

**AGREEMENT FOR RECYCLABLE MATERIALS MARKETING AGENT SERVICES
BETWEEN THE CITY OF RAPID CITY AND ACE STEEL & RECYCLING, INC.**

For and in consideration of the mutual covenants and the faithful performance of the obligations of the parties hereunder, this Agreement is entered into this ____ day of _____, 2011, by and between the City of Rapid City, a municipal corporation organized under the laws of the state of South Dakota, of 300 Sixth Street, Rapid City, SD 57701, hereinafter referred to as the "City," and Ace Recycling, Inc., of 2830 Eglin Street, Rapid City, South Dakota 57703, hereinafter referred to as the "Ace." The parties agree to the following terms:

1. Purpose. The Purpose of this agreement is to set forth the terms and conditions whereby the City retains the services of Ace as its marketing agent for recyclable materials resulting from the operation of the City's Material Recovery Facility (MRF).
2. Term. This Agreement shall be effective for an initial term of two years. Upon expiration of the initial term, this Agreement shall automatically renew for an additional one-year term unless either party gives thirty days' notice that it does not wish to renew. This Agreement shall only renew automatically a maximum of four times, so that the total term of this Agreement shall not exceed six years.
3. Early Termination. This Agreement may be terminated before the end of the term by either party with thirty days' written notice.
4. Obligations of Ace. Ace shall
 - a. Act as marketing agent for the City for baled recyclable materials resulting from operation of the MRF, using its best efforts to obtain the results in the best interests of the City. Best interests shall include highest net price, maintenance of continued markets, minimal exposure to potential liability, and such other matters as the parties may, after consultation, agree.
 - b. Consult with operations personnel regarding methods, standards, and training to produce optimal quality of recyclable materials.
 - c. Maintain appropriate records, open to inspection and review by the City, showing at a minimum, the amount of material sold, date sold, transportation costs, commission fee, date delivered, material identification, expenses incurred, monies received, and a synopsis of contacts made to assure the maximum return to the City.
 - d. Pay to the City, within 10 days of receipt, 92.5% of the net proceeds of the sale of any recyclable materials. Net proceeds shall mean gross selling price less transportation expenses. Ace shall be entitled to keep the remaining net proceeds as its fee for services.
 - e. Market recyclable material when requested by the City after materials have been baled and are ready for delivery.

f. Store any materials, once baled and a call has been made for delivery, on a site other than the MRF or Landfill. Notice as provided in Section 7 of this Agreement shall not be required to invoke this provision.

g. Accept all marketing liability except improperly classified and packaged material. This includes financial solvency of the intended recipient of the material thereby ensuring the City gets paid.

h. Provide commercially appropriate bonds and insurance in such amount as the City may reasonably require.

5. Obligations of City. The City shall

a. Make all baled recyclable materials resulting from the operation of the MRF available for marketing by Ace.

b. Consult and cooperate with Ace to provide the optimal quality of recyclable material consistent with the efficient operation of the MRF.

c. Provide reasonable access to the MRF to allow Ace to perform its functions effectively.

6. Notices. All notices given hereunder shall be delivered to the parties at the following addresses:

City of Rapid City
Attn: Public Works Director
300 Sixth Street
Rapid City, SD 57701

Ace Steel & Recycling, Inc.
Attn: Bill Huebner
2830 Eglin Street
Rapid City, SD 57703

All notices are effective upon personal delivery to the above-named individual or upon placing the notice in the U. S. mail.

7. Relationship between the Parties. Ace is an independent contractor of the City. This Agreement does not create an employment relationship between the City of Rapid City and Ace or Ace's agents or employees. Nothing contained in this Agreement is intended to create a partnership or joint venture between Ace and the City of Rapid City.

8. Time of Essence. Time is of the essence of this Agreement.

9. Waivers. The failure by one party to require performance of any provision herein shall not affect that party's right to require performance 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.

10. Amendments. This Agreement may only be amended by a written document duly executed by all parties.

11. Entire Agreement. This Agreement contains the entire agreement between the parties, and supersedes all prior negotiations, agreements and understandings, whether oral or written.

12. Counterparts. This Agreement may be executed in counterparts; each such counterpart shall be deemed an original and when taken together with other signed counterparts, shall constitute one Agreement.

13. Severability. If any provision of this Agreement is held unenforceable by a court of competent jurisdiction, such holding shall not affect the remaining provisions of this Agreement, which shall remain in full force and effect.

14. Construction. This Agreement shall be construed as if drafted jointly by the parties, and no presumption or burden shall arise favoring or disfavoring any party by virtue of the authorship of any of the provisions of this Agreement

15. Headings. The headings and numbering of the different paragraphs of this Agreement are inserted for convenience only and are not to control or affect the meaning, construction or effect of each provision.

16. Governing Law and Venue. This Agreement shall be interpreted under the laws of the State of South Dakota. Any litigation under this Agreement shall be resolved in the circuit court of Pennington County, State of South Dakota.

Dated this _____ day of _____, 2011.

CITY OF RAPID CITY

Alan Hanks, Mayor

ATTEST:

Finance Officer

(SEAL)

State of South Dakota)
) ss.
County of Pennington)

On this the _____ day of _____, 2011, before me, the undersigned officer, personally appeared Alan Hanks and Pauline Sumption, who acknowledged themselves to be the Mayor and Finance Officer, respectively, of the City of Rapid City, a municipal corporation, and that they, as such Mayor and Finance Officer, being authorized so to do, executed the foregoing Memorandum of Agreement for the purposes therein contained by signing the name of the City of Rapid City by themselves as Mayor and Finance Officer.

IN WITNESS WHEREOF I hereunto set my hand and official seal.

(seal)

Notary Public, South Dakota
My Commission Expires: _____

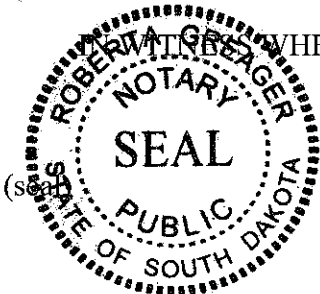
ACE STEEL & RECYCLING, INC.

By William Huebner
William Huebner
Its President

State of South Dakota)
) ss.
County of Pennington)

On this the 21st day of January, 2011, before me, the undersigned officer, personally appeared William Huebner, who acknowledged himself to be the President of Ace Steel & Recycling, Inc., a South Dakota corporation, and that he, being authorized so to do, executed the foregoing Agreement for the purposes therein contained by signing the name of Ace Steel & Recycling, Inc. by himself as such President.

IN WITNESS WHEREOF I hereunto set my hand and official seal.



Roberta Greager
Notary Public, South Dakota
My Commission Expires: 5-18-2015