

# City of Afton

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## RESIDENTIAL SOLID WASTES SERVICES AGREEMENT

THIS RECYCLING AND SOLID WASTE SERVICES AGREEMENT is made and entered into effective the 1st day of January, 2015 (the "Effective Date"), by and between the CITY OF AFTON, a Minnesota Municipal Corporation organized and existing under the laws of the State of Minnesota (the "City") and Highland Sanitation, a Minnesota Corporation.

### WITNESSETH

- A. WHEREAS, the City has found and determined that the public health and safety of the City will be promoted and preserved by establishing an arrangement for the collection, transportation, and disposal of solid waste kept and accumulated by residences and businesses within the City as defined in Chapter 18, Article III of the Code of Ordinances; and
- B. WHEREAS, Highland is engaged in the business of collection and recycling of solid waste, has provided the services identified in this Agreement to the City in the past and is familiar with the requirements of the City and its solid waste services; and
- C. WHEREAS, the City has determined Highland to be qualified to carry out the terms of this Agreement upon the terms and conditions and for the consideration hereinafter provided.

NOW, THEREFORE, in consideration of the foregoing and the covenants, promises, undertakings, and obligations herein created, granted, and assumed, the parties hereto agree as follows:

### ARTICLE 1. DEFINITIONS

- 1.1 For purposes of this Agreement, terms not otherwise defined herein shall have the following meanings:
  - 1.1.1 **Bulky Waste:** Stoves, refrigerators, water heaters, washing machines and similar "white goods," bicycles, lawn mowers, lawn chairs, furniture and other waste material other than construction debris, or hazardous waste with weights or volumes greater than those allowed for bags or carts. Bulky household solid waste does not include electronic waste.
  - 1.1.2 **Collection:** The aggregation of MSW, Recyclables and Yard Wastes from the place at which they are generated including all activities up to the time they are delivered to a processing facility. **Cart:** The wheeled, lidded cart in which solid waste, recyclable materials or yard wastes can be stored and placed for curbside collection.
  - 1.1.3 **City-Designated Solid Waste Disposal Facility:** The facility designated by the City where Highland is required to deposit residential trash collected under this Contract.

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- 1.1.4 **Collection Vehicle:** Any vehicle licensed and inspected as required by the state and county and approved by the City for solid waste collection within the corporate boundaries of the City.
- 1.1.5 **Composting Facility:** Licensed composting facility to process yard waste and/or source separated organics in conformance with state and local regulations.
- 1.1.6 **Contract:** The City of Afton service agreement for solid waste and recyclables collection services and as subsequently amended.
- 1.1.7 **County:** Washington County, MN
- 1.1.8 **Dwelling Unit:** A separate dwelling place with a kitchen.
- 1.1.9 **Electronic Waste:** Any discarded consumer electronic device with a circuit board including (but not limited to): televisions, computers, laptops, tablets, computer monitors, peripherals (e.g., keyboard, printer, mouse, etc.), cell phones, PDAs, DVD recorders/players and video cassette recorders/players, and fax machines.
- 1.1.10 **Food Waste/Organics:** (Also referred to as “organics” and “source separated organics”.) Food waste and other compostable organic materials that are source separated for recovery. The term food waste/organics does not include yard waste for purposes of this contract.
- 1.1.11 **Hazardous Waste:** Waste or material defined, characterized or designated as hazardous by the United States Environmental Protection Agency (USEPA), appropriate State agencies, or Hennepin County by or pursuant to Federal or State law or regulations. For purposes of this Contract, the term hazardous waste shall also include motor oil, gasoline, batteries, paint, paint thinner, insecticides, toxic materials, acids, drugs, fireworks, ammunition and other hazardous substances so designated by the City, or Washington County.
- 1.1.12 **Holidays:** New Year’s Day, Memorial Day, Fourth of July, Labor Day, Thanksgiving Day, Christmas Day.
- 1.1.13 **Mixed Municipal Solid Waste (MSW):** Garbage, refuse, rubbish, trash, and other solid waste from residential, commercial, industrial, and community activities that the generator of the waste aggregates for collection. MSW does not include auto hulks, street sweepings, ash, construction debris, mining waste, sludges, tree and agricultural wastes, tires, lead acid batteries, motor and vehicle fluids and filters, and other materials collected, processed, and disposed of as separate waste streams. Also referred to in this Contract as “trash”.
- 1.1.14 **Organics:** (Also referred to as “food waste/organics” and “source separated organics.”) Food waste and other compostable organic materials that are source separated for recovery. The term “Organics” does not include yard waste for purposes of this contract.
- 1.1.15 **Person:** Includes any natural person, corporation, firm or association.
- 1.1.16 **Pick-up (Stop):** A collection of one or more containers from a Residential Single Dwelling. One pick-up may include more than one container or extra bag or bundle.
- 1.1.17 **Premises:** Any dwelling house, dwelling unit, building, and every other place or premises where any person resides or a business is operated within the City.
- 1.1.18 **Problem Material Waste:** Waste that is too large to fit into a standard trash cart and require special collection by Highland. Problem material waste includes (but is not

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limited to): furniture, appliances, mattresses, and bed springs. Problem material waste does include household electronic waste.

- 1.1.19 **Recyclables:** The current list of household recyclables as established through guidelines released under the authority of the City's Administrator. Such other materials as the parties may mutually agree in writing.
- 1.1.20 **Recyclables Pick-up:** Each instance that recyclables are picked up at a Residential Dwelling Unit (RDU) or a commercial account.
- 1.1.21 **Recyclables Processing Facility.** Facility designed for centralized sorting, processing, and/or grading of collected recyclable materials for marketing. The facility will conform to all applicable rules, regulations and laws of state, local or other jurisdictions.
- 1.1.22 **Residential Single Unit Dwelling (RUD):** Any eligible, occupied single-family dwelling or duplex within the corporate limits of the City occupied by a person or group of persons.
- 1.1.23 **Residuals:** Waste materials left after recovery of recyclables and/or the physical, chemical or biological processing of wastes.
- 1.1.24 **Single Stream Recycling/Single Sort Recycling:** The recycling system whereby residents set out recyclables in one category without further sorting by residents in which materials are later processed at a processing facility, including sorting into their individual marketable commodities.
- 1.1.25 **Solid Waste:** Discarded solid materials (except animal waste used as a fertilizer), including MSW, recyclables, food waste/organics, yard waste, bulky waste items and other solid waste materials resulting from industrial, commercial and agricultural operations, and from community activities. Solid waste does not include earthen fill, boulders, rock and other material normally handled in construction operations.
- 1.1.26 **Trash:** See MSW.
- 1.1.27 **Volume-based charges:** Charges that vary based on limits of MSW which a premise is permitted to dispose of, often measured by the trash Cart size.
- 1.1.28 **Washington County Standard List of Residential Curbside Recyclables:** The list of recyclables to collected curbside in all city/township recycling programs within the county to meet basic requirements of the County's Municipal Curbside Recycling and Waste Reduction funding requirements.
- 1.1.29 **Yard Waste:** Grass trimmings, leaves, garden wastes, twigs and miscellaneous tree seeds and cones. Often referred to as "compost."

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## ARTICLE 2. TERM OF AGREEMENT

- 2.1 This Agreement shall commence on the Effective Date and remain in effect through December 31, 2016.
- 2.2 The City reserves the right to terminate this Agreement for material breach or unsatisfactory performance by Highland. Termination shall not affect the City's right to make a claim against Highland or its Performance Bond for the damages on account for such a breach.
- 2.3 No assignment of any rights or obligations under this Agreement shall be made without written approval of the City Council and by mutual agreement of both parties.

## ARTICLE 3. GENERAL COLLECTION REQUIREMENTS

- 3.1 Highland is declared to be an Independent Contractor and nothing in this Agreement shall be construed to create the relationship of employer and employee between the City and Highland, its agents or its employees.
- 3.2 Highland shall furnish all labor and equipment as shall be necessary and adequate to insure satisfactory collection, transportation and proper separation and processing of the MSW, Recyclables and Yard Wastes from all residential dwellings and businesses (Premises) in the City. All work to be performed hereunder shall be done so as to protect to the highest extent the public health and safety. Highland shall collect, transport and arrange or provide processing of all MSW, Recyclables and Yard Wastes from all Premises within the corporate limits of the City, as follows:
  - 3.2.1 **Licenses and Permits.** Highland shall ensure at its own expense that all driver and truck licenses and permits are current and in full compliance with local, state and federal laws and regulations. Any Processing Facility used to handle MSW, Recyclables and Yard Wastes from the City must have current permits and licenses and make the same available upon request by the City.
  - 3.2.2 **Compliance with Law.** Highland shall comply with all Federal, State, County and City laws, regulations and local ordinances pertaining to the Collection and processing of Recyclables, Solid Waste and Yard Waste.
  - 3.2.3 **Frequency of Collection.** MSW collection shall be weekly for each Premise. Recyclables collection shall occur once every other week for each Premise. Yard Waste collection shall be weekly during the season beginning on or about April 1 and continuing through November 30, weather permitting. Residents shall place all Carts curbside no later than 7:00 AM on collection day. Highland shall furnish the City and all of its Premises with a written copy of the schedule of collection for each Premise.
  - 3.2.4 **Hours of Collection.** Collection shall not start before 7:00 a.m. or continue after 8:00 p.m. on the same day. Exceptions to collection hours shall occur only by prior permission of the City. Highland shall request permission from the City for any exception first via telephone and then in writing (email to the City Administrator or designee is acceptable) with an explanation as to the reason for the exception.
  - 3.2.5 **Holidays.** When a Holiday falls on the day that Collection will normally be made, each subsequent Collection day will be delayed one day or performed one day in advance. It

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shall be Highland's responsibility to inform residents in a timely manner of any change in the collection schedule as a result of a Holiday.

- 3.2.6 **Delays.** Highland shall make every effort to maintain established scheduled pick-ups even though conditions such as weather may be adverse. In no event shall Highland be required or suffer penalty for failure to perform a scheduled pickup when prevented from doing so as the result of an undue accumulation of snow and/or other catastrophic conditions. The Afton City Administrator shall determine if such conditions exist. In such case, collection shall be made on the next day.
- 3.2.7 **Containers.** Highland shall provide each residence with a MSW Cart, a clearly distinguished Recycling Cart and a Yard Waste Cart or the residents may use their own containers. The cost of providing the Cart was built into the rate of previous Agreements and Highland may not charge additional fees for carts. Highland shall be responsible for the maintenance of the Carts and except in the case of abuse and/or misuse by a resident, shall replace damaged or broken Carts free of charge. Upon the termination of this Agreement, Highland shall collect all Carts at Highland's expense. Carts shall be handled with reasonable care to avoid damage and are to be replaced in an upright position.
- 3.2.8 **Disabled Subscribers.** Highland shall not require disabled residents to make their Trash or Recyclables available at curbside and shall make arrangements upon contact by each such resident to accommodate Collection.
- 3.2.9 **Missed Collections.** In the case of alleged missed collections, Highland shall investigate, and, if such allegations are verified, Highland shall then arrange for the Collection of the subject materials no later than 4 p.m. the next business day.
- 3.2.10 **Spills or Leaks.** Any contents spilled or fluids leaked from the MSW, Recyclables or the trucks shall be cleaned up immediately in a workmanlike manner. If Highland fails to clean up any scattered or spilled material or leaked material or fluids from trucks within three hours after oral or written notice (email is acceptable) from the City, the City may cause such work to be done and deduct the reasonable cost thereof from any payments due and owing Highland, in addition to any other remedies provided herein.
- 3.2.11 **City Property.** Highland must provide Trash and Recyclables Collection, at no cost to the City, for the following:

NAME AND ADDRESS OF CITY FACILITY	SIZE OF TRASH CONTAINER	SERVICE LEVEL
City Hall, 3033 St. Croix Trail S.	60 gallon	Weekly
Town Square Park	5 @ 32 gallon	Weekly
Town Square Park	4 yard	2X/week, Apr. – Oct.
Steamboat Park	4 yard	2X/week, Apr. – Oct.

Sizes of recyclable containers to be serviced by Highland will be determined by the City.

- 3.2.12 **Annual Cleanup of City Ditches.** On the annual clean-up day, as designated by the City, Highland, without fee or other compensation from the City or any other person, shall provide labor for and collections equipment to collect roadside refuse placed there by volunteer citizens in bags provided by Highland, provided that the City shall pay the

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tipping fee for disposal of the collected refuse upon submission by Highland of the weight receipts.

- 3.2.13 **Fees for Special Events.** Cleanup fees and schedules for all special events or other services in the City Parks shall be negotiated between the party arranging the special events and Highland, provided, however, that Highland shall not have exclusive rights to provide service at these events and the parties arranging special events may contract for services with a hauler of their choice.

### **ARTICLE 4. COLLECTION EQUIPMENT AND PERSONNEL**

- 4.1 **Provision of Equipment.** Highland shall provide all equipment necessary for Collection and transportation of collected Trash, Recyclables and Yard Wastes. All trucks shall be maintained so the material being collected and transported will not be seen and will not blow, fall or leak from the vehicle and fluids will not leak from the trucks.
- 4.2 **Maintenance of Equipment.** Highland shall maintain equipment, used in the performance of this Agreement in a clean and sanitary condition and shall at all times operate such equipment in compliance with State law and City ordinances.
- 4.3 **Compliance with Truck Road Weight Restrictions.** It shall be Highland's sole responsibility to comply with all road weight restrictions. Highland shall immediately inform the City of any notices of exceeding such restrictions. The City retains the right to inspect and/or weigh Highland's trucks at any time.
- 4.4 **Personnel.** Highland shall retain sufficient personnel and equipment to fulfill the requirements and specifications of this Agreement. Highland's personnel shall be trained both in program operations and in customer service, and Highland shall insure that all personnel maintain a positive attitude with the public, and shall:
- 4.4.1 Conduct themselves at all times in a courteous manner and use no abusive or foul language.
  - 4.4.2 Make a concerted effort to have at all times a presentable appearance and attitude.
  - 4.4.3 Wear a uniform and employee identification badge or name tag.
  - 4.4.4 Drive in a safe and considerate manner.
  - 4.4.5 Manage Carts in a careful manner so as to avoid spillage and littering, or damage to the Cart. Carts shall not be replaced in the street, and shall be replaced in an upright position.
  - 4.4.6 Monitor for any spillage or vehicle leaks and be responsible for cleaning up any litter, breakage or leaks.
  - 4.4.7 Avoid damage to personal or City property.
  - 4.4.8 Not perform their duties or operate vehicles while consuming alcohol or illegally using controlled substances or while under the influence of alcohol and/or such substances.

### **ARTICLE 5. INSURANCE; INDEMNIFICATION**

- 5.1 **Insurances.** Highland shall carry and file policies or certificates with the City for worker's compensation insurance (statutory level), public liability insurance (including for automobiles and trucks), and property damage insurance. The City shall be named as an additional insured in all such policies, and the policies shall be in form and substance acceptable to the City. All

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liability policies shall provide coverage in an amount at least equal to \$1,000,000 per person and \$2,000,000 per occurrence. In the event the maximum municipal tort liability limits as set out in Minn. Stat. 466.04 increase above the amounts currently in place, Highland shall increase its liability insurance coverage to equal or exceed such maximum amounts.

- 5.2 **Performance Bond.** Highland shall obtain a Performance Bond in the amount of \$3,000 payable to the City for the use of said City. The Performance Bond shall be signed by Highland and with a surety of company as surety. The Performance Bond shall at all times be kept in full force and effect. The bond shall be filed with the City Administrator/Clerk or the designee.
- 5.3 **Payments.** Highland shall pay all bills or claims for wages, salaries and supplies, incurred in the operation of the collection service. The City has no obligation or responsibility for bills or debts incurred by Highland.
- 5.4 **Indemnification.** Highland agrees to take title to MSW, Recyclables and all other collected materials upon collection by Highland. Highland shall defend, indemnify and save harmless the City from any and all claims and causes of action which may be asserted against the City on account of any act or omission, or any misfeasance or malfeasance of Highland or its employees and agents in connection with its performance under this Agreement. Highland shall defend, indemnify, keep and save harmless the City and its respective officers, agents and employees against any or all suits or claims that may be based upon any injury or damage to persons or property that may occur, or that may be alleged to have occurred, in the course of the performance of this contract by Highland, or as a result of the performance of this contract Highland, whether or not it shall be claimed that the injury was caused through a negligent act or omission of Highland or his/her employees, and also any claims: a.) arising under the Minnesota Environmental Response and Liability Act (“MERLA”) enacted in 1983; b.) its federal counterpart, the Comprehensive Environmental Response Compensation and Liability Act of 1980 as amended by the Superfund Amendments and Reauthorization Act (“SARA” of 1986 (together known as CERCLA); c.) any administrative rule or statute of Minnesota or any other State; d.) any common law theory of and other State or the United States; or e.) claims based upon the clean-up of abandoned or existing sites contaminated or allegedly contaminated with hazardous substances, if any claims described in (a) through (e) are based upon solid waste transported from the City by Highland or his/her subcontractors or his/her or their agents or in connection with any claim based on lawful demands of subcontractor, work person, suppliers; and whether or not the persons injured or whose property was damaged were third parties, employees or Highland or employees of an authorized subcontractor; and Highland shall at his/her own expense defend the City in all litigation, pay all attorneys' fees and all costs and other expenses arising out of the litigation or claim or incurred in connection therewith; and shall, at his/her own expense, satisfy and cause to be discharged such judgments as may be obtained against the City, or any of its officers, agents or employees.

### ARTICLE 6. MSW (TRASH) COLLECTION

- 6.1 **Waste Removal.** Highland shall provide for the removal of Trash from all Premises in the City. Highland shall offer its services to all residential dwellings and all businesses in the City, without exception, by written notice, describing service schedules and rates and Cart options. Such notice

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shall be delivered at least annually in a form and content approved by the City. Highland shall immediately report to the City all Premises that refuse or discontinue waste removal services.

- 6.2 **Refusal Notice.** If any subscribing person places any items out for pickup and the item is not taken by Highland, Highland shall provide written notification to the resident and to the City of reason(s) for refusal to pick up the item.
- 6.3 **Carts.** Highland shall make carts available to each Premise for trash Collection, or Premises may supply their own containers.
- 6.4 **Required Disposal.** Pursuant to MN 115A.46 and 115A.471 all waste collected by Highland in the City shall be delivered to the Ramsey/Washington County Resource Recovery Facility in Newport.

### ARTICLE 7. RECYCLABLES COLLECTION

- 7.1 **Single Sort Recycling:** Except for auto and tractor batteries, Highland shall not require separation of Recyclables by type, but shall permit City residents to aggregate all of their Recyclable Materials into the same Cart for collection by Highland.
- 7.2 **Recyclables to be Collected:** Highland shall collect at a minimum the Washington County List of Standard Recyclables in addition to those Recyclables such as batteries for which it has found or developed markets. Highland shall update the list of Recyclables it Collects to remain current with the Washington County List of Standard Recyclables. The current list of Recyclables, as of the date of Contract execution, includes at a minimum:

- ◆ PAPER
  - ▶ Boxboard including corrugated cardboard (OCC)
  - ▶ Magazines and catalogs
  - ▶ Mail (window and metal clasps acceptable), office and school papers
  - ▶ Newspaper and inserts, Phone books
  - ▶ Shredded paper in closed paper bag
- ◆ CARTONS
  - ▶ Milk and broth cartons
  - ▶ Juice boxes
- ◆ METAL
  - ▶ Food and beverage aluminum/tin/bimetal cans
- ◆ GLASS
  - ▶ Food and beverage bottles and jars
- ◆ PLASTICS
  - ▶ PET (#1)
    - water, soda and juice bottles
    - ketchup and salad dressing bottles
  - ▶ HDPE (#2)
    - Milk and juice jugs
    - Dish soap bottle and detergent jugs
    - Shampoo, soap and lotion bottles
  - ▶ PP (#5)
    - Yogurt, pudding and fruit cups
    - Margarine, cottage cheese and other tubs

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- 7.3 **Additional Recyclable Materials.** After maximizing the use of their recycling Cart, residents who have a large amount of Cardboard or other Recyclables may bundle this material up and leave it beside the Recycling Cart for pickup and Highland shall pick up such additional Recyclables at its regular Collection time at no additional charge.
- 7.4 **Ownership of Recyclables.** All recyclables placed for Collection by residents from eligible persons shall remain the responsibility and ownership of the residents until picked up by Highland. The City requires that all collected Recyclables must be delivered to the Recycling Processing Facility; there shall be no scavenging of materials set out by residents.
- 7.5 **Changes to Collection System.** Highland shall not make changes to the Single Stream Collection or processing system without written direction of the city.
- 7.6 **Education.** Highland shall provide two (2) education /outreach actions per year, which may include direct-mail pieces, Afton-specific recycling education advertising in the City of Afton Newspaper of Record, literature drops at Premises, or other City-approved options. The method of distribution and content of materials shall be approved by the City in writing prior to distribution. Additional agreed upon education actions may be implemented, such as targeting new residents or recycling incentives programs.
- 7.7 **Processing of Recyclables.** Highland shall haul all collected Recyclables to a Recyclables Processing Facility or end market for sale or reuse, or to an intermediate collection center for later delivery to a Recyclables Processing Facility or end market. An invoice shall be received by Highland showing the tonnage of Recyclables collected within the City. Such invoice must be in a form sufficient to qualify the recyclables as having been properly processed for purposes of the Agreement. Highland may not transport the Recyclables to a mixed municipal solid waste disposal facility. Highland or its subcontractors shall not landfill, incinerate, compost or make fuel pellets out of the Recyclable Materials. All costs of transporting and depositing the Recyclables with the Recyclables Processing Facility or the end market shall be at the sole expense of Highland

### **ARTICLE 8. RECYCLABLE COLLECTION REPORTS**

- 8.1 **Weight Records.** Highland will keep accurate records of the weights and types of recyclables collected in the City. Separated recyclables will be weighed after completion of a route or at the end of the day, whichever occurs first, on a certified scale. All recyclables and MSW collected in the City shall be weighed separately from recyclables and MSW collected in other geographic subdivisions. A copy of each weight ticket for separated recyclables and for MSW shall be kept on file, as shall records of facilities that the recyclables are taken to and the recyclable markets used for recyclables generated in the City and/or amount of City recyclables stored by those facilities.
- 8.2 Highland shall participate with the City in tests such as waste sorts to confirm the methodology and accuracy of the above data for weights of MSW and recyclables or to identify opportunities to increase recycling.
- 8.3 **Reports.** Highland will submit quarterly reports to the City. Reports shall be due to the City by the fifteenth (15th) day of April, July, October and January. Highland is encouraged to include in

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its reports recommendations for continuous improvement in the City's recycling program (e.g., public education, business recycling, etc.).

At a minimum, Highland shall include the following information in these reports:

- A. Total tons of recyclables and MSW collected. "Total tons" is defined as the combined number of tons recorded from the total actual recyclable and MSW pick-ups (stops) recorded for each of the three (3) months of the reporting quarter.
- B. Method used to collect and report total quantities of recyclables and MSW collected, which shall be in compliance with the Washington County Hauler Residential Recycling Hauler Report.
- C. Available pick-ups (stops). "Available pick-ups" is defined as the number of residential accounts billed for each of the three (3) months of the reporting quarter.
- D. Total actual number of MSW pick-ups (stops). "Total actual MSW pick-ups" is defined as the combined number of actual MSW pick-ups recorded for each of the three (3) months of the reporting quarter.
- E. Total actual number of Recycling Pick-ups (stops). "Total actual Recycling pick-ups" is defined as the combined number of actual Recycling pick-ups recorded for each of the three (3) months of the reporting quarter.
- F. Log of all complaints, including the nature of the complaints, to include the following:
  1. Names, addresses, and contact numbers of the complainants;
  2. The date and time received;
  3. Highland's response; and the date and time of the response.
  4. Log of addresses of premises that did not put out recyclables containers that month.
- F. Education materials provided to City of Afton residents that quarter.
- G. Suggestions for improvements to the City of Afton recycling program.

### 8.4 Access to Records

Highland shall provide to the City during normal business hours, access to books, documentation, papers, weigh tickets and other records that are directly pertinent to the required reports. Highland shall document and retain dated market weight receipts of recyclable materials sold for the last three years, which upon request will be made available to the City for review.

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### **ARTICLE 9. YARD WASTE COLLECTION**

- 9.1 Highland shall provide separate yard waste collection as an additional service during the months of April through November, weather permitting.
- 9.2 Yard waste shall be prepared as specified by Highland and shall be Collected at curbside on the same day as Trash collection.
- 9.3 Yard Waste may not be placed or Collected in plastic bags, to comply with Minnesota Statute (M.S. 115A.931, Subd. (c) and M.S. 325E.046).

### **ARTICLE 10. Bulky Waste**

- 10.1 Highland shall Collect Bulky Waste or Electronic Waste from Premises at their request. Collection shall be made within one (1) calendar week of the request.
- 10.2 Highland shall provide Collection, processing and marketing or disposal services related to these bulky items and electronic waste.
- 10.3 Highland shall bill Premises for bulky item, electronic waste and other problem material collection processing and marketing or disposal services only in accordance with Attachment A of this Agreement. .

### **ARTICLE 11. BILLING**

- 11.1 **Billing.** Highland shall collect all charges from each Premise for its Collection services,
- 11.2 **Additional Premises.** The City, on request, will inform Highland of known changes of occupancies or vacancies or of residential use.
- 11.3 **Contracts for Additional Collections.** Highland may, independently of this Agreement, contract with any resident to collect Trash or Solid Waste excluded from the mandatory Collection by the Agreement. Highland's charge for the services shall be listed in Attached Exhibit A, subject to change with the written approval of the City. If the Collection is not listed, the price shall be negotiated between Highland and the customer.
- 11.4 **Accounts in Arrears.** Highland has the right to suspend service to any account over sixty (60) days in arrears. Highland may reestablish service when it has received payment in full.
- 11.5 **Extended Vacation.** A Premise can obtain, up to six (6) times per year, a vacation credit for a minimum of one (1) week, with notification to Highland prior to the vacation of the dates that service is not needed. Exceptions to the six (6)-time maximum may be granted at Highland's discretion.
- 11.6 **Collection Fees.** Volume/weight-based garbage fees must be offered to each Premise (MN§115A.93 subd.3). The rate that Highland shall charge for Collection of Solid Waste and

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Recyclables including MN Solid Waste Taxes and County Environmental Charges (CEC) (all-inclusive) for each Premise shall be:

- |        |   |                                    |
|--------|---|------------------------------------|
| 11.6.1 | For 90 gallon trash and recycling service | \$27.51/month                      |
| 11.6.2 | For 60 gallon trash and recycling service | \$23.54/month                      |
| 11.6.3 | For 35 gallon trash and recycling service | \$19.45/month                      |
| 11.6.4 | Senior Citizen (Over 65 years)            | Same as above less<br>\$1.50/month |

11.6.5 A "Green Discount" is offered to those persons that accept an e-mailed bill. The Green Discount is fifty cents (\$0.50) per month.

11.7 **Rate increase.** During the term of the agreement no increase in rates shall be granted to Highland unless requested by September 15 of 2015 for the calendar year 2016.

### **ARTICLE 12. INDEPENDENT CONTRACTOR**

12.1 Nothing contained in this Agreement is intended to, or shall be construed in any manner, as creating or establishing the relationship of employer/employee between the parties. Highland shall at all times remain an independent contractor with respect to the services to be performed under this Agreement. Any and all employees of Highland or other persons engaged in the performance of any work or services required by Highland under this Agreement shall be considered employees or subcontractors of Highland only and not of the City; and any and all claims that might arise, including worker's compensation claims under the Worker's Compensation Act of the State of Minnesota or any other state, on behalf of said employees or other persons while so engaged in any of the work or services provided to be rendered herein, shall be the sole obligation and responsibility of Highland.

### **ARTICLE 13. CUSTOMER SERVICE REQUIREMENTS**

- 13.1 **Complaints.** Highland shall provide staffing of a telephone equipped office to receive missed Collection complaints and other complaints between the hours of 8:00 a.m. until 4:30 p.m. Monday through Friday. Highland shall have an answering machine or voice mail system activated to receive phone calls after hours. The address and telephone number of the office shall be given to the City in writing, with ten (10) days prior notice of a change therein. Highland shall also allow complaints to be made electronically (by e-mail). Each month Highland shall provide the City with a list of all customer complaints, the nature of these complaints and a description of how each complaint was resolved.
- 13.2 The names of the complainants and contact numbers or e-mail addresses must also be included. Complaints on service will be taken and collected by the City and Highland. The City shall promptly relay any complaints it receives from its residents regarding Highland's performance to Highland. Highland is responsible for corrective actions. Highland shall answer all complaints courteously and promptly. Highland shall, within three business days thereafter, inform the City how it responded to such complaints.
- 13.3 **Failure to Perform.** In the event Highland fails to collect the MSW, Recyclables and Yard Waste as required by this Agreement, the City may, at its option, hire such labor and equipment as may be necessary to collect and dispose of such MSW, Recyclables and Yard Waste after Highland is given three (3) business days to remedy the situation. The City may, at the City's sole option, terminate this Agreement in accordance with Article Sixteen (16). In the event remedy

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does not occur, Highland shall reimburse the City for all reasonable collection expenses the City incurs above and beyond the amounts the City is obligated to pay for such collection under this Agreement or the City shall utilize the Performance Bond for such expenses.

### **ARTICLE 14. ASSIGNMENT AND SUBCONTRACTING**

- 14.1 Highland shall not assign or subcontract this Agreement or any interest therein or any privilege or right granted therein without the prior written consent of the City. Consent to one assignment or subcontract shall not be deemed to be consent to any subsequent assignment or subcontract.

### **ARTICLE 15. MISCELLANEOUS**

- 15.1 **Liquidated Damages.** Highland agrees, in addition to any other remedies available to the City, that the City may withhold payment from Highland in the amounts specified below as liquidated damages for failure of Highland fulfilling its obligations:
- 15.1.1 Failure to respond to legitimate service complaints within 24 hours in a reasonable and professional manner - fifty dollars (\$50) per incident.
  - 15.1.2 Failure to collect properly notified missed collections - two hundred and fifty dollars (\$250) per incident.
  - 15.1.3 Failure to provide monthly and/or annual reports - one hundred dollars (\$100) per incident.
  - 15.1.4 Failure to complete the collections within the specified timeframes without proper notice to the City - one hundred dollars (\$100) per incident.
  - 15.1.5 Failure to clean up spills during collection operations - two hundred fifty dollars (\$250) per incident.
  - 15.1.6 Failure to report on changes in location of Recyclable Processing operations two hundred fifty dollars (\$250) per incident.
  - 15.1.7 Failure to collect Washington County List of Standard Recyclables within one month of notification of a change to the List one hundred dollars (\$100) per week of non-collection.
  - 15.1.8 Failure maintain current County licenses to haul MSW, Recyclables, Organics or Yard Waste five hundred dollars (\$500) per day.
- 15.2 **Waiver.** The waiver by the City of any breach or violation of any term covenant, or condition of this Contract shall not be a waiver of any subsequent breach or violation of the same or any other term, covenant or condition hereof.
- 15.3 **Binding Effect.** The terms, covenants, and conditions of this contract shall apply to, and shall bind and inure to the benefit of the parties, their successors, and assigns.
- 15.4 **Data Practices.** Highland agrees to comply with the Minnesota Government Data Practices Act and all other applicable state and federal laws relating to data privacy or confidentiality. Highland must immediately report to the City any requests for third parties for information relating to this Agreement. The City agrees to promptly respond inquiries from Highland concerning data requests. Highland agrees to hold the City, its officers, and employees harmless from any claims

## City of Afton

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resulting from Highland's unlawful disclosure or use of data protected under state and federal laws.

- 15.5 **Force Majeure:** Whenever a period of time is provided for in the Contract for either the City or Highland to so or perform any act or obligation, neither party shall be liable for any delays or inability to perform due to causes beyond the control of said party such as war, riot, unavoidable casualty or damage to personnel, materials or equipment, fire, flood, storm, earthquake, tornado or any act of God, but not strike or lockout. The time period for the performance in question shall be extended for only the actual amount of time said party is so delayed.

### **ARTICLE 16. TERMINATION**

The City may terminate this Agreement if Highland fails to fulfill its obligations under the Agreement in a proper and timely manner, or otherwise violates the terms of the Agreement if the default has not been cured after thirty (30) days written notice has been provided. The City may also terminate this Agreement immediately if Highland fails to maintain County permits required to collect and transport MSW, Recyclables, Organics or Yard Waste. The City shall pay Highland all compensation earned prior to the date of termination minus any damages and costs incurred by the City as a result of the breach. If the Agreement is cancelled or terminated, all finished or unfinished documents, data, studies, surveys, maps, models, photographs, reports or other materials prepared by Highland under this Agreement shall, at the option of the City, become the property of the City, and Highland shall be entitled to receive just and equitable compensation for any satisfactory work completed on such documents or materials prior to the termination.

City of Afton

IN WITNESS WHEREOF, the parties have hereunto executed this Agreement, by their officers, as of the day and year first above written.

CITY OF AFTON:

CONTRACTOR: Highland Sanitation

By: Richard A. Bend  
Mayor Richard Bend, City of Afton

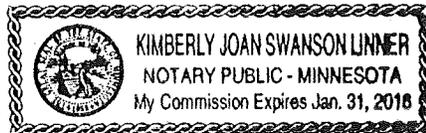
By: Susan Stewart  
Authorized Signature, Highland Sanitation

By: Ronald J. Moorse  
Ronald J. Moorse, City Administrator

STATE OF MINNESOTA )  
 )ss.  
COUNTY OF WASHINGTON )

Subscribed and sworn to before me by Richard Bend and Ronald J. Moorse, respectively, the Mayor and City Administrator of the City of Afton, a Minnesota municipal corporation this 22 Day of July, 2015.

Kim Swanson Linner  
Notary Public

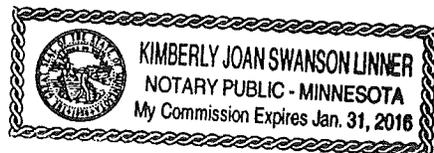


STATE OF MINNESOTA )  
 )ss.  
COUNTY OF WASHINGTON )

Subscribed and sworn to before me on behalf of Highland Sanitation by Susan Stewart the V. Pres. of Highland Sanitation, a Minnesota corporation this (Title)

22 Day of July, 2015.

Kim Swanson Linner  
Notary Public



## City of Afton

Attachment A  
Bulky Waste and Yard Waste Prices  
January 2014 through December 2016  
(Per Item Unless Otherwise Specified)

Item	Cost
<b>Appliances</b>	
Freezer, Refrigerator, Air Conditioner	\$60.00
Hot Water Heater, Stove, Dishwasher, Washing Machine, Dryer	\$50.00
Microwave or Dehumidifier	\$25.00
Television or Monitor, 19" or less	\$35.00
Television or Monitor, 20" – 30"	\$75.00
Television larger than 31"	\$100.00
Computer (CPU), Printer	\$25.00
Water Softener (no salt)	\$25.00
<b>Furniture</b>	
Hide-a-bed	\$60.00
Couch	\$35.00
Recliner, upholstered chair or loveseat	\$25.00
Mattress or Box Springs	
♦ Single	\$20.00
♦ Double (Full)	\$22.00
♦ Queen	\$24.00
♦ King	\$26.00
Dresser	\$20.00
Wood Desk	\$30.00
Metal Desk	\$40.00
Table	\$25.00
Non-upholstered chairs, office chairs	\$ 5.00
<b>Miscellaneous</b>	
Bikes	\$10.00
Gas Grills (no tanks)	\$25.00
Vacuum cleaner	\$ 5.00
Cart tire	\$10.00
Toilet	\$15.00
Sink (not iron)	\$10.00
Wooden Door	\$10.00
Carpet and pad, small room	\$25.00
Carpet and pad, large room	\$45.00
<b>Extra Trash, Yard Waste</b>	
30 gallon bag, trash	\$3.00
30 gallon bag, yard waste	\$3.00
Bundle brush (3' X 1')	\$4.00
Seasonal Yard Waste	\$12.00/month