, disturbance, or commotion.
3. **NON-RESIDENTIAL COLLECTION**
 - A. The Contractor's Rate Schedule for collection service (Schedule) is attached as **Exhibit "A"**. Rates may be revised annually subject to the approval of the City Council. Contractor will ensure that a current rate schedule is always on file with the City Secretary.
 - B. Contractor will pay the City a fee of \$500.00 per vehicle per quarter calendar year, for each vehicle used for collection service under this Permit or six percent (6%) of gross hauling revenues received in each calendar quarter for collection service authorized under this Permit, whichever of the two amounts is greater. This payment must be paid no later than fifteen (15) calendar days after the end of each calendar quarter. Written documentation accompanying each payment to the City must clearly state the calculations used to determine the amount of the payment, with the amounts calculated under both the "fee" and "percentage of revenues" methods being clearly shown.
 - C. Contractor will grant City access to all of Contractor's billing records of customers provided service by Contractor and located within the City's corporate limits. Access by City to Contractor's records will be provided to City upon reasonable notice to Contractor during Contractor's normal business hours.
 - D. Contractor will submit a report to the City quarterly listing the size and location of roll-off containers and compactors placed in the City under the terms of this Permit. These reports will be sent to the City Manager or designee.
 - E. Contractor will properly maintain and clean and paint as necessary all roll-off containers and compactors placed for service within the corporate limits of the City. Contractor will clean and paint roll-off containers and compactors identified by the City as needing maintenance. Each roll-off container and compactor must be clearly marked with Contractor's name in letters of not less than three (3) inches in height.
 - F. All roll-off containers placed for service within the City must be located in such a manner so as not to be safety or traffic hazards. Under no circumstances will Contractor place

roll-off containers on public streets, alleys or thoroughfares without the prior approval of the City. City reserves the right to specify to Contractor the exact location of any roll-off container(s) or compactors it places for service within the corporate limits of the City.

4. All vehicles used by Contractor for the collection and transportation of refuse must be covered at all times while in transit to prevent the blowing or scattering of refuse onto public streets or properties adjacent thereto, and each vehicle must be clearly marked with Contractor's name in letters of not less than three (3) inches in height.
5. Contractor will directly receive and resolve any complaints pertaining to service from customers located within the corporate limits of the City. Any complaints received by the City will be forwarded to the Contractor within twenty-four (24) hours of receipt. Contractor must respond to the complaint within twenty-four (24) hours of receiving it from the City.
6. This Permit constitutes the only Agreement between the parties. There are no other agreements between these parties with regard to the disposal of commercial, industrial or residential solid waste in the City. This Permit is non-exclusive. In the event that Contractor requests an amendment to the terms of the Permit, or a variance from the terms thereof, the Contractor shall submit a written request to the City Manager in advance. The City Council must approve any amendments to the Permit. The City Manager has authority to grant a limited variance to the terms of this Permit, provided that
 - a) The circumstances warrant such a variance due to time constraints, health/safety of the public, or other objective reasons;
 - b) The variance is not inconsistent with the terms of the City's ordinances; and
 - c) The variance is effective for thirty (30) days or less.
7. THE CONTRACTOR WILL DEFEND, INDEMNIFY AND SAVE HARMLESS THE CITY AND ALL ITS OFFICERS, AGENTS, AND EMPLOYEES FROM ALL SUITS, ACTIONS, OR CLAIMS OF ANY CHARACTER, NAME AND DESCRIPTION, INCLUDING ATTORNEY'S FEES EXPENSED, BROUGHT FOR OR ON ACCOUNT OF ANY INJURY OR DAMAGE RECEIVED OR SUSTAINED BY ANY PERSON OR PERSONS OR PROPERTY, BY OR FROM THE CONTRACTOR OR HIS EMPLOYEES BY OR ON ACCOUNT OF ANY OMISSION, NEGLIGENCE OR MISCONDUCT OF THE CONTRACTOR, OR BY OR ON ACCOUNT OF ANY CLAIMS OF AMOUNTS RECOVERED UNDER WORKER'S COMPENSATION LAW OR ANY OTHER LAW, ORDINANCE, ORDER OR DECREE. CONTRACTOR SHALL DEFEND, INDEMNIFY AND SAVE HARMLESS THE CITY, ITS OFFICERS, AGENTS AND EMPLOYEES IN ACCORDANCE WITH THIS INDEMNIFICATION CLAUSE REGARDLESS OF WHETHER THE INJURY OR DAMAGE IS CAUSED IN PART BY THE CITY, ITS OFFICERS, AGENTS OR EMPLOYEES.
8. **Insurance**
 - a. The Contractor agrees to maintain the minimum insurance coverage and comply with each condition set forth below during the duration of this contract with the City. All parties to this contract hereby agree that the Contractor's coverage will be primary in the event of a loss, regardless of the application of any other insurance or self-insurance. Contractor must deliver to City a certificate(s) of insurance evidencing such policies are in full force and effect within 10 business days of notification of the City's intent to award a Contract. No contract shall be effective until the required certificate(s) have been received and approved by the City. Failure to meet the insurance requirements and provide the required certificate(s) and any necessary endorsements within 10 business days **may cause the contract to be rejected**. The City reserves

the right to review these requirements and to modify insurance coverage and their limits when deemed necessary and prudent.

- i) **Statutory Worker's Compensation and Employer's Liability Insurance** - Contractor shall maintain Workers' Compensation insurance for statutory limits and Employers Liability insurance with limits not less than \$500,000 each accident for bodily injury by accident or \$500,000 each employee for bodily injury by disease. Contractor shall provide Waiver of Subrogation in favor of the City and its agents, officers, officials, and employees.
 - ii) **Commercial General Liability Insurance** - Contractor shall maintain Commercial General Liability (CGL) with a limit of not less than \$1,000,000 per occurrence and an annual aggregate of at least \$2,000,000. CGL shall be written on a standard ISO "occurrence" form (or a substitute form providing equivalent coverage) and shall cover liability arising from premises, operations, independent contractors, products-completed operations, personal and advertising injury, and liability assumed under an insured contract including the tort liability of another assumed in a business contract. No coverage shall be deleted from the standard policy without notification of individual exclusions and acceptance by the City. The City and its agents, officers, officials, and employee shall be listed as an additional insured.
 - iii) **Business Automobile Liability Insurance** - Contractor shall maintain Business Automobile Liability insurance with a limit of not less than \$1,000,000 each accident. Business Auto Liability shall be written on a standard ISO version Business Automobile Liability, or its equivalent, providing coverage for all owned, non-owned and hired automobiles. Contractor shall provide Waiver of Subrogation in favor of the City and its agents, officers, officials, and employees.
- b. **Policy Limits** - Required limits may be satisfied by a combination of primary and umbrella or excess liability policies. Contractor agrees to endorse City and its agents, officers, officials, and employees as an additional insured, unless the Certificate states the Umbrella or Excess Liability provides coverage on a pure "True Follow Form" basis.
 - c. **Deductibles, Coinsurance Penalties & Self-Insured Retention** - Contractor may maintain reasonable and customary deductibles, subject to approval by the City. Contractor shall agree to be fully and solely responsible for any costs or expenses as a result of a coverage deductible, coinsurance penalty, or self-insured retention.
 - d. **Subcontractors** - If the Contractor's insurance does not afford coverage on behalf of any Subcontractor(s) hired by the Contractor, the Subcontractor(s) shall maintain insurance coverage equal to that required of the Contractor. It is the responsibility of the Contractor to assure compliance with this provision. The City accepts no responsibility arising from the conduct, or lack of conduct, of the Subcontractor.
 - e. **Acceptability of Insurers** - Insurance coverage shall be provided by companies admitted to do business in Texas and rated A-:VI or better by AM Best Insurance Rating.
 - f. **Evidence of Insurance** - A valid certificate of insurance verifying each of the coverages required shall be issued directly to the City within 10 business days by the successful Contractor's insurance agent or insurance company after contract award. Endorsements must be submitted with the certificate. No contract shall be effective until the required certificates have been received and approved by the City. Renewal certificates shall be sent a minimum of 10 days prior to coverage expiration. Upon request, Contractor shall furnish the City with certified copies of all insurance policies.

The certificate of insurance and all notices shall be sent to:
City of Bryan
Eric Zaragoza
PO Box 1000
Bryan, TX 77805
Emailed to: ezaragoza@bryantx.gov
Faxed to: 979 – 209 – 5959

Failure of the City to demand evidence of full compliance with these insurance requirements or failure of the City to identify a deficiency shall not be construed as a waiver of Contractor's obligation to maintain such insurance.

- g. **Notice of Cancellation, Non-renewal, Material Change, Exhaustion of limits** – Contractor must provide minimum 30 days prior written notice to the City of policy cancellation, material change, exhaustion of aggregate limits, or intent not to renew insurance coverage. If City is notified a required insurance coverage will cancel or non-renew during the contract period, the Contractor shall agree to furnish prior to the expiration of such insurance, a new or revised certificate(s) as proof that equal and like coverage is in effect. The City reserves the right to withhold payment to Contractor until coverage is reinstated.
 - h. **Contractor's Failure to Maintain Insurance** – If the Contractor fails to maintain the required insurance, the City shall have the right, but not the obligation, to withhold payment to Contractor until coverage is reinstated or to terminate the Contract.
 - i. **No Representation of Coverage Adequacy** - The requirements as to types and limits, as well as the City's review or acceptance of insurance coverage to be maintained by Contractor, is not intended to nor shall in any manner limit or qualify the liabilities and obligations assumed by the Contractor under the Contract.
9. The Contractor will not dispose of special or other hazardous waste prohibited for disposal at the BSWMA Type I landfill. Contractor agrees to indemnify and hold City harmless for any disposal of any prohibited material, whether intentional or inadvertent.
10. If at any time Contractor fails to perform any of the terms, covenants, or conditions herein set forth, the City may revoke and cancel the contract and this Permit will be null and void. A hearing prerequisite to such revocation will not be held until notice of the hearing has been given to Contractor by Registered Mail, addressed to Contractor at the address shown on the records of the City, and a period of at least ten (10) days has elapsed since the mailing of the notice. The notice will specify the time and place of the hearing and will include the reasons being considered for revocation of contract. The hearing will be conducted in public by the City Council. The Contractor will be allowed to present and be given full opportunity to answer any reasons for terminations as set out in the notice. If, after the hearing is concluded, the City Council determines that the allegations set forth in the notice are affirmed by the facts presented at the hearing they may, by majority vote revoke this permit.
11. Contractor will perform the collection in accordance with applicable laws, codes, ordinances and regulations of the United States, State of Texas, Brazos County and City of Bryan and in compliance with OSHA and other laws as they apply to its employees. Contractor will ensure that competent persons with at least five (5) years of verifiable experience in managing solid waste collections supervise all collection operations within the City. It is the intent of the parties that safety precautions are a part of the collection techniques for which Contractor is solely responsible. Contractor assumes responsibility and liability and hereby agrees to indemnify the City of Bryan from any liability caused by failure to comply with applicable federal, state of local laws and regulations, touching upon the maintenance of a safe and protected working

environment, and the safe use and operation of machinery and equipment in that working environment.

12. All notices required under the terms of this Permit to be given by either party to the other must be in writing, and unless specified otherwise in writing by the parties, must be sent to the parties at the following addresses:

City: Eric Zaragoza
City of Bryan
1111 Waco Street
Bryan, Texas 77803

Contractor: William Andrew Hays and Heath Pruitt
Pronto Services LLC
P.O. Box 4662
Bryan, Texas 77805

All notices will be deemed to have been properly served if sent by Registered or Certified Mail, to the person(s) at the address designated above, or to any other person at the address which either party may hereinafter designate by written notice to the other party.

13. No modification to the terms of this Permit may be made unless made in writing and approved by both parties.
14. The Contractor may not assign this Permit without prior written approval of the City excepting (following written notice to City) an assignment to an entity or trust affiliated with and controlled by William "Andrew" Hays or Heath Pruitt, or their respective trustees, devisees, or beneficiaries.
15. Unless earlier revoked, this Permit is valid for five (5) years following approval by City Council, expiring the ___ day of _____, 2021.

EXECUTED this _____ day of _____, 2016.

PRONTO SERVICES, LLC

CITY OF BRYAN:

William Andrew Hays, Co-owner

Jason P. Bienski, Mayor

Heath Pruitt, Co-owner

ATTEST:

Mary Lynne Stratta, City Secretary

APPROVED AS TO FORM:

Janis K. Hampton, City Attorney



"Exhibit A"

SCHEDULE OF RATES

June 13, 2016

\$500 deposit or approved credit application

\$5.00/day Rent

27.00/Ton

100.00/hr Trucking

CITY OF BRYAN:

BRYAN DISPOSAL:

By: _____

By: _____

Date: _____

Date: _____