

SOLID WASTE SERVICES AGREEMENT

THIS SOLID WASTE SERVICES AGREEMENT is made and entered into the _____ day of November, 2016 by and between the CITY OF AFTON, a Minnesota Municipal Corporation organized and existing under the laws of the State of Minnesota ("City") and {To Be Determined} ("Contractor"), 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, the City released a request for proposals (RFP) for solid waste and recyclables collection services on September 21, 2016; and,
- C. WHEREAS, the Contractor submitted a proposal in response to the City's RFP on October 7, 2016; and,
- D. WHEREAS, the Contractor's proposal and response to specific questions certified the Contractor accepted the terms and service specifications contained within the RFP packet; and,
- E. WHEREAS, the City has determined Contractor 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

For purposes of this Agreement, terms not otherwise defined herein shall have the following meanings:

- 1.1 **Agreement:** This City of Afton Solid Waste Services Agreement for solid waste and recyclables collection services and as subsequently amended.
- 1.2 **Bulky Waste:** See 'Problem Materials'.
- 1.3 **Cart:** The wheeled, lidded container provided by the Contractor in which solid waste, recyclable materials or yard wastes can be stored and placed for curbside collection.

-
- 1.4 **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 facility or end market.
- 1.5 **City-Designated Solid Waste Disposal Facility:** The facility designated by the City where Contractor is required to deposit MSW collected under this Agreement. Until amended otherwise, the City currently designates the Ramsey/Washington Recycling and Energy Center (R&E Center) as the City-designated Solid Waste Disposal Facility.
- 1.6 **Collection Vehicle:** Any vehicle licensed and inspected for Solid Waste collection as required by the state and county.
- 1.7 **Composting Facility:** Licensed facility to process yard waste and/or source separated organics in conformance with state and local regulations.
- 1.8 **County:** Washington County, MN.
- 1.9 **Dumpster:** A container having a minimum capacity of one cubic yard, of an approved sanitary type, with the proper attachments for lifting onto a Collection Vehicle.
- 1.10 **Dwelling Unit:** A separate dwelling place with a kitchen.
- 1.11 **Electronic Waste:** Any discarded consumer electronic device as described in Mn. Stat. 115A. 1310, typically having 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.
- 1.12 **Food Waste/Organics:** (Also referred to as “organics” and “source separated organic materials”.) Food waste and other compostable organic materials as defined in Minnesota Statutes that are source separated for recovery. The term food waste/organics not include yard waste for purposes of this Agreement.
- 1.13 **Hazardous Waste:** Waste or material defined, characterized or designated as hazardous by the United States Environmental Protection Agency (USEPA), appropriate State agencies, or Washington County by or pursuant to Federal or State law or regulations. For purposes of this Agreement, the term hazardous waste shall also include motor oil, gasoline, non-alkaline batteries, paint, paint thinner, insecticides, toxic materials, acids, drugs, fireworks, ammunition and other hazardous substances so designated by the City, or Washington County.
- 1.14 **Holidays:** New Year’s Day, Memorial Day, Fourth of July, Labor Day, Thanksgiving Day, Christmas Day.
- 1.15 **Mixed Municipal Solid Waste (MSW):** As defined in Minnesota Statutes, 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 Agreement as “trash”.
- 1.16 **Person:** Includes any natural person, corporation, firm or association.
- 1.17 **Pick-up (Stop):** A collection of one or more containers from a premise. One pick-up may include more than one container or extra bag or bundle.
- 1.18 **Premises:** Any dwelling house, building, and every other place where any person resides or a business is operated within the City.
- 1.19 **Problem Materials:** As defined in Minnesota Statutes 115A.03, subdivision 24a, waste that is too large to fit into a standard trash cart and requires special collection by Contractor. Problem material waste includes (but is not limited to): furniture, appliances, mattresses, and bed springs, and may be referred to as “bulky waste.” Problem material waste does include household electronic waste.
- 1.20 **Recyclables:** Shall have the meaning set forth in Minnesota Statutes and means materials that are source separated from MSW for the purpose of recycling. At a minimum, the list of recyclables shall be at least inclusive of the Washington County Standard List of Residential Curbside Recyclables.
- 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.
- 1.22 **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.
- 1.23 **Solid Waste:** Discarded solid materials (except animal waste used as a fertilizer), including MSW, recyclables, food waste/organics, yard waste, Problem Materials 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.
- 1.24 **Trash:** See MSW.
- 1.25 **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.
- 1.26 **Washington County Standard List of Residential Curbside Recyclables:** The list of recyclables 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.
- 1.27 **Yard Waste:** As defined in Minnesota Statutes, grass trimmings, leaves, home and garden plant wastes, twigs and branches less than four (4) inches in diameter and miscellaneous tree seeds and cones.

ARTICLE 2. TERM OF AGREEMENT

- 2.1 This Agreement shall commence on January 1, 2017 and shall remain in full force and effect through December 31, 2021, unless terminated in accordance with Section 16 of this Agreement.
- 2.2 The City at its sole discretion may elect to extend the Agreement for five (5), one (1) – year increments or the City at its sole discretion may elect to extend the Agreement for one (1), five (5) year extension. The terms and conditions of this Agreement shall apply to any such Agreement extension. Nothing in this Agreement shall be interpreted to imply or infer that the City is committing to such extensions.
- 2.3 At least six (6) months prior to the expiration of this Agreement (or any extension period), the City shall notify the Contractor of its decision as to whether or not to exercise its extension option. The Contractor may request an early decision by the City for an extension of the Agreement by submitting a written request.
- 2.4 The City reserves the right to terminate this Agreement for material breach or unsatisfactory performance by Contractor. Termination shall not affect the City’s right to make a claim against Contractor or its Performance Bond for the damages on account for such a breach.
- 2.5 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 REQUIREMENTS

- 3.1 **Independent Contractor.** Contractor 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 Contractor, its agents or its employees.

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. Contractor shall at all times remain an independent contractor with respect to the services to be performed under this Agreement.

Any and all employees of Contractor or other persons engaged in the performance of any work or services required by Contractor under this Agreement shall be considered employees or subcontractors of Contractor 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 Contractor.

- 3.2 **Licenses and Permits.** Contractor 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,

-
- Problem Materials and Yard Wastes from the City must have current permits and licenses and make the same available upon request by the City.
- 3.3 **Compliance with Law.** Contractor shall comply with all federal, state, County and City laws, regulations and local ordinances pertaining to the Collection and processing of MSW, Recyclables, Problem Materials and Yard Waste.
- 3.4 **Days of Collection.** (Not listed anywhere else. Language on service days for both residential and commercial need to be listed in here.
- 3.5 **Hours of Collection.** Residents shall place all Carts curbside no later than 7:00 AM on collection day. 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. Contractor 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.
- 3.6 **Holidays.** When a Holiday falls on a weekday (Monday through Friday) in a week that Collection will normally be made, Collection day may be delayed one day. It shall be Contractor's responsibility to inform residents in a timely manner of any change in the collection schedule as a result of a Holiday.
- 3.7 **Delays.** Contractor shall furnish the City and all of its Premises with a written copy of the schedule of collection for each Premise. Contractor shall make every effort to maintain established scheduled pick-ups even though conditions such as weather may be adverse. In no event shall Contractor 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.
- 3.8 **Missed Collections.** In the case of alleged missed collections, Contractor shall investigate, and, if such allegations are verified, Contractor shall then arrange for the Collection of the subject materials no later than 4 p.m. the next business day.
- 3.9 **Spills or Leaks.** Any contents spilled or fluids leaked from the MSW, Recyclables, yard waste or the trucks shall be cleaned up immediately in a workmanlike manner. If Contractor 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 bill the reasonable cost thereof to Contractor, in addition to any other remedies provided herein.
- 3.10 **Carts and Dumpsters.** Contractor shall provide each Premise with a MSW Cart or Dumpster, a clearly distinguished Recycling Cart or Dumpster and a Yard Waste Cart if required. Residents may use their own containers for yard waste. Contractor may not charge additional fees for carts. Contractor shall be responsible for the maintenance of the Carts and Dumpsters and except in the case of abuse and/or misuse by a premise, shall replace damaged or broken Carts or Dumpsters free of charge. Upon the termination of this Agreement, Contractor shall collect all Carts and Dumpsters at Contractor's expense. Carts and Dumpsters shall be handled with reasonable care to

avoid damage and are to be replaced in an upright position in the location they were found.

- 3.11 **Disabled Subscribers.** Contractor shall not require disabled residents to make their Trash or Recyclables available at curbside and shall make arrangements upon contact by such resident to accommodate Collection.
- 3.12 **City Property.** Contractor 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 at each location to be serviced by Contractor will be determined by the City.

- 3.13 **Annual Cleanup of City Ditches.** On the annual cleanup day, as designated by the City, Contractor, 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 Contractor, provided that the City shall pay the tipping fee for disposal of the collected refuse upon submission by Contractor of the weight receipts.
- 3.14 **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 Contractor, provided, however, that Contractor 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. INSURANCE; INDEMNIFICATION

- 4.1 **Insurances.** Contractor 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 liability policies shall provide coverage in an amount at least equal to \$1,000,000 per person and \$2,000,000 per occurrence. Workers Compensation policies shall be compliant with state law. The Contractor shall maintain Umbrella Coverage insurance. The minimum limit shall be \$5,000,000.
- 4.2 **Performance Bond, Payment Bond.** Contractor shall obtain a Performance Bond to ensure that the work will be completed according to the terms of the Agreement, and a

Payment Bond to ensure that subcontractors, and people who provide labor and materials associated with the Agreement are paid. Each Bond shall be in the amount of \$10,000 payable to the City for the use of said City. Each Bond shall be signed by Contractor and with a surety of company as surety. Each Bond shall at all times be kept in full force and effect. The Bonds shall be filed with the City Administrator/Clerk or the designee.

4.3 **Payments.** Contractor 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 Contractor.

4.4 **Indemnification.** Contractor agrees to take title to MSW, Recyclables. Problem Materials and all other collected materials upon collection by Contractor. Contractor 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 Contractor or its employees and agents in connection with its performance under this Agreement. Contractor 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 Agreement by Contractor, or as a result of the performance of this Agreement, whether or not it shall be claimed that the injury was caused through a negligent act or omission of Contractor or its employees and whether or not the persons injured or whose property was damaged were third parties, employees or Contractor or employees of an authorized subcontractor. Contractor shall defend, indemnify, keep and save harmless the City and its respective officers, agents and employees against any or all suits or 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.
- 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 Contractor or its subcontractors or their agents or in connection with any claim based on lawful demands of subcontractor, work person, suppliers.

Contractor shall at its 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 its 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 5. COLLECTION EQUIPMENT AND PERSONNEL

- 5.1 **Labor and Equipment, General.** Contractor 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, Problem Materials and Yard Wastes from all 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.
- 5.2 **Maintenance of Equipment.** Contractor 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. Equipment 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.
- 5.3 **Compliance with Truck Road Weight Restrictions.** It shall be Contractor's sole responsibility to comply with all road weight restrictions. Contractor shall immediately inform the City of any notices of exceeding such restrictions. The City retains the right to inspect and/or weigh Contractor's trucks at any time.
- 5.4 **Personnel.** Contractor shall retain sufficient personnel and equipment to fulfill the requirements and specifications of this Agreement. Contractor's personnel shall be trained both in program operations and in customer service, and Contractor shall insure that all personnel maintain a positive demeanor with the public, and shall:
- 5.4.1 Conduct themselves at all times in a courteous manner and use no abusive or foul language.
 - 5.4.2 Make a concerted effort to have at all times a presentable appearance and attitude.
 - 5.4.3 Wear a uniform and employee identification badge or name tag.
 - 5.4.4 Drive in a safe and considerate manner.
 - 5.4.5 Manage Carts and Dumpsters 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.
 - 5.4.6 Monitor for any spillage or vehicle leaks and be responsible for immediately cleaning up any litter, breakage or leaks.
 - 5.4.7 Avoid damage to personal or City property.
 - 5.4.8 Return Dumpsters to their original location and ensure gates are closed after servicing.
 - 5.4.9 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 6. MSW (TRASH) COLLECTION

- 6.1 **Weekly Collection.** MSW collection shall be weekly for each Premises, although a Premises may have more frequent collection. A Premise may also have less frequent collection with the prior approval of the City.
- 6.2 **Waste Removal.** Contractor shall provide for the removal of MSW from all Premises in the City. Contractor shall offer its services to all Premises in the City, without exception, by written notice, describing service schedules and rates and Cart and/or Dumpster options. Such notice shall be delivered at least annually in a form and content approved by the City prior to preparation for delivery. Contractor shall immediately report to the City all Premises that refuse or discontinue waste removal services.
- 6.3 **Refusal Notice.** If any Premises places any items out for pickup and the item is not taken by Contractor, Contractor shall provide written notification to the Premises and to the City of reason(s) for refusal to pick up the item.
- 6.4 **Carts and Dumpsters.** Contractor shall make Carts or Dumpsters available to each Premise for MSW Collection. MSW Carts shall be provided in at least three (3) sizes: approximately ninety (90), sixty-five (65) and thirty (30) gallons. MSW Dumpsters shall be provided in at least two (2) sizes, two (2) yards and four (4) yards, and options for single day per week service and multiple day per week service shall be offered to Dumpster customers.
- 6.5 **Required Disposal.** Pursuant to MN 115A.46 and 115A.471 all waste collected by Contractor in the City shall be delivered to the Ramsey/Washington Recycling & Energy Center (R&E Center).

ARTICLE 7. RECYCLABLES COLLECTION

- 7.1 **Single Sort Recycling.** Contractor shall not require separation of Recyclables by type, but shall permit Premises to aggregate all of their Recyclable Materials into the same Cart or Dumpster for Collection by Contractor.
- 7.2 **Frequency of Collection.** Recyclables Collection shall occur once every other week for each Premise, except that businesses may have more frequent recyclables collection. {May be changed to weekly collection after consideration by the City of Proposals received.}
- 7.3 **Recyclables to be Collected.** Contractor shall collect at a minimum the Washington County List of Standard Recyclables in addition to those Recyclables for which it has found or developed markets. Contractor shall update the list of Recyclables it Collects to remain current with the Washington County List of Standard Recyclables.
- 7.4 **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 Contractor shall pick up such additional Recyclables at its regular Collection time at no additional charge. Premises may request, and Contractor shall provide and service additional Recycling

-
- Carts at no additional charge. Businesses shall have an appropriate-sized cart or dumpster for recyclables and all recyclables shall fit into the cart or dumpster.
- 7.5 **Ownership of Recyclables.** All recyclables placed for Collection by Premises from eligible persons shall remain the responsibility and ownership of the residents until picked up by Contractor. There shall be no scavenging of materials set out by Premises.
- 7.6 **Changes to Recycling Collection System.** Contractor shall not make changes to Recyclables Collection system or the Recyclables Processor without the prior written agreement of the City.
- 7.7 **Education.** Contractor 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. Contractor shall have an Afton-specific online (web) site with information about the Solid Waste, Recycling, Problem Materials and Yard Waste Collection program. Additional agreed upon education actions may be implemented, such as targeting new residents or recycling incentives programs.
- 7.8 **Processing of Recyclables.** Contractor 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. A statement shall be received by Contractor showing the tonnage of Recyclables collected within the City. Such statement must be in a form sufficient to qualify the recyclables as having been properly processed for purposes of the Agreement. Contractor may not transport the Recyclables to a mixed municipal solid waste disposal facility. Contractor 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 Contractor.
- 7.9 **Records and Waste Sorts.** Contractor will keep accurate records of the weights and types of recyclables collected in the City. Contractor shall participate with the city in tests such as waste sorts to confirm the methodology and accuracy of MSW, recyclables, and SSO weights and also to study residential capture rates or to identify opportunities to increase recycling.

ARTICLE 8. YARD WASTE COLLECTION

- 8.1 **Collection.** Contractor shall provide separate yard waste collection as an additional service during the months of April through November, weather permitting. Yard Waste collection shall be weekly during the season.
- 8.2 **Preparation by Premises.** Contractor shall make Carts available to each Premise for Yard Waste Collection, or Premises may supply their own containers. 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). Yard waste shall be prepared by Premises as

specified by Contractor and shall be Collected at curbside on the same day as MSW collection.

- 8.3 **Licensed composting facility.** Contractor shall haul all collected Yard Wastes to a licensed composting facility for processing, sale or reuse, or to an intermediate collection center for later delivery to a composting or processing facility.

ARTICLE 9. PROBLEM MATERIALS COLLECTION

- 9.1 **Collection.** Contractor shall provide Collection, processing and marketing or disposal services related to Problem Materials including Electronic Waste from Premises at their request. Collection shall be made within one (1) calendar week of the request.
- 9.2 **Processing and Disposal.** Contractor shall insure that processing and disposal of Problem Materials shall be conducted at a licensed facility in accordance with applicable County, state and federal rules and regulations.
- 9.3 **Billing.** Contractor shall bill Premises for Problem Material collection processing and marketing or disposal services only in accordance with Attachment A of this Agreement.
- 9.4 **Problem Materials Collected by the City.** Contractor shall provide collection and processing or disposal services for Problem Materials in the City that result from illegal dumping. Collection of items shall be at the City's request, and shall be made within one (1) calendar week of the request. {Costs, if any, to be finalized in Final Agreement.}

ARTICLE 10. SOURCE SEPARATED ORGANICS/ORGANICS COLLECTIONS

The City and the Contractor will monitor the availability of Source Separated Organic Materials (SSOM) processing capability and will jointly determine if and when pilot programs and/or City-wide collections of SSOM should begin. When SSOM collections are implemented, similar service plans, required processing at a licensed facility, and reporting to the City shall be required as are required for Recycling Collection.

ARTICLE 11. BILLING

- 11.1 **Billing.** Contractor shall collect all charges from each Premise for its Collection services. The City shall have no obligation to collect or aid in the collection of charges for services under this Agreement. Contractor shall collect and remit all applicable Minnesota Solid Waste Management Fees and County Environmental Charges.
- 11.2 **Additional Premises.** The City, on request, will inform Contractor of known changes of occupancies or vacancies of Premises.
- 11.3 **Contracts for Additional Collections.** Contractor may, independently of this Agreement, contract with any resident to collect Trash or Solid Waste excluded from the mandatory Collection by the Agreement. Contractor'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 Contractor and the customer.

- 11.4 **Accounts in Arrears.** Contractor has the right to suspend service to any account over sixty (60) days in arrears. Contractor may reestablish service when it has received payment in full.
- 11.5 **Extended Vacation.** A Premises can obtain, up to six (6) times per year, a vacation credit for a minimum of one (1) week, with notification to Contractor prior to the vacation of the dates that service is not needed. Exceptions to the six (6)-time maximum may be granted at Contractor's discretion.
- 11.6 **Collection Fees.** Volume/weight-based MSW fees must be offered to each Premise (MN§115A.93 subd.3). Differences between rates charged for the various container sizes shall be sufficient to encourage recycling and waste reduction in accordance with Minnesota Statutes and the Washington County Solid Waste Master Plan. Specific Collection Fees are in Attachment A to this Agreement, which must be amended in the event of a rate increase.
- 11.7 **Customer Cancellation of Service.** Contractor shall reimburse any unearned fees to any customer who cancels service for any reason. Additionally, haulers shall not charge any fees to remove any bin from a customer's property when they cancel service except, in the case of non-payment of the bill to the Contractor.
- 11.8 **Rate Increase.** During the term of the agreement no increase in rates shall be granted to Contractor unless requested by September 15 of the calendar year prior to the requested rate increase. The City shall have sole authority to approve or deny the requested rate increase, although approval shall not be unreasonably withheld.

ARTICLE 12. CUSTOMER SERVICE REQUIREMENTS

- 12.1 **Complaints.** Contractor 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. Contractor 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. Contractor shall also allow complaints to be made electronically (by e-mail).
- 12.2 **Notification to City.** Each month Contractor 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. 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 Contractor. The City shall promptly relay any complaints it receives from its residents regarding Contractor's performance to Contractor. Contractor is responsible for corrective actions. Contractor shall answer all complaints courteously and promptly. Contractor shall, within three (3) business days thereafter, inform the City how it responded to such complaints.

ARTICLE 13. ACCESS TO RECORDS; REPORTS

- 13.1 **Access to Records.** Contractor 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. Contractor shall document and retain dated market weight receipts of recyclable materials sold for the last three (3) years, which upon request will be made available to the City for review.
- 13.2 **Reports.** Contractor 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.
- 13.3 **City Report Contents.** At a minimum, Contractor shall include the following information in these reports:
- 13.3.1 Residential and business customer lists, including name, address and type and size of services provided to each premise.
 - 13.3.2 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. Contractor'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.
 - 13.3.3 Copies of education materials provided to City of Afton residents that quarter.
 - 13.3.4 Suggestions for improvements to the City of Afton solid waste programs (e.g., public education, business recycling, etc.).
 - 13.3.5 Addresses of Premises that start or stop service.
- 13.4 **County and MPCA Reports.** Contractor shall on a quarterly basis, submit to the county and/or Minnesota Pollution Control Agency the following:
- 13.3.6 Total tons of recyclables and MSW and source-separate organics (not including yard waste) collected and "Total tons" recorded for each of the three (3) months of the reporting quarter.
 - 13.3.7 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.

ARTICLE 14. ASSIGNMENT AND SUBCONTRACTING

Contractor 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.** Contractor agrees, in addition to any other remedies available to the City, that the City may demand payment from Contractor in the amounts specified below as liquidated damages for failure of Contractor fulfilling its obligations. Failure to remit payments to the City within thirty (30) days shall result in a doubling of the required payment and shall be a Failure to Perform in accordance with Section 16.
- 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 quarterly 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 Agreement 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 Agreement shall apply to, and shall bind and inure to the benefit of the parties, their successors, and assigns.
- 15.4 **Data Practices.** Contractor agrees to comply with the Minnesota Government Data Practices Act and all other applicable state and federal laws relating to data privacy or confidentiality. Contractor must immediately report to the City any requests from third parties for information relating to this Agreement. The City agrees to promptly respond to inquiries from Contractor concerning data requests. Contractor agrees to hold the City, its officers, and employees harmless from any claims resulting from Contractor'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 Agreement for either the City or Contractor 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. FAILURE TO PERFORM, TERMINATION

- 16.1 **Failure to Perform.** In the event Contractor fails to collect the MSW, Recyclables, Problem Materials and/or 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, Problem Materials and Yard Waste after Contractor 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 Section 16.2. In the event remedy does not occur, Contractor 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.
- 16.2 **Termination.** The City may terminate this Agreement if Contractor 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 Contractor violates the terms of or fails to maintain County licenses required to collect and transport MSW, Recyclables, Organics or Yard Waste. The City shall pay Contractor 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 Contractor under this Agreement shall, at the option of the City, become the property of the City, and Contractor shall be entitled to receive just and equitable compensation for any satisfactory work completed on such documents or materials prior to the termination.

**Attachment A
PRICE SHEET
January 2017**

EXAMPLE, SPECIFIC PRICES TO BE DETERMINED

DRAFT

RESIDENTIAL SOLID WASTE SERVICES AGREEMENT

City of Afton, Minnesota
Appendix A, Page 1

Attachment B
Problem Material and Yard Waste Prices
January 2017

{COSTS TO BE DETERMINED}
 (Per Item Unless Otherwise Specified)

Item	Cost
Appliances	
Freezer, Refrigerator, Air Conditioner	\$
Water Heater, Stove, Dishwasher, Washing Machine, Dryer	\$
Microwave or Dehumidifier	\$
Television or Monitor, 19" or less	\$
Television or Monitor, 20" – 30"	\$
Television larger than 31"	\$
Computer (CPU), Printer	\$
Computer, Laptop or Gaming Console	\$
Water Softener (no salt)	\$
Furniture	
Hide-a-bed	\$
Couch, Loveseat, upholstered chair	\$
Recliner: chair or loveseat	\$
Mattress or Box Springs	\$
♦ Single	\$
♦ Double (Full)	\$
♦ Queen	\$
♦ King	\$
Dresser	\$
Wood Desk	\$
Metal Desk	\$
Table	\$
Non-upholstered chairs, office chairs	\$
Miscellaneous	
Bikes	\$
Gas Grills (no tanks)	\$
Vacuum cleaner	\$
Cart tire	\$
Toilet	\$
Sink (not iron)	\$
Wooden Door	\$
Carpet and pad, small room	\$
Carpet and pad, large room	\$
Extra Trash, Yard Waste	
30 gallon bag, trash	\$
30 gallon bag, yard waste	\$
Bundle brush (3' X 1')	\$
Seasonal Yard Waste	\$ /month