

SPONSOR: Adams/E Brown

ORDINANCE NO. 74-09

AN ORDINANCE AUTHORIZING THE CITY TO ENTER INTO AN AGREEMENT BETWEEN THE CITY OF JACKSON, OHIO, AND RUNMPKE OF OHIO, INC., FOR LANDFILL SERVICES, AND DECLARING AN EMERGENCY.

BE IT ORDAINED BY THE COUNCIL OF THE CITY OF JACKSON, STATE OF OHIO, as follows:

Section One. The Service Director is authorized to enter into an Agreement between the City of Jackson, Ohio, and Rumpke of Ohio, Inc., to provide landfill services for the City's trash collection. A copy of the Agreement is attached hereto as Exhibit "A". The cost of this contract shall be paid from line items and in the same manner as set forth in the original agreement.

Section Two. This Ordinance is hereby declared to be an emergency Ordinance necessary for the immediate preservation of the public peace, health, or safety of the City of Jackson, in that it is necessary to enter into this agreement as soon as possible. Therefore, this Ordinance shall go into effect upon passage and approval by the Mayor, as provided in Ohio Revised Code Section 731.30.

Section Three. In the event this Ordinance receives a majority vote for passage but fails to receive the required number of votes to pass as an emergency, then this Ordinance shall be deemed to have passed but with no emergency clause and shall take effect at the earliest time permitted by law.

Section Four. It is hereby found and determined that all formal actions of this Council relating to the adoption of this Ordinance were adopted in an open meeting of this Council, and that the deliberations of this Council that resulted in such formal actions, were in a meeting open to the public, in compliance with all legal requirements, including Section 121.22 of the Ohio Revised Code.

Date: 9-28-09

Ronald B. Spearman
PRESIDENT OF COUNCIL

Jana Brown
CLERK OF COUNCIL

Approved:

Date: 9-28-09

Randy R. Hensch
MAYOR

Exhibit “A”

DISPOSAL AGREEMENT

THIS AGREEMENT is made as of this _____ day of _____, 2009 by and between Rumpke of Ohio, Inc. ("Rumpke") and the City of Jackson, Ohio ("Jackson") for the purpose of the disposal of non-hazardous solid waste.

1. **SERVICES.** During the term of this Agreement, Jackson shall deliver to Rumpke's Beech Hollow Sanitary Landfill, and Rumpke shall receive and dispose of at such landfill, all of Jackson's non-hazardous solid waste. "Solid waste" shall be defined as all solid waste EXCEPT radioactive, volatile, highly flammable, biomedical waste, explosive, toxic, hazardous material as such exceptions are defined in all present and future federal, state or local government regulations. The term "hazardous waste" as used herein shall include, but not be limited to, any amount of waste listed or characterized as hazardous by the United States Environmental Protection Agency or any state agency pursuant to the Resource Conservation and Recovery Act of 1979, as amended, and including future amendments thereto, and applicable state law.

2. **AGREEMENT TERM.** The term of this Agreement shall be for a period of three (3) years commencing on August 1, 2009 and ending on July 31, 2012. The Agreement may be renewed for additional optional terms upon mutual agreement of the parties not less than 60 days prior to the expiration of the current term.

3. **DISPOSAL RATES**

A. **Solid Waste Disposal Rate.** Pricing for the disposal of solid waste by Jackson for municipal solid waste (MSW) and for construction and demolition (C&D) material shall be as follows:

<u>August 1, 2009 to July 31, 2010:</u>	\$23.50 Per Ton – MSW \$22.05 Per Ton – C&D
<u>August 1, 2010 to July 31, 2011:</u>	\$24.20 Per Ton – MSW \$22.71 Per Ton – C&D
<u>August 1, 2011 to July 31, 2012:</u>	\$24.93 Per Ton – MSW \$23.39 Per Ton – C&D

Pricing set forth is inclusive of current fees, taxes, and governmental surcharges. In the event of any increase in such fees, taxes, or governmental surcharges during the term of this Agreement, pricing shall be adjusted to the extent of such increase.

B. **Payment Terms and Conditions.** Rumpke will invoice the City of Jackson monthly. Payment is due within 30 days from date of the invoice.

4. **PROPER DISPOSAL.** Rumpke represents and warrants that all solid waste will be disposed of in a manner consistent with all federal, state and local laws and regulations.

5. **FORCE MAJEURE.** Except for the obligation to pay for services rendered, neither party hereto shall be liable for its failure to perform hereunder due to contingencies beyond its reasonable control, including, but not limited to the following force majeure events:

- a. Strike, riots, public disorders or war;
- b. Fires, floods, earthquakes, tornadoes, high water table, unusually severe weather conditions or other Acts of God;
- c. Actions or decrees of local, state or federal governmental bodies, agencies or courts;
- d. Unforeseen soil, bedrock or substrata conditions.

The party experiencing the force majeure event shall provide the other party with prompt notice of any of the foregoing and proceed in a reasonable and diligent manner in attempting to remedy such causes where possible. If the force majeure cannot be cured, either party can terminate this Agreement without penalty.

6. **ASSIGNMENT.** This Agreement may not be assigned without the prior written consent of the other party, which consent may not unreasonably be withheld. This Agreement shall be binding upon and inure to the benefit of the parties hereto and their respective successors and assigns.

7. **SEVERABILITY AND SURVIVAL.** In case any one or more of the provisions contained in this Agreement shall, for any reason, be held to be invalid, illegal or unenforceable in any respect, such invalidity, illegality or unenforceability shall not affect any other provisions of this Agreement; this Agreement shall be construed as if such invalid, illegal or unenforceable provision had never been contained herein.

8. **INDEMNITY.** Jackson hereby agrees to indemnify and hold Rumpke harmless from and against any and all loss, damage, suits, liability and expenses (including but not limited to reasonable legal expenses) arising out of any claim for loss of or damage to property, including Rumpke's property, and injuries or death of persons, including Rumpke's or Jackson's employees, caused by or resulting from the negligence or willful misconduct by Jackson, its employees or agents of Rumpke's rules and/or regulations while its employees or agents are on Rumpke property, or for the delivery of any waste other than solid waste.

9. **ENTIRE AGREEMENT.** This Agreement constitutes the entire understanding between the Jackson and Rumpke hereto, and cancels and supersedes all prior negotiations, representations, understandings and agreements, facts or omissions thereof, either written or oral, with respect to the subject matter hereto. No changes, alternations, or modifications to this Agreement will be effective unless in writing and signed by Jackson and Rumpke.


IN WITNESS WHEREOF, each party hereto warrants that this Agreement has been duly authorized by all necessary corporate action and this Agreement has been duly executed by and constitutes a valid and binding agreement of that party.

CITY OF JACKSON

By: _____

Its: _____

RUMPKE OF OHIO, INC.

By:  _____

Its: President _____