

RESIDENTIAL SOLID WASTE AND RECYCLING SERVICE CONTRACT

This agreement is made and entered into the ____ day of _____, 2012, by and between the CITY OF WATETOWN, Minnesota a Municipal Corporation organized and existing under the laws of the State of Minnesota (hereinafter the "City") and _____, a Minnesota Corporation (hereinafter the "Contractor").

WITNESSETH:

WHEREAS, the City of Watertown has found and determined that the public health and safety of the City will be promoted and preserved by establishing with a private contractor an arrangement for the collection, transportation, and disposal of residential solid waste produced, kept, and accumulated within the City; and

WHEREAS, the City desires to maintain a curbside solid waste, recycling, and yard waste program; and

WHEREAS, pursuant to appropriate action heretofore taken, the Contractor has represented it is qualified to carry out the terms of the Contract; and

WHEREAS, the service fees proposed by the Contractor are acceptable to the City;

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

SECTION 1. DEFINITIONS:

- A. Solid Waste: Solid Waste shall mean wastes, garbage and rubbish of all kinds that accumulate in the ordinary operation of a residential unit. It shall not include unacceptable waste as defined in Section 10 hereof.
- B. Place or Premises: Place or premises shall mean any dwelling house, dwelling unit, multiple dwelling, building, trailer, mobile home park, and every other place or premises where any person resides within the City.
- C. Residential Unit: Residential unit as used herein shall mean any structure in which one or more persons reside in up to three dwelling units.
- D. Person: Person shall mean and include any natural person, corporation, firm, or association.
- E. Compulsory Disposal List: The compulsory disposal list shall mean the list of residential units within the City, who by the provisions of City ordinances, are required to pay a monthly unit service fee for the collection, transportation and disposal of solid waste. Vacant premises or premises where all persons are absent for a period of thirty (30) days or more will be removed from the compulsory disposal list during such vacancies.
- F. Multiple Residences: Multiple residences shall mean any single structure containing four (4) or more dwelling units.
- G. Recyclable: Recyclable shall mean the following items:
 - a. Newspapers, magazines, paper, envelopes and paperboard boxes.
 - b. Rinsed clean aluminum, bi-metal and tinned food containers.
 - c. Rinsed clean glass containers (3 colors – clear, amber, green); and
 - d. Rinsed clean plastic bottles HDPE #1, 2

The Contractor and City may add other ideas as mutually agreed.

H. Yard Waste: Compostable shall mean the following items:

- a. Tree limbs – less than three inches in diameter, less than four feet in length
- b. Leaves
- c. Grass clippings
- d. Garden Waste

SECTION 2. EXCLUSIVE PERMIT AND TENURE OF CONTRACT:

The Contractor shall have, if all terms and provisions of the Contract are met, an exclusive permit for the collection, transportation and disposal of all residential solid waste and recyclable material as herein defined from or with the City.

This contract shall commence on _____, 20___. And remain in effect through _____, 20_____.

This contract shall automatically renew for three year periods unless cancelled by either the City or the Contractor upon written notice at least 60 days prior to the renewal date.

This contract may be earlier terminated by the City pursuant to Section 15 of this contract.

SECTION 3. LICENSING:

The contractor shall procure, at its own expense, all licenses, permits or other rights required for the provision of the services covered by this contract.

The Contractor must hold a current refuse hauler license from Carver County.

The Contractor must inform the City, in writing (immediately and without delay), of any changes in the status of all licenses, permits or other rights necessary for the provision of services.

SECTION 4. INSURANCE AND INDEMNITY:

The Contractor shall carry and file policies or certificates thereof with the City of worker's compensation insurance, public liability insurance, automobile liability insurance, personal injury insurance and property damage insurance. The City shall be named as an additional insured in all such policies with the exception of worker's compensation insurance. Such insurance shall provide at least the following minimum coverages:

Public Liability Insurance: Including general liability and automobile liability.

- (a) At least \$2,000,000 when the claim is one for death by wrongful act or omission and \$2,000,000 to any claimant in any other case including, but not limited to, claims for bodily injury, death, property damage violations of environmental law and environmental cleanup.
- (b) \$2,000,000 for any number of claims arising out of a single occurrence whether for bodily injury, death, property damage, violation of environmental law, environmental damage and environmental cleanup.

- (c) Liability insurance shall include Contractor liability coverage, covering all Indemnitees of the Contractor under this agreement and shall name Watertown, its elected officials, employees and agents as Certificate Holder.

The Contractor shall indemnify and hold 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 of the Contractor or its employees and agents in connection with its performance of the work. The Contractor shall pay all bills or claims for wages, salaries and supplies incurred in the operation of the collection service.

- (a) Contractor Indemnity. Contractor agrees to defend, indemnify, and hold harmless Watertown, its elected officials, Council Members, its officers, employees and agents (collectively referred to as "Indemnitees") from and against, and shall reimburse each such Indemnitee for, any and all loss, claim, liability, damage, judgment, penalty, injunctive relief, cost, expense, attorneys and expert fees, action or cause of action arising out of Contractor's performance of work pursuant to this contract, imposed by any Environmental Law or principal of common law or equity in connection with this agreement and arising out of or relating in any way to the activity or inactivity of Contractor, its predecessors, or anyone acting through or on behalf of the Contractor. The foregoing Indemnification shall include costs reasonably incurred for removal, response, investigation or remediation of any kind, and injury to natural resources, to the extent required by any Environmental Law as well as the Indemnities' reasonable attorney's and consultant's fees, court costs and expenses.

The foregoing Indemnification shall not apply to Unacceptable Solid Waste or Hazardous Substances which are (I) intentionally placed by a resident of Watertown subject to the collection responsibilities of the Contractor under this agreement in a container for pickup by Contractor, and (II) which is then removed and disposed of by the Contractor without the Contractor or its employees or agents having any knowledge or notice of such waste or substance.

- (b) Minn. Stat. 115A.471 – Indemnification. Contractor has represented to Watertown that Minn. Stat. 115A.471 does not apply to the activities covered by this agreement. In addition, however, Contractor agrees to defend, indemnify and hold harmless the Indemnitees from and against, and shall assume all responsibility for, any and all loss, claim, liability, damage, judgment, fine, penalty, injunctive relief, cost, expense, action, and cause of action, incurred by the Indemnities, if any, imposed by or related to Minn. Stat. 115A.471.

- (c) Landfill Indemnity. Contractor shall file with Watertown, prior to _____, 20____, indemnifications acceptable to Watertown from all landfills at which Contractor disposes of or delivers the garbage collected pursuant to this agreement. These indemnification's shall, to the extent possible, be in the same form and on the same terms as the indemnifications required of Contractor pursuant to this agreement and shall be maintained for the life of the agreement.

SECTION 5. COLLECTION EQUIPMENT:

The Contractor shall provide all equipment necessary for collection, transportation and disposal of solid waste material. Unless the material to be transported presents practical difficulties, all trucks shall be designed and built specifically for solid waste collection and shall be of the covered all-metal type so the material being collected and transported will not be seen, will not blow, fall or leak from the vehicle. The Contractor shall maintain equipment used in the performance of this contract in a clean, sanitary and as free from offensive odors as is practical. The equipment shall not be allowed to stand in any street longer than reasonably necessary to collect the solid waste. All collection vehicles shall be equipped with at least one broom and one shovel for use in cleaning up material spillage.

SECTION 6. BILLING FOR COLLECTION:

The Contractor shall be responsible for the billing and collection of its own charges. The Contractor may suspend service to any residential unit that maintains a balance greater than 90 days past due.

At any time during the term of this contract, the City may assume, in its sole discretion, responsibility for the billing and collection of service fees associated with the solid waste collection services described in this contract.

SECTION 7. RESIDENTIAL SOLID WASTE COLLECTION FEES:

The Contractor's service fees for residential solid waste, recyclable material, and yard waste collection shall be determined in accordance with the fee schedule attached hereto as Exhibit C. This schedule will be in effect during the period _____ until _____.

The fees may be adjusted for the period _____ until _____ to compensate the Contractor in accordance with the change in consumer cost as reflected in the Consumer Price Index – All Urban Consumers, (CPI-U) Minneapolis St. Paul, MN-WI, All Items, for the preceding December, but not to exceed 3%. In the event the Contractor incurs any actual increases in government taxes or fees, Federal, state, county or city, the City agrees to negotiate with the Contractor to rectify the inadequacies. Both parties must agree to all reasonable fee adjustments.

The Contractor shall make arrangements with each customer regarding the collection and disposal of certain other special collections, such as white goods, batteries, etc. and the various fees associated with these special collections. The contractor shall make a typical fee schedule available to the City, upon execution of this contract, for publication on its website.

SECTION 8. DATA PRACTICES COMPLIANCE:

The Contractor shall agree to maintain and protect data on persons received, or to which the Contractor has access, according to the Minnesota Statute Chapter 13. No private or confidential data developed, maintained or reviewed by the Contractor under this contract may be released to the public by the Contractor or its employees or representatives. The Contractor agrees to indemnify and hold harmless the City, its agents and employees from any and all claims or causes of action arising from or in any manner attributable to any violation of any provision of the Minnesota Government Data Practices Act by the Contractor or its employees or agents, including legal fees and disbursements paid or incurred to enforce this provision of this contract.

SECTION 9. SOLID WASTE COLLECTION OPERATIONS:

The Contractor shall furnish all labor and equipment as shall be necessary and adequate to insure satisfactory collection, transportation and disposal of solid waste material. The Contractor shall make every effort to maintain established scheduled pick-ups despite conditions such as adverse weather. Containers shall be handled with responsible care to avoid damage and are to be replaced in an upright position. Any contents spilled shall be cleaned up and disposed of immediately in a workmanlike manner and all work to be performed hereunder shall be done so as to protect, to the highest extent possible, the public health and safety of the community.

The Contractor shall collect, transport and dispose of all solid waste from all residential units within the corporate limits of the City as follows:

A. Once weekly during each and every week of the year. The residents shall place all solid waste containers curbside no later than 7:00 A.M. on collection day.

B. Owners and occupants of all residential units shall be required by the City to use an approved container for the disposal of solid waste.

C. In no event shall the Contractor be required or suffer penalty for failure to perform a scheduled pickup when prevented from doing so as a result of an undue accumulation of snow and/or other catastrophic conditions when such condition is communicated to the City prior to service disruption.

D. The Contractor shall establish a weekly collection schedule, which shall specify the day on which collection shall be made from each residential unit. This schedule may be altered and amended from time to time as the occasion may arise, in order to facilitate efficient collection and to maintain the health and safety of the community as approved by the city.

Upon collection of solid waste by the Contractor, as required by the nature and size of its equipment, such waste shall be promptly and in a workmanlike manner transported to the site of disposal or processing.

The Contractor shall haul and dispose of residential solid waste, at its own expense. The Contractor must comply with applicable County or District designation ordinances.

The Contractor shall provide service as necessary for the collection and disposal of solid waste from all publicly owned facilities and/or properties at no cost as described in Exhibit A.

The Contractor shall provide service for all city-wide activities deemed public in nature at no cost as described in Exhibit B.

The City reserves the right to offer curbside community clean-up should the City deem it reasonable and effective.

SECTION 10. UNACCEPTABLE WASTE:

No person shall be permitted to deposit among solid waste any matter of unacceptable waste such as hazardous waste, batteries, used motor oil, tires, and any other material listed as unacceptable by the State of Minnesota. The Contractor shall not be required to collect any such unacceptable waste.

SECTION 11. RESIDENTIAL COLLECTION OF RECYCLABLES:

The Contractor shall collect recyclable material from all residential units within the corporate city limits of the City, as follows:

- A. Single Sort: The Contractor shall provide curbside single sort recycling to each resident unit within the City.
- B. Collection: The Contractor will provide the collection of recyclable material from each unit every week.
- C. Containers: The Contractor will provide a single sort cart for collection of all recyclable material to each residential unit. The cost of providing the cart will be built into the unit rate. The Contractor shall be responsible for the maintenance of the carts and except in the case of abuse and/or misuse by a resident, shall replace the cart free of cost to the customer.
- D. Cost of Service: This collection shall occur at no charge to Watertown or the residents of Watertown. The Contractor shall provide recycling services for all publicly owned facilities and/or properties at no cost as described in Exhibit A.

Section 12. RESIDENTIAL COLLECTION OF YARD WASTE:

The Contractor shall collect yard waste from all residential units within the corporate city limits of the City as follows:

- A. Approved Yard Waste: The Contractor shall provide curbside pick-up of approved yard waste at each residential unit.
- B. Collection: Collection shall occur on the same day as Solid Waste and Recycling during approved collection times. Collection of Yard Waste shall occur weekly during the months of April, May, June, July, August, September, and October.
- C. Cost of Service: This collection shall occur at no charge to Watertown or the residents of Watertown.
- D. Containers: Contractor shall specify preferred container method, as approved by the City.

SECTION 13. SPECIAL COLLECTIONS:

The collection of construction or demolition materials, toxic or hazardous waste materials, white goods including appliances and other large items must be arranged directly between the Contractor and the customer.

SECTION 14: COLLECTION SERVICE PROVISIONS AND SCHEDULE

All residential collection services, including recycling and yard waste, shall be conducted between the hours of 7:00 A.M. and 4:00 P.M. on days agreed upon by the Contractor and the City. Any changes in the schedule shall be submitted in writing, subject to the review and approval of the City. The Contractor shall bear all costs involved in notification of the customers of an approved schedule changes.

The Contractor shall not make collections on Sundays, New Year's Day, Memorial Day, Independence Day, Labor Day, Thanksgiving Day or Christmas Day. The Contractor shall inform customers of an alternative collection day due to a holiday. The Contractor shall notify the customers at least fourteen (14) days in advance of a holiday. The Contractor shall bear all costs involved in notification of the customers of the approved schedule changes.

The City reserves the right to improve any street or alley which may prevent the Contractor from traveling its customary routes for collection. The Contractor shall contact the City Administrator prior to each construction season to determine areas of conflict and possible alternate routes or solutions.

Whenever the Contractor is notified by a customer of a service location that has not received scheduled service, the Contractor is required to provide service to such location no later than the following working day from the time of the complaint and is subject to penalties.

All complaints shall be answered promptly and courteously by the Contractor, its employees, representatives or agents.

A record of all complaints and actions taken by the Contractor in response to such complaints shall be provided to the City annually and upon demand.

SECTION 15. ASSIGNMENT AND REVOCATION

This contract between the City and the Contractor may not be assigned or transferred in whole or in part by the Contractor unless such assignment or transfer has been approved by the City prior to the assignment or transfer. Consent to one assignment or transfer shall not be deemed to be consent to any subsequent assignment or transfer. The Contractor shall not subcontract all or any portion of the services to be performed hereunder without the written consent of the City.

This contract between the City and the Contractor may be terminated by the City upon the occurrence of any of the following:

- A. The Contractor fails to comply with the provisions of this contract, or is in violation of any other City Ordinances, Carver County Ordinance, State or Federal laws or regulations.
- B. The City determines that the licensee's performance of residential solid waste collection is unsatisfactory.
- C. Any proposed increase in rates for residential solid waste collection is determined unsatisfactory by the City.
- D. The loss of any applicable license or certification by the Contractor.

SECTION 16. PENALTIES

The City Administrator and his/her designee shall notify the Contractor for each violations of the Contract, reported to or discovered by him/her or the City. It shall be the duty of the Contractor to take whatever steps may be necessary to remedy the cause of the complaint and notify in writing the City of its disposition within twenty-four (24) hours after receipt of complaint.

The following acts or omissions shall be considered a breach of the Contract and for the purpose of computing damages for such a breach, the following are liquidated damages that shall be paid by Contractor to the City within twenty (20) days of notification that such a breach of contract occurred. In no event shall such liquidated damages be deemed City's exclusive right or remedy pursuant to this Contract, and all other remedies available to City are specifically reserved.

- A. Failure to clean up solid waste spilled by Contractor within six (6) hours of oral or written notification.
\$50.00 each instance.
- B. Failure to clean vehicle, conveyance, docks, shops, yards, and other equipment as provided for in the specifications.
\$100.00 each instance.
- C. Failure to maintain vehicles in a manner which prevents nuisances, such as leaky seals or hydraulics.
\$100.00 each instance.
- D. Failure or neglect to collect solid waste, yard waste and recycling at those times as provided by this Contract within twenty-four (24) hours from notice by City, either oral or written.
\$50.00 each instance.
- E. Failure or neglect to provide notice to resident upon solid waste refused for collection for cause.
\$25.00 each instance.
- F. Failure to return containers to original location and/or replace lids per specifications at the time the container is emptied.
\$50.00 each instance.
- G. In addition to above, failure or neglect to correct chronic problems will be considered a breach of Contract.
\$50.00 each instance.

Chronic problems shall be construed to be three or more occurrences of the items (A), (C) or (D) immediately above at the same address within any period of six consecutive months whether or not remedied within twenty-four (24) hours, or four (4) hours in the case of spilled solid waste.
- H. Collection of recyclables, which are properly prepared and placed for collection as recyclables, as part of refuse collection.
\$25.00 each instance.

- I. Missing entire blocks/neighborhoods. A missed block is defined as a block where residents from at least three (3) households within two intersections of that block or cul-de-sac report that their material was out before 7:00 a.m., the material was not picked up and the addresses did not appear on the records as unacceptable setouts.

\$250.00 each instance.

- J. District-wide collection not completed. The failure to complete a collection of all materials required by Contract on the scheduled collection day without following proper notification procedure.

\$2,500.00 per instance.

Contractor must maintain a minimum cash balance deposit of \$5,000.00 with the City to be used for payment of any penalty. Any unused portion of the deposit will be returned to the Contractor without interest at the end of the Contract period.

SECTION 16. WAIVER, DISPUTE AND OTHER PROVISIONS:

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 subsequent breach or violation of the same or any other term, covenant or condition hereof.

Alterations, variations, modifications or waivers of the provisions of this contract shall only be valid following written submission of such alterations, variations, modifications or waivers and subsequent written authorization by the City and the Contractor.

The provisions of the contract shall be deemed severable. If any part of this contract is rendered void, invalid or unenforceable, such rendering shall not affect the validity and enforceability of the remainder of the contract unless the part or parts which are void, invalid or otherwise unenforceable shall substantially impair the value of the entire contract with respect to either party.

This contract constitutes the entire contract between the parties and shall insure to the benefit of the parties, successors, executors, administrators and assigns and that no variance shall be permitted to this contract unless the same be in writing and signed by all parties.

This contract shall be governed by and construed in accordance with the substantive and procedural laws of the State of Minnesota, without giving effect to the principals of conflict of laws. All proceedings related to this agreement shall be venued in the State of Minnesota.

The services shall be performed and furnished by the Contractor as an independent contractor and not as an agent or employee of the City. The services shall be performed under the sole supervision, management, direction and control of the Contractor in accordance with the terms and conditions of this Contract. The Contractor will have full control, including but not limited to hiring, firing and supervision of its employees to assist in the performance of this contract. Contractor further agrees that the services shall meet with the approval of the City but that the detailed manner and method of performing the services shall be under the exclusive control of and in the complete discretion of the Contractor. The Contractor shall have no authority to act as an agent or employee of the City nor to enter into any contract or contract for or on behalf of the City.

SECTION 17. RENEGOTIATIONS:

The parties do hereby agree to meet and discuss with each other any suggested changes or amendments to this contract in order to minimize or eliminate inequities that may arise and be found to exist in the strict performance of the provisions hereof. Any amendment, modification or change of any provision of this contract must be in writing and approved by both parties.

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

CITY OF WATERTOWN

By: _____
K.J. McDonald
Mayor

By: _____

ATTEST:

Steven Wallner
Clerk

Date: _____

Date: _____

**EXHIBIT A
PUBLICLY OWNED FACILITIES OR PROPERTIES**

City Hall/Community center/County Library, 309 Lewis Ave South

3 yard waste container	Weekly collection
3 yard cardboard container	Weekly collection
1 – 96 gallon recyclables cart	Weekly collection
1—35 Gallon Document Destruction Container	Monthly collection

Special pick-ups may be needed in association with community center uses

Public Works Facility, 700 Lewis Avenue North

6 yard waste container	Twice weekly collection
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Fire Station, 401 Carter Street Northeast

3 yard waste container	Weekly collection
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Wastewater Treatment Facility, 700 Lewis Avenue North

1 - 3 yard waste hazardous container	Weekly collection
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Watertown-Mayer Elementary School, 500 Paul Avenue

6 – 96 gallon recyclables carts	Weekly collection
1 – 8 yard cardboard container	Weekly collection
1 – 8 yard waste container	Twice weekly collection

Watertown-Mayer Primary School, 301 State Street Northwest

4 – 96 gallon recyclables carts	Weekly collection
1 – 6 yard cardboard container	Weekly collection
1 – 4 yard waste container	Twice weekly collection
1 – 2 yard waste container	Twice weekly collection

Watertown-Mayer Middle School, 1001 Highway 25

1 – 4 yard waste container	Twice weekly collection
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Watertown-Mayer High School, 1001 Highway 25

10 – 96 gallon recyclables carts	Weekly collection
1 – 8 yard cardboard container	Weekly collection
1 – 3 yard waste container – Wood Shop	Twice weekly collection
1 – 8 yard waste container – Kitchen	Twice weekly collection
1 – 3 yard waste container – Kitchen	Twice weekly collection
1 – 6 yard waste container – Garage	Twice weekly collection

The commencement of collection services at the public schools will be coordinated between the Watertown-Mayer School District 111 staff and representatives of the Contractor.

**EXHIBIT B
PUBLIC EVENTS**

Community Clean-Up:

Saturday in the spring from 7:00 A.M. until 12:00 P.M. (noon)

9 Waste hauler employees on site

1 Rear load packer truck

7 Roll-off containers

Appliances

Electronics

Mattresses

Tires

Hours may vary from year-to-year

Quantity of roll-off containers may vary from year-to-year

Rails to Trails:

Friday and Saturday in July

\$7,000 in kind donation including waste containers, labor, hand carts, boxes and bags

Watertown Fire Department Event

1 – 6 yard waste container in late summer or early fall

Chamber of Commerce Sponsored Event

Friday and Saturday in late summer or early fall

2 – large waste containers

15 – 96 gallon waste carts

Watertown-Mayer High School Shop Class – House Construction

Annual Project

2 – 5 yard construction waste containers pick-up as needed during school year

Vehicle Fairs

The City will request that a garbage truck be made available for up to three vehicle fairs held within the City during a calendar year.

It is understood that delivery and pick-up charges for public events are included at no cost.

**EXHIBIT C
CITY OF WATERTOWN
REFUSE SERVICE CONTRACT**

Monthly Refuse Service Base Rates Effective 3-1-12

32 Gallon Trash \$ _____
64 Gallon Trash \$ _____
96 Gallon Trash \$ _____