

# Single-Sort Recycling Services Contract

This Single-Sort Recycling Services Contract (“Contract”) is made and entered into as of <date>, between <full company name> (“Contractor”), and Rice County (“County”).

## RECITALS

- A. The Contractor, directly or indirectly, through its affiliates and subsidiaries operates a material recovery facility at which Contractor delivers certain recyclable materials.
- B. The County is in the business of collecting recyclable materials for use or reuse in goods and products at their County Recycling Facility.
- C. The County desires to have the commingled recyclables processed by Contractor, and Contractor will rebate or charge an associated processing fee to the County at the established price for the recyclable materials as set forth in Exhibit A, all of the terms and conditions as set forth in this Contract.

## TERMS AND CONDITIONS

NOW, THEREFORE, in consideration of the premises, and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties agree as follows:

- Type and Quantity of Recyclable Materials. During the term of this Contract and under the conditions set forth herein, Contractor agrees to transport and process all commingled recyclables collected at the Rice County Recycling Facility, located at 3800 East 145<sup>th</sup> Street, Dundas, MN 55019. Contractor agrees to accept the commingled recyclables from the County.
- Term. The term (“Term”) of this Contract shall be for five (5) years from the date of this Contract.
- Delivery, Title, and Loading. All comingled recyclables shall be transported by Contractor and shipped to <name and address of materials processing facility> (Facility). The title to, the risk of loss, and the responsibility for the comingled recyclables will be passed to the Contractor immediately upon the Contractor’s acceptance of the material. Acceptance by the Contractor of the material shall occur when the trailer in which the material is located is affixed to Contractor’s tractor-trailer, semi, or other vehicle, or if the material must be loaded into a trailer already affixed to the Contractor’s tractor-trailer, semi, or other vehicle, at such time as the loading of the material is completed. The County is responsible for loading the comingled recyclables in a container provided by Contractor.

4. Price. The rebate and/or processing fee that Contractor agrees to pay or charge the County for the commingled recyclables delivered to the Facility during the term of this Contract will be according to the attached Exhibit A.
5. Periodic Waste Sorts. Contractor and County agree that the percentage of each commodity as listed in pricing models in Exhibit A is a reasonably accurate approximation of the percentages of each commodity in the appropriate category of Recyclable Materials. Contractor reserves the right to conduct annual waste sorts and make appropriate changes to the commodity matrix based on those results. Upon execution of this Contract, a waste sort will be performed to set appropriate percentages of each commodity listed in Exhibit A that shall be used during the term of the Contract. In the event either party feels the percentages are significantly inaccurate, both Contractor and County agree to perform mutual evaluations and negotiate in good faith revised commodity percentages.
6. Recycle Rebate and Processing Fee.
  - a. Rebate and Processing Fee. Contractor shall pay and/or charge a processing fee to County (the “Recycling Rebate” “Recycling Processing Fee”) for all commingle Recyclable Materials the Contractor collects from the County at the set forth pricing models attached as Exhibit A. The Contractor will adjust matrix in Exhibit A monthly based on the indicated indexes. Any additional allowed adjustments will be indicated on Exhibit A.
  - b. Payment. Pricing models will be transmitted to the County for processing the commingle Recyclable Materials. Contractor shall pay all Recycling Rebates within 30 days of the last day of the prior month for a “Recycling Rebate”. County shall pay all Recycling Processing Fees within 30 days of the last day of the prior month for a “Recycling Processing Fee”.
7. Delivery of Unacceptable Contaminated Materials. County agrees that it shall not provide any Hazardous Materials to the Contractor. If County does provide recyclables that contain both Recyclable Materials and Hazardous Materials, the entire delivery shall constitute Unacceptable Contaminated Materials. If the Unacceptable Contaminated Materials cannot be separated from the Recyclable Materials through the reasonable efforts of Contractor, as County’s agent to cause such separation, with the cost of such separation to be paid by County.
8. Indemnification. Any and all claims that arise or may arise against Contractor, its agents, servants or employees as a consequence of any act or omission on the part of Contractor or its agents, servants, or employees while engaged in the performance of the Contract shall in no way be the obligation or responsibility of the County. Contractor shall indemnify, hold harmless and defend the County, its officers and employees against any and all liability, loss, costs, damages, expenses, claims or actions, including attorney’s fees which the County, its officers or employees may hereafter sustain, incur or be required to pay, arising out of or by reason of any act or omission of Contractor, its agents, servants or employees, in the execution, performance, or failure to adequately perform Contractor’s obligations pursuant to this Contract.

9. Insurance. During the term of this Contract, the Contractor shall maintain the following insurance coverage's:

Workers' Compensation:

Coverage A	Statutory
Coverage B— Employer's Liability	\$1,500,000 each Bodily Injury by Accident \$1,500,000 policy limit Bodily Injury by Disease \$1,500,000 each occurrence Bodily Injury by Disease

Automobile Liability:

Bodily Injury/Property Damage Combined — Single Limit	\$2,000,000 Coverage applies to all owned, non-owned, hired and leased vehicles (including trailers) and must include MCS-90 endorsement for pollution liability coverage.
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Commercial General Liability:

Bodily Injury/Property Damage Combined — Single Limit	\$2,000,000 each occurrence \$2,000,000 general aggregate (Including products/completed operations)
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All policies required herein shall be written by insurance carriers with a rating of A.M. Belts of at least "A-" and a financial size category of at least VIII. Contractor shall deliver the Certificates of Insurance evidencing the foregoing policies to Contractor before Contractor delivers any waste to the Facility pursuant to this Contract. The Certificates and the insurance policies required by this Section 9 shall contain a provision that provides that the insurance coverage afforded under the policies will not be canceled or allowed to expire until at least 30 days prior written notice has been given to Contractor. With the exception of the workers' compensation policy, Contractor and the Contractor Indemnified Parties shall be shown as additional insured's under all of the insurance policies required by this Section 9. The policies required by this Section 9 shall be primary and the insurance providers shall agree to waive their rights of subrogation against Contractor.

10. Weighing of Commingled Recyclable Loads. Contractor shall weigh and keep a record of the weight of each load of commingled recyclables delivered to the Facility and shall deliver a report of weights to the County monthly.
11. Material Composition. Contractor shall conduct at least an annual waste sort to verify the material composition of commingled recyclables. The material composition data will be shared with the County and used by both parties to review the percentage of recycling revenue. The annual waste sort will be conducted by August of each year of this Contract.

12. Processing of Materials. Contractor shall be solely responsible for the processing of all commingled recyclables collected by the County. Contractor shall process all the commingled recyclables in accordance with any and all federal, state and local government statutes, rules and regulations. Contractor warrants that it has and shall maintain during the Term all governmental permits, consents and approvals required to process the commingled recyclables.
13. No Other Representations. The Contractor is not making any representations or warranties, expressed or implied, of any nature whatsoever except as specifically set forth in this Contract. The County acknowledges that, except as otherwise expressly set forth in this Contract, the commingle recyclables are conveyed “As Is, Where Is” and “With all Faults” and Contractor has not made, and Contractor hereby expressly disclaims and negates, any representations or warranty, express or implied, or any kind of nature, whatsoever, relating to the commingled recyclables (including any implied or expressed warranty of merchantability or fitness for a particular purpose or use).
14. Force Majeure. Neither party shall be held responsible for delay or failure to perform when such delay or failure is due to any of the following uncontrollable circumstances unless the act or occurrence could have been foreseen and reasonable action could have been taken to prevent the delay or failure: fire, flood, epidemic, strikes, wars, acts of God, unusually severe weather, acts of public authorities, or delays or defaults caused by public carriers; provided the defaulting party gives notice as soon as possible to the other party of the inability to perform.
15. Default by Contractor. Unless cured or excused by the occurrence of an uncontrollable circumstance or County waiver of default, each of the following shall constitute default on the part of the Contractor:
  - a. The written admission by the Contractor that it is bankrupt; or filing by the Contractor of a voluntary petition under the Federal Bankruptcy Act; or the filing of an involuntary petition under the Federal Bankruptcy Act against the Contractor unless dismissed within ninety (90) days. The Notice of Default and cure provisions of this Contract does not apply to this paragraph.
  - b. The making of any arrangement with or for the benefit of Contractor’s creditors involving an assignment to a trustee, receiver or similar fiduciary. The Notice of Default and cure provisions of this Contract does not apply to this paragraph.
  - c. Making material misrepresentations either in the attached exhibits and documents or in any other material provision or condition relied upon in the making of this Contract.
  - d. A court of competent jurisdiction finds that the Contractor persistently disregards laws, ordinances, rules, regulations or orders of any public authority having jurisdiction.
  - e. Failure to make satisfactory progress towards completion of this Contract.
  - f. Failure to perform any other material provision of this Contract.

16. Written Notice of Default. Unless otherwise provided, no event shall constitute a default unless and until written Notice of Default is given to the defaulting party, specifying the particular event, series of events or failure constituting the default and the cure period.
  - a. In the event this Contract is terminated by reason of default, the non-defaulting party may recover the necessary costs of termination, including but not limited to administrative, attorney fees and legal costs, from the defaulting party.
17. Cure Period. If the party in default fails to cure the specified circumstances as described by the Notice of Default within ten (10) days, then this Contract may be terminated by 30 days written notice. Curing any default after 10 days does not negate the subsequent termination notice.
18. Termination. With or Without Cause. This Contract may be terminated with or without cause, by the County upon 30 days written notice.
  - a. The County may terminate this Contract, in whole or in part, if the Contractor materially fails to comply with any term of the Contract, or if reasonable progress has not been made by the Contractor in accomplishing the purposes of this Contract, with 30 days written notice to the Contractor.
19. Assignment/Subcontracting.
  - a. Parties shall not enter into any subcontract for the performance of the services contemplated under this Contract nor assign any interest in the Contract without prior written consent of all parties and subject to such conditions and provisions as are deemed necessary.
  - b. Contractor shall provide all services required hereunder by and through its own employees. Contractor shall not provide any services hereunder by means of subcontracts with individuals or entities not regularly employed by Contractor without the prior written consent of the County.
  - c. Any Contract between the Contractor and any subcontractor shall obligate the subcontractor to comply with the general terms of this Contract.
  - d. The subcontracting or assigning party shall be responsible for the performance of its subcontractors or assignees and their compliance with the Contract terms.
20. Independent Contractor. At all times and for all purposes hereunder, Contractor shall be an independent Contractor and is not an employee of the County for any purpose. No statement contained in this Contract shall be construed so as to find Contractor to be an employee of the County, and Contractor shall not be entitled to any of the rights, privileges, or benefits of employees of the County of St. Louis, including, but not limited to, workers' compensation, health/death benefits, and indemnification for third-party personal injury/property damage claims.
21. Notices. All notices or other communications required or permitted under this Contract shall be in writing and may be given by depositing the same in the United States mail,

addressed to the party to be notified, postage prepaid and registered or certified with return receipt requested, by overnight courier, or by delivering the same in person to such party, addressed as follows:

If to the County, addressed to it at:  
Rice County Solid Waste Department  
3800 East 145<sup>th</sup> Street  
Dundas, MN 55019

If to Contractor, addressed to it at:

Contractor Name  
Address  
City, State Zip

The notice shall be deemed given and effective the day personally delivered, the day sent by overnight courier, subject to signature verification, and the day of deposit in the U.S. mail of a writing addressed and sent as provided above. Any party may change the address for notice by notifying the other parties of such change in accordance with this Section.

22. Time of the Essence. Time is of the essence for this Contract.
23. Entire Contract. This Contract is the final, complete and exclusive statement and expression of the Contract between the parties hereto relating to the subject matter of this Contract, it being understood that there are no oral representations, understandings or Contracts covering the same subject matter as this Contract. This Contract supersedes, and cannot be varied, contradicted or supplemented by, evidence of any prior or contemporaneous discussions, correspondence, or oral or written Contracts of any kind. This Contract shall be binding upon and shall insure to the benefit of the parties hereto and their respective permitted successors and assigns.
24. Counterparts. This Contract may be executed simultaneously in two or more counterparts, each of which shall be deemed an original and all of which together shall constitute but one and the same instrument.
25. Governing Law. This Contract shall be governed by and construed in accordance with the Internal laws of the State of Minnesota, without giving effect to any choice or conflict of law provision or rule (whether of the State of Minnesota or any other jurisdiction) that would cause the application of the laws of any jurisdiction other than the State of Minnesota.
26. Jurisdiction: Waiver of Jury Trial. The parties consent and agree to the jurisdiction of the Minnesota courts. Neither party will argue or contend that it is not subject to the jurisdiction of the Minnesota courts or that venue in Rice County, Minnesota is improper. The parties agree to waive any right to a trial by jury in any such dispute and that the matter will be tried solely to the court. The parties understand that they are giving up valuable legal rights under this provision, including the right to trial by jury, and that they voluntarily and knowingly waive those rights.

27. No Waiver. No delay of or omission in the exercise of any right, power or remedy accruing to any party as a result of any breach or default by the other party under this Contract shall impair any such right, power or remedy, nor shall it be construed as a waiver of or acquiescence in any such breach or default, or of or in any similar breach or default occurring later; nor shall any waiver of any single breach or default be deemed a waiver of any other breach or default occurring before or after that waiver.
28. Severability. The provisions of this 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 this 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.

IN WITNESS WHEREOF, the parties hereto have caused this Contract to be executed as of the date first written above.

**Contractor Name**

By: \_\_\_\_\_

Title: \_\_\_\_\_

Date: \_\_\_\_\_

**Rice County: Board of Commissioners**

By: \_\_\_\_\_

Title: \_\_\_\_\_

Date: \_\_\_\_\_

**County Attorney**

By: \_\_\_\_\_

Date: \_\_\_\_\_

**Exhibit A**

Pricing would be from RFP Cost Proposal – Example Exhibit A is shown below for demonstration.

Product Mix	Percent	Processing Cost/Ton	Processing Cost Wt Average Allocation	Finished Commodity Value	Commodity Wt Avg Allocation	Net Processing Charge	Market Indicator
Mixed Glass	13%	\$75.00	\$9.75	(\$38.00)	(\$4.940)	\$14.69	Fixed Rate
HDPE Natural	4%	\$75.00	\$3.00	\$750.00	\$30.000	(\$27.00)	Waste News 1st Issue, Chicago Region Low
HDPE Pigmented	2%	\$75.00	\$1.50	\$600.00	\$12.000	(\$10.50)	Waste News 1st Issue, Chicago Region Low
PET	5%	\$75.00	\$3.75	\$680.00	\$34.000	(\$30.25)	Waste News 1st Issue, Chicago Region Low
Residual Garbage	5%	\$75.00	\$3.75	(\$52.00)	(\$2.600)	\$6.35	Fixed Rate
Steel	5%	\$75.00	\$3.75	\$312.33	\$15.617	(\$11.87)	Average Monthly Sales Price
Aluminum	2%	\$75.00	\$1.50	\$1,780.00	\$35.600	(\$34.10)	American Metals Market Low
OCC	12%	\$75.00	\$9.00	\$125.00	\$15.000	(\$6.00)	OBM Chicago OCC #11 Low
Mixed Paper	16%	\$75.00	\$12.00	\$75.00	\$12.000	\$0.00	OBM Chicago Mixed #2 Low
ONP	36%	\$75.00	\$27.00	\$55.00	\$19.800	\$7.20	OBM Chicago News #6 Low
<b>Totals</b>	<b>100%</b>		<b>\$75.00</b>		<b>\$166.477</b>	<b>(\$91.48)</b>	

Tons Delivered			Per Ton	Total	Notes
MRF 1	123.00				
MRF 2	0.00	Processing Cost	\$75.00	\$9,225.00	
<b>Totals Tons</b>	<b>123.00</b>	Commodity Pay Back @ 85%	\$141.51	\$17,405.12	
		Commodity value less Processing	\$66.51	\$8,180.12	
		Transportation/Equipment Cost	(\$16.06)	(\$1,975.38)	
		Fuel Recovery Fee	(\$2.38)	(\$292.36)	Updated Monthly
		Net Rebate (Processing Fee)	\$48.07	\$5,912.38	