

Aitkin County Board of Commissioners
Request for County Board Action/Agenda Item Cover Sheet



To: Chairperson, Aitkin County Board of Commissioners Date: January 19, 2013

Via: Patrick Wussow, County Administrator

From: Terry Neff, Environmental Services Director

Title of Item:

Recycling Agreement Extensions

Requested Meeting Date: February 12, 2013 Estimated Presentation Time: N/A

Presenter: N/A

Type of Action Requested (check all that apply)

- For info only, no action requested Approve under Consent Agenda
- For discussion only with possible future action Adopt Ordinance Revision
- Let/Award Bid or Quote (attach copy of basic bid/quote specs or summary of complex specs, each bid/quote received & bid/quote comparison)
- Approve/adopt proposal by motion Approve/adopt proposal by resolution (attach draft resolution)
- Authorize filling vacant staff position
- Request to schedule public hearing or sale Other (please list) _____
- Request by member of the public to be heard
- Item should be addressed in closed session under MN Statute _____

Fiscal Impact (check all that apply)

- Is this item in the current approved budget? Yes No (attach explanation)
- What type of expenditure is this? Operating Capital Other (attach explanation)
- Revenue line account # that funds this item is: 391-5392, 391-5001
- Expenditure line account # for this item is: 391-6360

Staffing Impact (Any yes answer requires a review by Human Resources Manager before going to the board)

- Duties of a department employee(s) may be materially affected. Yes No
- Applicable job description(s) may require revision. Yes No
- Item may impact a bargaining unit agreement or county work policy. Yes No
- Item may change the department's authorized staffing level. Yes No



Supporting Attachment(s)

- Memorandum Summary of Item
- Copy of applicable county policy and/or ordinance (excerpts acceptable)
- Copy of applicable state/federal statute/regulation (excerpts acceptable)
- Copy of applicable contract and/or agreement
- Original bid spec or quote request (excluding complex construction projects)
- Bids/quotes received (excluding complex construction projects, provide comparison worksheet)
- Bid/quote comparison worksheet
- Draft County Board resolution
- Plat approval check-list and supporting documents
- Copy of previous minutes related to this issue
- Other supporting document(s) (please list) _____

Provide (1) copy of supporting documentation **NO LATER THAN Wednesday at Noon** to make the Board's agenda for the following Tuesday. (If your packet contains colored copies, please provide (4) paper copies of supporting documentation as we do not have a color printer or copier.) Items **WILL NOT** be placed on the Board agenda unless complete documentation is provided for the Board packets.

-Aitkin County Environmental Services Planning and Zoning
209 Second Street NW
Room 100
Aitkin, MN 56431
Phone: 218-927-7342
Fax: 218-927-4372



MEMORANDUM

DATE: January 29, 2013
TO: Aitkin County Board of Commissioners
FROM: Terry Neff, Environmental Services Director 
RE: Recycling Agreement Extensions

Enclosed are letters from Garrison Disposal and J&H Transfer requesting to exercise the one-year extension option to the recycling agreements (copy of agreements are enclosed). The agreements expire on December 31, 2013. This will be the second one year extension requested and will extend the expiration date to December 31, 2014. The rates paid for the recyclable materials last year were down, so our recycling agreement costs increased from the previous year. The cost for the recycling services last year was \$64,178.68, which is more than in 2010 and 2011, but less than in 2009 = \$69,900.00. Based on this information, I would recommend the County Board approve of the one-year extensions to the agreements.

If you have any questions, please feel free to contact me at 218-927-7342 or by e-mail at tneff@co.aitkin.mn.us.

enclosures

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January 7, 2013

Terry Neff
Aitkin County
209 2nd Street NW, Room 118
Aitkin MN 56431

Re: Recycling Contract Extension

Terry,

Garrison Disposal Company would like to exercise the one year extension option on the Aitkin County Recycling Contract. This extension will expire toward the end of 2014.

Terry, we would hope that the board will approve our request to extend the contract. Please feel free to call me if you or any of the board members have any questions regarding this contract extension.

Sincerely,

Paul B. Fischer
President

Terry Neff

From: Lakes Sanitary [jhalek@frontiernet.net]
Sent: Thursday, January 17, 2013 1:55 PM
To: terry Neff
Subject: Renew contract

Terry Neff and Aitkin County Board I am requesting a extention on my recycling contract through the following year. Please let me know if you need anything else for this from me. Thank you Jessie Hooper

RECYCLING AGREEMENT

THIS AGREEMENT, is made and entered into this November 23, 2010, by and between the County of Aitkin, a political subdivision of the State of Minnesota, hereinafter "County" and Paul B. Fischer doing business as Garrison Disposal Company, Inc. located at P.O. Box 277, Aitkin, MN 56431, hereinafter "Contractor".

For the purpose of this Agreement, Paul B. Fischer and Garrison Disposal Co., Inc. shall be deemed an independent Contractor, and not an employee of the County. Any and all employees, members or associates of the Contractor or other persons, while engaged in the work or services required to be performed by the Contractor under this Agreement, shall not be considered employees of the County. Any and all claims that may or might arise on behalf of said employees or other persons as a consequence of any act or omission on the part of said employees or the Contractor shall in no way be the obligation or responsibility of the County.

WITNESSETH:

WHEREAS, County has determined that reduction of the County's solid waste stream through county-wide recycling is in the public interest; and

WHEREAS, County has requested proposals from qualified companies interested in performing county-wide recycling services for the County; and

WHEREAS, the proposal of the Contractor has been received and determined by the County to be the most responsive proposal received at the best services value for the estimated costs; and

WHEREAS, representatives of the County and the Contractor have met to negotiate the detailed terms of this Agreement contained herein;

NOW, THEREFORE, in consideration of the mutual promises and agreements herein set forth, the parties agree as follows:

1. **DEFINITIONS:** The terms used within this Contract shall be defined according to the definitions contained in Attachment A: "Program Definitions" (incorporated herein to this Agreement).
2. **CONTRACTOR'S OBLIGATIONS:**
 - A. **Collection** This collection service element of this Agreement pertains to the installation, maintenance and servicing of the drop-off system for collecting recyclables.
 1. **Residential Recyclable Materials** This collection service element is primarily targeted towards the collection of recyclables derived from residents' (both permanent and seasonal) households.
 2. **Collection of Drop-Off Recyclable Materials** This collection service element pertains only to materials deposited by residents and other users at designated

drop-off centers as listed in Attachment B. This collection element does not pertain to the collection of materials from residents via "curbside collection" programs (pick-up on a house-to-house, or business-to-business basis) that may be offered by haulers as services to their customers.

The County reserves the exclusive right to designate and establish new or alternative designated drop-off centers to be serviced by the Contractor within Aitkin County. The Contractor shall commence servicing alternative designated drop-off centers within thirty (30) days after written notice of said designation.. In the event the County establishes a new designated drop-off center(s), any additional compensation to be paid to the Contractor for servicing said site or sites shall be negotiated and agreed upon before the Contractor shall be obligated to service the same.

3. Rights of Other Haulers Other haulers collecting recyclables, but not under contract with the County, shall be allowed to unload their recyclables at the Aitkin County recycling facility subject to the posted processing / marketing prices or tipping fees (see Section 2.C.6 "Buy Back Operation at the County's Recycling Facility").

Recyclable material from other haulers must be of sufficient quality. Eligible materials received shall be consistent with the list of designated recyclable materials (Attachment C to this Agreement). The Contractor shall retain the rights to establish more specific grades of material categories, inspect recyclable materials from other haulers, and judge the quality of those materials. The Contractor may reject selected categories of materials or full loads if these materials or loads do not meet reasonable quality standards.

The Contractor may establish written recyclable material quality specifications. Before implementation, the County shall first approve these specifications. The County shall retain the right to require adoption of written material specifications.

4. Collection of MSW from Attended Sites The Contractor shall provide garbage removal services, for a posted price as determined by the Contractor, at all attended drop-off sites.
5. Provide and Maintain Containers The Contractor shall be responsible for purchase and installation of compartmentalized roll-off containers, or other suitable substitute containers, with adequate capacity and dimensions to serve the collection program needs.
6. Glass Collection The Contractor shall provide adequate capacity for separate collection and unloading of mixed-color glass.
7. Servicing Containers The Contractor shall provide adequate servicing of the drop-off containers. Full containers shall be promptly removed and replaced by empty containers.
8. Site Clean-Up The Contractor shall clean up all material deposited by residents at the designated drop-off site. No material, debris, litter or other form of solid waste resulting from the recycling program shall be left at the site.

The Contractor's employees shall handle all containers with reasonable care to avoid damage, shall replace all containers in an upright position, and shall immediately clean up and dispose of any contents thereof that may be spilled.

9. Frequency of Collection from Unattended Drop-Off Sites The Contractor shall remove full containers on an "on-call" basis from unattended drop-off sites.
10. One-Day Notice for Collection of Unattended Containers The County will require the site host to monitor the unattended recyclables roll-off container(s) to determine when it is full and needs servicing. The site host shall contact the Contractor to request servicing of full container(s). The Contractor shall have one business day from the time of said notice to provide collection of the full container and replacement with an empty container.
11. Required Use of the Aitkin County Recycling Facility The Contractor shall use the County's recycling facility for transfer and / or processing.
12. All Full Roll-Off Containers to be Weighed The Contractor shall weigh all full recycling roll-off containers before unloading at the County Recycling Center to obtain the gross weight of the recyclables. Upon unloading, the Contractor shall then weighing the empty containers to obtain tare weights. A net weight shall be calculated and recorded on the weight ticket.
13. Weights in Other Containers May be Estimated Amounts of recyclables collected in containers other than roll-off boxes (for example, rear-load dumpsters, bins, etc.) may be estimated, rather than weighing each container, using standard industry practices. The methodology for such estimates shall be noted within monthly collection reports.
14. Collection Records The Contractor shall maintain a log of all collection operations by designated drop-off center. Site-by-site data to be collected shall include, but are not limited to: date and time of collection; mileage; gross, tare and net weight of recyclables collected; relative fullness of each compartment (e.g., paper compartment 90% full; metals / plastic compartment 100% full; and glass compartment 75% full); notes as to level of contamination in the container by compartment; and notes about overall cleanliness of the site (e.g., illegal dumping, etc.).
15. Monthly and Annual Collection Reports The Contractor shall provide a monthly report to the County including a summary of collection data, in a format specified by the County. Monthly reports shall be due by the 15th of each month for data covering the previous month. Monthly collection reports shall provide site-by-site and total data including, but not limited to: frequency of collection; net weight of recyclables; net weight of MSW if an attended site; average fullness by recycling compartment; generalizations about levels of contamination in the recycling containers; and generalizations about the overall cleanliness of the site.

Monthly and annual collection reports shall provide, at a minimum, data about the source and type of tons collected by the Contractor, including, but not limited to: Aitkin County drop-off recyclables collected pursuant to the collection

requirements of this Contract; Aitkin County residential recyclables collected curbside; Aitkin County non-residential recyclables; and non-Aitkin County recyclables collected outside of the county.

Annual reports shall provide sum totals for each year of data contained in the monthly reports, in a format specified by the County. Annual reports shall be due by February 15 of each year for data covering the previous year.

16. Transition Period Clean-Up Services The Contractor shall provide clean-up of sites that have transitioned away from unattended to attended collections. This additional collection / removal service is expected to be necessary until residents become fully adjusted to the new schedule as proposed in the base program. The County shall first authorize any such special collections on a case-by-case basis. Proposers should include a separate line item cost component in their proposals for these special transition period clean-up services.

B. Public Relations / Public Education

1. Brochure The Contractor shall publish a recycling public education brochure that itemizes the list of acceptable and unacceptable materials as specified by the County. The brochure shall also have recyclables preparation instructions for residents. The brochure shall also list the locations and collection schedule for all designated drop-off centers. The Contractor shall provide the County with a draft of the brochure for approval prior to final printing and dissemination.
2. Phone Answering System The Contractor shall implement and maintain a phone answering system that provides answers to residents questions about the County's recycling programs and provides a direct means of communicating service complaints.

The office or answering service shall be in service with continuous supervision during the hours of 8:00 a.m. to 5:00 p.m. Monday through Friday and 8:00 a.m. to 1:00 p.m. Saturday. Address and telephone number of such office or answering service and any changes therein shall be the address and telephone number of the Contractor.

3. Relations with Site Hosts The Contractor shall assist the County in maintaining and improving good relations with local site hosts. The Contractor will be encouraged to provide other services or amenities to increase the incentives for hosts of unattended drop-off centers to improve site monitoring.
4. Instructional Signs at Drop-Off Sites The Contractor shall provide and install signs at each designated drop-off site that itemizes the type of recyclable materials acceptable and unacceptable for each commodity. The Contractor shall provide the County with a draft design and mock-up (including actual text) of the signs for County approval before final production and installation.
5. Container Compartment Labels The Contractor shall provide and install labels for each compartment in their recycling container to make clear to residents where each materials belongs. The Contractor shall provide the County with a draft of the compartment labels for approval prior to final printing and installation.

- 6. Other Public Education Opportunities The Contractor shall be encouraged to seek, develop and implement other public education opportunities to help improve recycling participation, recovery rates and compliance with resident preparation instructions.

C. Processing / Marketing

- 1. Operation of County Recycling Facility The Contractor shall operate and maintain the County's recycling facility in the City of Aitkin. The County owns the land and building only. Routine operations and maintenance shall be the responsibility of the Contractor. Routine operations and maintenance shall include, but not be limited to: operation / payment of all utilities, regular site / building clean-up, litter control, snow plowing, minor repairs, etc. Major capital improvements shall be the responsibility of the County.

The Contractor shall acquire, install and maintain its own processing equipment at its own expense.

The County recycling facility shall be open to the public for depositing materials during the following hours:

Monday through Friday:	7:30 a.m. to 4:00 p.m.
Saturday:	8:00 a.m. to 1:00 p.m.
Sunday:	Closed
Holidays:	Closed

These are the minimum hours that the County's recycling facility shall be open to the public for purposes of depositing materials at the public drop-off containers. These hours may not reflect the actual operating hours of processing and / or transfer at the recycling facility.

The Contractor shall specify the annual holiday schedule where the County recycling facility will be closed to the public. This holiday schedule should be included in the annual brochure published by the Contractor (see Subsection 2.B.1).

- 2. Processing or Transfer of Materials from Drop-Off Centers The Contractor shall specify in writing the intended plan of operations for the County's recycling facility including, but not limited to: safety, storage (both inside and outside the building), sorting, baling, and other materials handling (e.g., forklift, bobcat, etc.). The basic components of this facility-operating plan may not be changed without prior written approval by the County.
- 3. Marketing of Materials The Contractor shall be primarily responsible for securing adequate, long-term, end-markets for recyclable materials collected and processed for the duration of this Recycling Agreement. The only exception is mixed-color glass that will be the responsibility of the County to process and

market. (See Subsection 2.C.4. immediately below, "Interim Storage of Mixed Color Glass".)

4. Interim Storage of Mixed-Color Glass The County shall specify a location where the Contractor may deposit the mixed-color glass for interim storage. The County will take responsibility for the mixed-color glass upon inspection and unloading at the designated interim storage location. No other materials, other than mixed-color glass specified by the County, shall be deposited at the interim storage site.

The Contractor may perform a sort on the glass received from unattended drop-off sites to assure that contaminants (e.g., paper, plastic, metal) are removed so that the glass is unloaded at the interim storage location in relatively pure glass form. As an alternative to this sorting / cleaning of glass, the Contractor may establish additional markets for contaminated glass other than the County specified interim storage site.

The current designated interim storage location for mixed-color glass is the County property in Farm Island Township, immediately north and adjacent to the demolition landfill, west off of Highway 169, approximately five miles south of the City of Aitkin. The County may specify a different interim storage location after the year 2011. Any change in location that results in significant change in hauling costs to the Contractor will be considered a triggering event for renegotiation of the contracted cost of processing / marketing.

5. Processing / Marketing of All Other Recyclables The Contractor shall be responsible for design, installation, and operation of the recyclable materials processing and marketing elements of the County's recycling system (excluding the County Recycling Facility building).

This provision is for all recyclables other than mixed-color glass from attended drop-off sites. (See Subsection 2.C.4. immediately above, "Interim Storage of Mixed Color Glass".)

Processing / marketing services shall include, but are not limited to: securing purchase commitments from markets (including quality specifications); receiving of materials from drop-off centers, interim storage; shipment to markets; and disposal of process rejects. Costs of rejects disposal shall be the responsibility of the Contractor.

Processing / marketing services may include: transfer without further processing; sorting; and densifying (e.g., baling).

6. Buy Back Operation at the County's Recycling Facility The Contractor shall implement a buy back operation at the County's recycling facility to provide for purchase of all specified recyclable materials at a competitive price. The buy back price shall be established by the Contractor by material on a monthly basis and reflect the following factors: market value of the specific material; cost of handling / processing to prepare for market; and competing prices at other similar buy back facilities in the immediate region. The Contractor shall maintain a current buy back price schedule available for distribution to the public and submit

a copy to the County at the time of any price changes. The buy back price may be a negative price (i.e., tipping fee for certain materials).

7. Processing / Marketing Data The Contractor shall maintain ongoing records on the amounts in tons of materials processed, transferred, and marketed, including rejects disposed.
8. Monthly and Annual Processing / Marketing Reports The Contractor shall summarize processing / marketing / disposal data in monthly and annual reports to the County. Monthly reports shall be due by the 15th of each month for data covering the previous month.

Monthly and annual processing reports shall provide, at a minimum, data about the source and type of tons processed by: Aitkin County drop-off recyclables collected pursuant to the collection requirements of this Contract; Aitkin County residential recyclables collected curbside via private haulers; Aitkin County non-residential recyclables; and non-Aitkin County recyclables collected outside of the county.

Identities of end-markets may be kept confidential if the Contractor submits a written request under the procedures specified in the Minnesota Government Data Practices Act (Minnesota Statutes, Chapter 13). Annual reports shall provide sum totals for each year of data contained in the monthly reports. Annual reports shall be due by February 15 of each year for data covering the previous year.

3. TERM / TERMINATION OF THE CONTRACT

- A. Two Year Term The initial term of this recycling services Contract shall be for two years, with five, one-year extension options. The initial Contract term shall begin January 1, 2011 and expire December 31, 2012.
- B. County's One-Year Extension Options The County may request a one-year contract extension if written notice of such request is received by the Contractor by twelve (12) months prior to current expiration date. Granting requests for contract extensions shall be at the sole discretion of the County and shall not be appealed. Contract extensions will provide for the same service levels and pricing as per this Agreement (with any escalators applied as per Section 5.H).
- C. County Retains Right to Extend and Postpone Contract Termination Date The County shall retain the rights to extend the Contract at any time and to postpone the initial Contract termination date, subject to approval by the Contractor.
- D. Termination of Contract Due to Contractor Default The County may, after giving Contractor and the surety seven days written notice and to the extent permitted by laws and regulations, terminate the Contract due to Contractor default. Default can include one or more of the following actions by the Contractor:

1. Failure to Perform the required work as specified in this Agreement, and fails to correct the deficiency within 30 days after receiving written notice from the County. In addition to other services, if the Contractor repeatedly fails to perform the services itemized in Section 4.K "Liquidated Damages", the Contractor may be deemed to be in default of this Agreement.
2. Violation of Any Law or Regulation of any municipal, county, state or federal laws, rules, regulations, ordinances and specifications.
3. Filing for Bankruptcy or Insolvency If Contractor commences a voluntary case under any chapter of the Bankruptcy Code (Title II, United States Code), as now or hereafter in effect, or if Contractor takes any equivalent or similar action by filing a petition or otherwise under any other federal or state law in effect at such time relating to the bankruptcy or insolvency;

If a petition is filed against Contractor under any chapter of the Bankruptcy Code as now or hereafter in effect at the time of filing, or if a petition is filed seeking any such equivalent or similar relief against Contractor under other federal or state law in effect at the time relating to bankruptcy or insolvency.
4. Assignment of this Contract without the prior written approval of the County.
- E. Contractor Termination of the Contract Services Contractor may stop service or terminate the Contract if, through no act or fault of the Contractor, the County Recycling Program is suspended for a period of more than ninety days by the County. Under this circumstance, the Contractor may, upon seven day's written notice to the County, terminate the Agreement and recover from the County payment for completed services.
- F. Program Re-Evaluation The design and performance of the program shall be re-evaluated at the one-year and two-year anniversary dates of the Contract. If program changes are recommended by the County or Contractor that significantly affect service costs, this will be considered a triggering event for renegotiation.

4. LEGAL AND INSURANCE REQUIREMENTS

- A. Ownership and Responsibility of Material Upon collection from the designated drop-off sites, all material in and immediately around the containers (recyclables and contaminants) becomes the property and responsibility of the Contractor. Ownership of the mixed-color glass shall transfer to the County upon unloading at the designated interim storage site as per Section 2.C.4., "Interim Storage of Mixed-Color Glass".
- B. Indemnification The Contractor shall indemnify and hold harmless the County and its officials, agents, and employees from and against all claims, damages, losses, and expenses, including attorney's fees, which the County may suffer or for which it may be held liable, arising out of or resulting from the Contractor's or his agent's or employee's actions or negligence in the performance of this Contract. Prior to the commencement of the Contract, the Contractor shall furnish the County certificates or copies of these policies of insurance in force.

Compliance by the Contractor with the foregoing requirements to carry insurance and furnish certificates thereof shall not relieve the Contractor from liability assumed under any provisions of this Contract.

- C. **Independent Contractor** The Contractor shall be deemed an independent Contractor, and not an employee of the County. Any and all employees, members or associates of the Contractor or other persons, while engaged in the work or services required to be performed by the Contractor, per this Agreement shall not be considered employees of the County. Any and all claims that may or might arise on behalf of said employees or other persons as a consequence of any act or omission on the part of said employees or the Contractor shall in no way be the obligation or responsibility of the County.
- D. **Contractor Performance Bond** The Contractor will be required to furnish financial assurance to compensate the County for losses that may be incurred in the event Contractor fails to faithfully perform Contractor's obligations under this Contract. Said financial assurance shall be equal to the amount of the annual total contract price and shall take the form of a corporate surety bond, or in lieu thereof, an irrevocable letter of credit. Said financial assurance shall stay in effect throughout the contract period.
- Annual contract price, for purposes of this performance bond, shall be based on estimates derived by the County for the first year and actual contract payments for subsequent years.
- E. **Worker's Compensation Insurance** The Contractor shall provide and maintain worker's compensation insurance as required by law.
- F. **Comprehensive General Liability Insurance** Contractor shall provide and maintain at all times while this Contract is in effect Comprehensive General Liability Insurance insuring against liability imposed by law for bodily injury or death, in the minimum sum of \$1,500,000 any one person and in the minimum sum of \$1,500,000 for two or more persons for the same occurrence, and for damage of property in the minimum sum of \$500,000. The County of Aitkin shall be named a coinsured on said policy for incidents arising out of the Contractor's performance of this Agreement, which shall provide that the coverage may not be terminated or changed by the insurer except upon ten days written notice to the County Auditor. All endorsements shall apply to both bodily injury or death and property damage coverages. The Contractor is also required to provide no fault motor vehicle insurance with regard to all motor vehicles used in carrying out the terms of this Contract, in the same amounts specified.
- G. **Auditing** The Contractor shall allow the County to examine Contractor's books, records, documents, and accounting procedures and practices relevant to this recycling program.

The Contractor shall also allow the Legislative Auditor or the State Auditor as appropriate to examine Contractor's books, records, documents, and accounting procedures and practices relevant to this Contract.

- H. Non-Discrimination** Contractor agrees that Contractor shall not discriminate against any employee, applicant for employment or other person, supplier, or contractor because of race, color, religion, sex, marital status, national origin, disability or public assistance.
- I. Assignment and Subcontracting** Neither the County nor the Contractor shall assign the Agreement, or any part thereof, nor shall either the County or the Contractor sub-contract this Agreement or any part thereof without the prior written approval of the other party.
- The Contractor may not assign any parts of this Agreement via sale, merger or acquisition of the Contractor's company without the prior written approval of the County. The County, at its sole discretion, may elect to fully enforce the provisions of the Contract, rebid or renegotiate the Contract if the Contractor sells, merges or is acquired. The County shall specify its decision and schedule for how to continue the recycling services as specified in this Agreement within its written response to the Contractor.
- J. Compliance with All Laws, Rules, Regulations and Licensing Requirements** The Contractor shall comply with all municipal, county, state and federal laws, regulations, ordinances and specifications. The Contractor shall be licensed by Aitkin County as a solid waste hauler and shall pay the required annual County license fees. The Contractor shall obtain all other required municipal and county licenses necessary to collect, handle, store, process, transfer, remove, transport or dispose of solid waste within Aitkin County.
- K. Liquidated Damages** The County and Contractor agree, in addition to any other remedies available to the County, the County may withhold payment from the Contractor in the amounts specified below as liquidated damages for failure of the Contractor to fulfill its obligations:
1. Failure to service and collect full drop-off containers within the one business day limit as specified in Section 2.A.7 ("Servicing Containers") and Section 2.A.10 ("One-Day Notice for Collection of Unattended Containers") - \$100 per incident
 2. Failure to provide monthly and annual reports as specified within Sections 2.A.15 and 2.C.8 - \$200 per incident.
 3. Failure to submit a copy of buy back price changes as specified within Section 2.C.6 - \$100 per incident.
 4. Failure to respond to legitimate service complaints in a reasonable, professional and timely manner - \$50 per incident.
 5. Failure to appear at a scheduled, attended collection event - \$100 per incident.
- These amounts are liquidated damages for losses suffered by the County, and not a penalty.
- L. Dispute Resolution Process** The County and the Contractor agree to first use the following process to resolve disputes about issues related to the performance of this Contract. If an issue arises requiring resolution, either party shall initiate this

dispute resolution process by notifying the other party and scheduling a meeting. The meeting shall serve as a fact finding opportunity to identify the issue, clarify the problem, review this Contract provisions relating to the issue, discuss alternative remedies, and agree upon a means of dispute resolution. The parties shall make a good faith effort to complete the agreed-upon tasks within 30 days of the initial dispute resolution meeting, or specify an alternative schedule and deadline for resolving the issue. This dispute resolution process shall be considered as one alternative to the County declaring the Contractor in default as per Section 3.D of this Agreement. Nothing in this Contract section, Dispute Resolution Process, shall be construed or implied to reduce, eliminate or otherwise affect the rights of the County to use any and all other means of legal remedies.

- M. **Contact Persons for Legal Notices** The Contractor identifies Paul Fischer, who shall be designated to receive all notices and communications on behalf of the contracting parties with regard to the Contract. Written notice required to be provided to the County pursuant to this Agreement shall be provided to the County Solid Waste Administrator, Department of Environmental Services, Aitkin County Courthouse, Aitkin, MN 56431. Written notice required to be provided to the Contractor pursuant to this Agreement shall be provided to Paul Fischer.
- N. **Disposal of Reject Materials** Reject materials shall be disposed of by the Contractor at a permitted facility and will be subject to any applicable tipping fees.
- O. **Performance** Contractor shall see that all work done pursuant to this Agreement is accomplished with work forces and equipment which are adequate to insure the satisfactory collection and disposal of said materials at all times. Failure to perform may be excused only by adverse conditions caused by weather or similar hindrances which on other work might be regarded as "acts of providence".
- P. **Conflict of Interest** Neither the Contractor nor its employees either presently have, nor shall acquire interest, direct or indirect, in the Contract in any manner forbidden by law. No County official, or deputy or clerk or employee of such official, shall be directly or indirectly interested in this Contract.
- Q. **Severability** This Agreement is subject to the laws of the United States of America, the State of Minnesota and Ordinances of the County of Aitkin. In the event that any provision of this Agreement shall be held to be contrary to law or Ordinance by a court of competent jurisdiction from whose final judgment or decree no appeal has been taken within the time provided, such provision or provisions shall be voided. All other terms and conditions of the Agreement shall continue in full force and effect. The voided provision or provisions may be renegotiated at the written request of either party to this Agreement.
- R. **Governing Law** This Agreement shall be deemed to be a contract made in the State of Minnesota and shall be interpreted and construed in all respects in

accordance with the laws of the State of Minnesota applicable to contracts wholly to be performed therein.

- S. **Modification** Any alterations, variations, modification or waivers of the provisions of this Agreement shall only be valid when they have been reduced to writing, signed by the authorized representatives of the County and Contractor and attached to this Agreement.
- T. **Integration** The Parties agree that the entire Agreement between the Parties is contained herein and that this Agreement, including any and all exhibits attached hereto, supercede all oral Agreements and negotiations between the Parties relating to the subject matter hereof, as well as any previous agreements between the Contractor and the County or either of them relating to the subject matter hereof.

5. **PAYMENTS AND RECORDS**

- A. **Monthly Invoices** The Contractor shall submit monthly invoice statements for payments for services rendered, said statements to be submitted to the Aitkin County Department of Environmental Services.
- B. **Service Components** Monthly invoices shall specify the following level of services:
1. **Collection Mileage (Round Trip) for Unattended Drop-Off Sites** to the designated drop-off centers as specified in Attachment B, including "cardboard only" unattended drop-off sites. Round trip miles to each designated unattended drop-off location shall be measured using the shortest truck route from the Garrison Disposal transfer station in Aitkin. These round trip distances shall then be established as the fixed distance for the period of this Contract and not changed without written notification by the Contractor to the County.

The Contractor shall notify the County if any route has seasonal weight limit restrictions that require longer haul distances due to detours on higher capacity roads.
 2. **Collection Service Payments for Remote, Attended Drop-Off Sites** The County shall pay the Contractor a set fee per day for collecting recyclables at attended drop-off sites. A minimum of two attended sites shall be serviced the same day. Each attended site shall be serviced at a minimum frequency of every other week. This collection service payment shall not apply to the County Recycling Center.
 3. **Processing Fee for Aitkin County Residential Recyclables Processed** The County shall pay the Contractor for processing and marketing of recyclables from Aitkin County only. Recyclables from private commercial accounts shall be eligible for this County processing fee. Material collected from outside Aitkin County shall not be eligible for payment.

Only "processed" glass from unattended drop-off sites is eligible for processing fee payment by Aitkin County. The Contractor shall make a good faith effort to

minimize the glass requiring processing. Other glass (e.g., from attended drop-off sites, including the Aitkin County Recycling Center, curbside collection programs, etc.) that is not sorted by the Contractor at the Aitkin County Recycling Center for purposes of removal of contaminants shall not be included in the request for processing fee payment.

4. Glass Shipping Charges may be assessed back to the County for glass transportation services from the County Recycling Center to the interim glass storage location.
5. Less Revenue (Risk) Share Credit (Charge) The Contractor shall itemize the amount of revenue received from the sale (or charge) of processed recyclable material. The Contractor shall submit actual market sales receipts and truck scale weight tickets, or other suitable documentation as approved by the County. This revenue (risk) share credit (charge) shall include Aitkin County recyclables, residential and commercial, plus materials collected from outside of Aitkin County **that receive a profit such as cardboard, aluminum and office paper**. The Contractor shall make a good faith effort to secure the best value, highest paying markets for recyclable materials. The County may assist the Contractor in securing additional, higher paying markets for recyclable materials.
- C. Payment for Services The County shall pay the Contractors for services rendered as invoiced upon successful completion of all services required, including, but not limited to, monthly reports as specified above in this Contract in sections 2.A.15 and 2.C.8.
- D. Compensation / Prices for Contract Services The County and the Contractor agree that the following prices and revenue share shall be paid by the County and credited back to the County from the Contractor:
 1. Mileage price for contracted collection services at unattended drop-off sites = \$2.08 per (round trip) mile
 2. Collection service fee for attended drop-off sites = prices are per day.
 - * Hill City/Palisade \$375.00
 - *McGrath/Malmo \$375.00
 3. Processing price for contracted processing services = \$75 per ton
 4. Glass Shipping Charges = \$35 per trip.
 5. Less Revenue (Risk) Share = 30% of revenue from material sales from all tons processed through the County Recycling Center.
- E. Records of Expenses and Revenues The Contractor shall be required to create, establish, maintain and preserve detailed written records listing all expenses and revenues incurred from collection, processing, marketing and transporting of recyclable materials from the designated drop-off centers listed in Attachment B. The above-mentioned records shall be open to the County for inspection during normal working hours of operation and shall be kept by the Contractor for a period of six (6) years following the termination of this Contract.

- F. Data Practices** The Contractor shall designate a management official as the responsible authority for the Contractor. Records of the Contractor established, maintained and preserved to the Contract shall be maintained and administered in accordance with the requirements of the Minnesota Government Data practices Act. Contractor designates Paul Fischer to be the responsible authority.
- G. County Record of Complaints** Complaints on service received by the County will be recorded in writing listing time, date, and name along with the address and telephone number of the person making the complaint on forms furnished by the County. A written copy of the complaint listing the nature of complaint and corrective action recommended by the County, shall be submitted to the Contractor. Monthly reports to the County by the Contractor shall identify the complaint and follow-up action taken.
- H. Inflation Adjustments** The Collection (mileage) and Processing (per ton) fees established in Section 5.D above shall be annually adjusted on January 1st at the same rate of the Consumer Price Index (CPI-U; Midwest Region – Urban Index, All items; 1982-84=100).
- I. Transition Period Clean-Ups** The Contractor shall perform clean-ups of sites closed or transitioned from permanent, unattended drop-off sites to scheduled pick-up, attended sites. Costs of such clean-up will be estimated by the Contractor based on the volume and frequency of material to be collected and removed. The Contractor shall provide such estimates immediately upon request of the County. The County shall retain the right to contract with other haulers for the clean-up services.

In Witness whereof, the Parties hereto set their hands.

By the duly elected or appointed representatives of **AITKIN COUNTY**:

_____	_____
BOARD OF COMMISSIONERS, CHAIRPERSON	Date
_____	_____
AUDITOR	Date
_____	_____
DIRECTOR OF ENVIRONMENTAL SERVICES DEPARTMENT	Date
_____	_____
AITKIN COUNTY ATTORNEY	Date

By the duly appointed representatives of the **CONTRACTOR**.

The Contractor acknowledges by his/her signature on this document that the Contractor has received a copy of this Contract and is in full agreement with the terms as imposed upon the Contractor by this Agreement and that the Contractor will comply with those terms and conditions.

_____	_____
Paul B. Fischer, Owner and President	Date

Attachment A
PROGRAM DEFINITIONS

1. "Attended Drop-Off Sites" means designated drop-off centers that have staff to supervise and assist residents with recyclables unloading and depositing into the containers. Attended drop-off sites will therefore be required to be on a scheduled basis with hours of operation to be specified by the County in Attachment B.

Attended drop-off sites shall be defined to include disposal services for mixed municipal solid waste (MSW). That is, in addition to recycling containers, the Contractor shall provide garbage removal services at the same attended recycling collections thereby allowing residents to pay for and deposit MSW.

2. "Buy Back" means the part of the processing operations at the County's recycling facility whereby the Contractor purchases materials from the public and other haulers.
3. "Containers" means compartmentalized, covered roll-off boxes with sufficient compartments to allow separate collection of the recyclable materials specified herein.

Other suitable types of container systems may be substituted for roll-off boxes (e.g., rear load dumpsters). Substitute types of containers must be specified in the proposal and must provide: adequate covering to prevent littering and precipitation from getting into the materials; adequate capacity; and ease of access by residents to deposit recyclable materials (e.g., unloading height not too high).

4. "Contamination" or "Contaminants" means incorrect materials deposited in the containers that are not acceptable as recyclables as defined by the County.
5. "Contractor" means the County's contracted recycling service vendor as per this Agreement.
6. "County Recycling Facility" means the Aitkin County Recycling Facility located in the City Industrial Park, on County Road 83, in Aitkin, Minnesota.
7. "Designated Drop-Off Center" means a specified facility for storage of recyclable materials. These facilities may be attended or unattended and will be located at site locations and schedules as specified by the County.

Attachment B is the current list of designated drop-off centers, including description of specific site locations and schedules of operations.

8. "Designated Drop-Off Center Host" or "Site Host" means the site sponsor, agency or business. The container may be on or near host's property. If the site is an unattended drop-off center, the site host will designate a contact person responsible for monitoring the recycling container as it fills up.
9. "Designated Private Recycling Facility" means a private facility that engages in the processing and marketing of recyclable materials.

10. “End Markets” means the final manufacturing plant or business where the processed recyclables are sold to make a new product (for example, mills). Brokers, intermediate processors and other recycling material reclaimers are not considered end-markets.
11. “Haulers” means solid waste management and / or recycling firms that provide collection services to residents and businesses in or near the Aitkin County region.
12. “Markets” for recyclable material include any person or company that buys (or charges) for recycling of specified materials. “Markets” may include, but are not limited to: end-markets, intermediate processors, brokers and other recycling material reclaimers.
13. “Mixed-Color Glass” Acceptable food and beverage glass jars and bottles (as per Attachment D) as prepared by residents, but not sorted by color. I.e., all colors of glass mixed into one compartment in the containers.
14. “Recyclables Collection” means taking up of all recyclable materials accumulated in containers at designated drop-off centers and the transporting of the recyclable materials to a recycling facility where they can be processed and / or transferred for marketing.
15. “Recyclable Materials” means those “minimum list of materials” identified by the County in Attachment C.
16. “Recycle/Recycling” means the process of collecting, processing and preparing recyclable materials and reusing them in manufacturing processes that do not cause the destruction of recyclable materials in a manner that precludes further use.
17. “Recycling Facility” is a general term and means either the County recycling facility a designated private recycling facility.
18. “Rejects” means materials that, after processing by the Contractor, are not marketable as recyclables and must be disposed as mixed municipal solid waste.
19. “Triggering Event for Renegotiation” means any event that allows either the County or the Contractor to initiate renegotiation of the Contract due to systems changes that may effect costs of services.
20. “Unattended Drop-Off Sites” are designated drop-off centers that do not have staff present whereby residents are asked to unload their own recyclables without supervision. Unattended drop-off sites, in general, are open 24-hours per day, seven days per week, as specified by the County in Attachment B.

ATTACHMENT B - LIST OF DESIGNATED DROP-OFF CENTERS

Site No.	City/Location	Establishment (As Host for Site)	Service Type/Materials ^(b)	Minimum Frequency of Service ^(c)
1.	Aitkin/County Courthouse	Aitkin County	Unattended/Cardboard only	On Call
2.	Aitkin/County Recycling Center	County/Contractor	Attended/Full service	Empty as needed (On-site)
3.	Aitkin/High School	High School	Attended/Full service (For school use only)	On Call
4.	Aitkin/Rippleside Elem School	Elementary School	Attended/Full service (For school use only)	On Call
5.	Hill City	<i>Sonny's Citgo</i> (Hwys 200 & 169)	Attended/Full service	Every other week ^(c)
6.	Hill City School	School	Unattended/Cardboard only (For school use only)	On Call
7.	Long Lake Conservation Reserve	Conservation Reserve	Unattended/Full service	On Call
8.	Malmo	<i>Malmo Conoco</i>	Attended/Full service	Every other week ^(c)
9.	McGrath	1865 Café	Attended/Full service	Every other week ^(c)
10.	McGregor School	School	Unattended/Full service (For school use only)	On Call
11.	Palisade	<i>Palisade Supply</i>	Attended/Full service	Every other week ^(c)
12.	Savanna State Park	MN Dept of Natural Resources	Unattended/Full service (For park guests only)	On Call (Seasonal)

Notes:

- (a) This list of designated drop-off centers was revised by the County in June 2000 to exclude the former sites of Libby Dam and Savanna State Park, and on 2-15-02 to eliminate Jacobson and Tamarack. On 4-23-02 added Savanna State Park and on June 1, 2007 added J&H Transfer Station. 1-1-2011 removed J&H Transfer Station and McGregor Transfer Station. The County reserves the exclusive right to add or subtract designated drop-off centers to be serviced by the Contractor.
- (b) "Full Service" means all County-specified materials collected at this drop-off center (see Attachment C for detailed list).
- (c) Attended drop-off centers collected every other week shall be open a minimum of two (2) hours per collection. The Contractor shall specify exact schedule (i.e., days of the week, hours, etc. for each site) and submit to the County for approval. Severe weather is understood as a permissible exception to this schedule.

<u>Attachment C</u> LIST OF DESIGNATED RECYCLABLE MATERIALS		
Acceptable	Items NOT recyclable	Resident Preparation Instructions
Glass Glass bottles and jars (empty) Holding food and beverages only	Ceramic dishes, Dirty bottles, Bottles with caps Dinner Plates. Ovenware Clay pots Drinking glasses, crystal, broken glass Window panes, mirrors Light bulbs	No need to separate by color Remove lids Rinse to remove residue Do not break glass
Plastic No. 1 thru 6 Plastic bottles (empty – remove caps): Milk, pop, beverage containers, Laundry Soap, cool whip and butter tubs	Plastic Bags, screw on lids, Any type of plastic film Pails, tubs, plates, plastic cups, bowls, caps, lids, Ketchup cups Plastic utensils, screw on lids, dirty bottles, rubber products, Styrofoam cups and packing materials, polyvinyl sheeting, heat shrink wrap	Remove caps, lids Rinse to remove residue Do not try to recycle more than these types of bottles Throw away caps and lids Throw away all other non-plastic May be mixed with tin and aluminum cans (a)
Cans: Aluminum and Tin Steel/tin cans Aluminum cans (emptied) Aluminum pie and meat tins Aluminum foil	Wire strapping, dirty cans, cardboard cans, appliances, power tools or batteries, metalized-look plastics, screw-on lids	Rinse to remove residue No need to remove labels May be mixed with plastics (b)

Notes:

- (a) Plastic may be mixed in same recycling container compartment with tin/aluminum cans at discretion of the contractor
- (b) Tin/aluminum cans may be mixed in same recycling container compartment with plastic at discretion of the contractor

Attachment C (continued)
LIST OF DESIGNATED RECYCLABLE MATERIALS

Acceptable	Items NOT recyclable	Resident Preparation Instructions
<p>Cardboard Corrugated cardboard (cardboard from boxes with fluted center and two side panels) Paperboard (cereal, kleenex, chip and pizza boxes).</p>	<p>Chipboard, packing peanuts, cellulose packing, foil, plastic wrap, egg crate material, milk cartons, wood scraps Waxed or coated cardboard No meat or juice stained cardboard</p>	<p>Flatten boxes Remove plastic or waxed paper liners and all Styrofoam packing materials</p>
<p>Paper Newspaper, magazines, catalogs, phone books Office paper: white or pastel Stationary/typing paper Envelopes: White, gold, brown, post-it notes, computer paper, Adding machine paper Index/tab/time cards, manila folders, note paper, thermal fax paper, NCR (carbonless copy-through paper)</p>	<p>Blue prints, carbon paper, construction paper, copy paper wrappers, food packaging, Metal bindings, plastic covers, Puzzle books, comic books, Rubber bands, paper clips, Adhesive labels and stickers Cellophane, foils</p>	<p>Newspaper separate in brown paper bags or bundle with string/twine Magazines separate in brown paper bags or bundle with string/twine Catalogs may be included in same bags with magazines Phone books may be included in same bag with magazines</p>

RECYCLING AGREEMENT

THIS AGREEMENT, is made and entered into this November 23, 2010, by and between the County of Aitkin, a political subdivision of the State of Minnesota, hereinafter "County" and Jeff and Jesse Hooper doing business as J&H Transfer, located at 19149 360th St, McGregor, MN 55760, hereinafter "Contractor".

For the purpose of this Agreement, Jeff and Jesse Hooper, and J&H Transfer shall be deemed an independent Contractor, and not an employee of the County. Any and all employees, members or associates of the Contractor or other persons, while engaged in the work or services required to be performed by the Contractor under this Agreement, shall not be considered employees of the County. Any and all claims that may or might arise on behalf of said employees or other persons as a consequence of any act or omission on the part of said employees or the Contractor shall in no way be the obligation or responsibility of the County.

WITNESSETH:

WHEREAS, County has determined that reduction of the County's solid waste stream through county-wide recycling is in the public interest; and

WHEREAS, representatives of the County and the Contractor have met to negotiate the detailed terms of this Agreement contained herein;

NOW, THEREFORE, in consideration of the mutual promises and agreements herein set forth, the parties agree as follows:

1. **DEFINITIONS:** The terms used within this Contract shall be defined according to the definitions contained in Attachment A: "Program Definitions" (incorporated herein to this Agreement).
2. **CONTRACTOR'S OBLIGATIONS:**
 - A. **Collection** This collection service element of this Agreement pertains to the installation, maintenance and servicing of the drop-off system for collecting recyclables.
 1. **Residential Recyclable Materials** This collection service element is primarily targeted towards the collection of recyclables derived from residents' (both permanent and seasonal) households.
 2. **Collection of Drop-Off Recyclable Materials** This collection service element pertains only to materials deposited by residents and other users at designated drop-off centers as listed in Attachment B. This collection element does not pertain to the collection of materials from residents via "curbside collection" programs (pick-up on a house-to-house, or business-to-business basis) that may be offered by haulers as services to their customers.
 3. **Provide and Maintain Containers** The Contractor shall be responsible for purchase and installation of compartmentalized roll-off containers, or other suitable substitute containers, with adequate capacity and dimensions to serve the collection program needs.
 4. **Servicing Containers** The Contractor shall provide adequate servicing of the drop-off containers. Full containers shall be promptly removed and replaced by empty containers.
 5. **Site Clean-Up** The Contractor shall clean up all material deposited by residents at the designated drop-off site. No material, debris, litter or other form of solid waste resulting from the recycling program shall be left at the site.

The Contractor's employees shall handle all containers with reasonable care to avoid damage, shall replace all containers in an upright position, and shall immediately clean up and dispose of any contents thereof that may be spilled.

6. One-Day Notice for Collection of Unattended Containers The County will require the site host to monitor the unattended recyclables roll-off container(s) to determine when it is full and needs servicing. The site host shall contact the Contractor to request servicing of full container(s). The Contractor shall have one business day from the time of said notice to provide collection of the full container and replacement with an empty container.
7. All Full Roll-Off Containers to be Weighed The Contractor shall weigh all full recycling roll-off containers before unloading to obtain the gross weight of the recyclables. Upon unloading, the Contractor shall then weigh the empty containers to obtain tare weights. A net weight shall be calculated and recorded on the weight ticket.
8. Weights in Other Containers May be Estimated Amounts of recyclables collected in containers other than roll-off boxes (for example, rear-load dumpsters, bins, etc.) may be estimated, rather than weighing each container, using standard industry practices with approval of the County. The methodology for such estimates shall be noted within monthly collection reports.
9. Collection Records The Contractor shall maintain a log of all collection operations by designated drop-off center. Site-by-site data to be collected shall include, but are not limited to: date and time of collection; gross, tare and net weight of recyclables collected; relative fullness of each compartment (e.g., paper compartment 90% full; metals / plastic compartment 100% full; and glass compartment 75% full); notes as to level of contamination in the container by compartment; and notes about overall cleanliness of the site (e.g., illegal dumping, etc.).
10. Monthly and Annual Collection Reports The Contractor shall provide a monthly report to the County including a summary of collection data, in a format specified by the County. Monthly reports shall be due by the 15th of each month for data covering the previous month. Monthly collection reports shall provide site-by-site and total data including, but not limited to: frequency of collection; net weight of recyclables; average fullness by recycling compartment; and generalizations about levels of contamination in the recycling containers.

Monthly and annual collection reports shall provide, at a minimum, data about the source and type of tons collected by the Contractor, including, but not limited to: Aitkin County drop-off recyclables collected pursuant to the collection requirements of this Contract; Aitkin County residential recyclables collected curbside; and Aitkin County non-residential recyclables.

Annual reports shall provide sum totals for each year of data contained in the monthly reports, in a format specified by the County. Annual reports shall be due by February 15 of each year for data covering the previous year.

11. Recycling Route list Contractor must provide the County with a recycling route list if the Contractor is providing curb side collection to residential customers or providing recycling services to commercial establishments.

B. Public Relations / Public Education

1. Brochure The Contractor shall publish a recycling public education brochure that itemizes the list of acceptable and unacceptable materials as specified by the County. The brochure shall also have recyclables preparation instructions for residents. The brochure shall also list the locations and collection schedule for all designated drop-off centers. The Contractor shall provide the County with a draft of the brochure for approval prior to final printing and dissemination.
2. Container Compartment Labels The Contractor shall provide and install labels for each compartment in their recycling container to make clear to residents where each materials belongs. The Contractor shall provide the County with a draft of the compartment labels for approval prior to final printing and installation.

3. Other Public Education Opportunities The Contractor shall be encouraged to seek, develop and implement other public education opportunities to help improve recycling participation, recovery rates and compliance with resident preparation instructions.

C. Processing / Marketing

1. Processing or Transfer of Materials from Drop-Off Centers The Contractor shall specify in writing the intended plan of operations for the recycling facility including, but not limited to: safety, storage (both inside and outside the building), sorting, baling, and other materials handling (e.g., forklift, bobcat, etc.).
2. Marketing of Materials The Contractor shall be responsible for securing end-markets for recyclable materials collected and processed for the duration of this Recycling Agreement.
3. Processing / Marketing of All Recyclables The Contractor shall be responsible for design, installation, and operation of the recyclable materials processing and marketing elements of the recycling system.

Processing / marketing services shall include, but are not limited to: securing purchase commitments from markets (including quality specifications); receiving of materials from drop-off centers, interim storage; shipment to markets; and disposal of process rejects. Costs of rejects disposal shall be the responsibility of the Contractor.

Processing / marketing services may include: transfer without further processing; sorting; and densifying (e.g., baling).

4. Processing / Marketing Data The Contractor shall maintain ongoing records on the amounts in tons of materials processed, transferred, and marketed, including rejects disposed.
5. Monthly and Annual Processing / Marketing Reports The Contractor shall summarize processing / marketing / disposal data in monthly and annual reports to the County. Monthly reports shall be due by the 15th of each month for data covering the previous month.

Monthly and annual processing reports shall provide, at a minimum, data about the source and type of tons processed by: Aitkin County drop-off recyclables collected pursuant to the collection requirements of this Contract; Aitkin County residential recyclables collected curbside; and Aitkin County non-residential recyclable.

Identities of end-markets may be kept confidential if the Contractor submits a written request under the procedures specified in the Minnesota Government Data Practices Act (Minnesota Statutes, Chapter 13). Annual reports shall provide sum totals for each year of data contained in the monthly reports. Annual reports shall be due by February 15 of each year for data covering the previous year.

3. TERM / TERMINATION OF THE CONTRACT

- A. Two Year Term The initial term of this recycling services Contract shall be for two years, with five, one-year extension options. The initial Contract term shall begin January 1, 2011 and expire December 31, 2012.
- B. County's One-Year Extension Options The County may request a one-year contract extension if written notice of such request is received by the Contractor by twelve (12) months prior to current expiration date. Granting requests for contract extensions shall be at the sole discretion of the County and shall not be appealed. Contract extensions will provide for the same service levels and pricing as per this Agreement (with any escalators applied as per Section 5.H).

- C. **County Retains Right to Extend and Postpone Contract Termination Date** The County shall retain the rights to extend the Contract at any time and to postpone the initial Contract termination date, subject to approval by the Contractor.
- D. **Termination of Contract Due to Contractor Default** The County may, after giving Contractor and the surety seven days written notice and to the extent permitted by laws and regulations, terminate the Contract due to Contractor default. Default can include one or more of the following actions by the Contractor:
1. **Failure to Perform** the required work as specified in this Agreement, and fails to correct the deficiency within 30 days after receiving written notice from the County. In addition to other services, if the Contractor repeatedly fails to perform the services itemized in Section 4.J "Liquidated Damages", the Contractor may be deemed to be in default of this Agreement.
 2. **Violation of Any Law or Regulation** of any municipal, county, state or federal laws, rules, regulations, ordinances and specifications.
 3. **Filing for Bankruptcy or Insolvency** If Contractor commences a voluntary case under any chapter of the Bankruptcy Code (Title II, United States Code), as now or hereafter in effect, or if Contractor takes any equivalent or similar action by filing a petition or otherwise under any other federal or state law in effect at such time relating to the bankruptcy or insolvency;
If a petition is filed against Contractor under any chapter of the Bankruptcy Code as now or hereafter in effect at the time of filing, or if a petition is filed seeking any such equivalent or similar relief against Contractor under other federal or state law in effect at the time relating to bankruptcy or insolvency.
 4. **Assignment of this Contract** without the prior written approval of the County.
- E. **Contractor Termination of the Contract Services** Contractor may stop service or terminate the Contract if, through no act or fault of the Contractor, the County Recycling Program is suspended for a period of more than ninety days by the County. Under this circumstance, the Contractor may, upon seven day's written notice to the County, terminate the Agreement and recover from the County payment for completed services.
- F. **Program Re-Evaluation** The design and performance of the program shall be re-evaluated at the one-year and two-year anniversary dates of the Contract. If program changes are recommended by the County or Contractor that significantly affect service costs, this will be considered a triggering event for renegotiation.

4. **LEGAL AND INSURANCE REQUIREMENTS**

- A. **Ownership and Responsibility of Material** Upon collection from the designated drop-off sites, all material in and immediately around the containers (recyclables and contaminants) becomes the property and responsibility of the Contractor.
- B. **Indemnification** The Contractor shall indemnify and hold harmless the County and its officials, agents, and employees from and against all claims, damages, losses, and expenses, including attorney's fees, which the County may suffer or for which it may be held liable, arising out of or resulting from the Contractor's or his agent's or employee's actions or negligence in the performance of this Contract. Prior to the commencement of the Contract, the Contractor shall furnish the County certificates or copies of these policies of insurance in force.

Compliance by the Contractor with the foregoing requirements to carry insurance and furnish certificates thereof shall not relieve the Contractor from liability assumed under any provisions of this Contract.

- C. **Independent Contractor** The Contractor shall be deemed an independent Contractor, and not an employee of the County. Any and all employees, members or associates of the Contractor or other persons, while engaged in the work or services required to be performed by the Contractor, per this Agreement shall not be considered employees of the County. Any and all claims that may or might arise on behalf of said employees or other persons as a consequence of any act or omission on the part of said employees or the Contractor shall in no way be the obligation or responsibility of the County.
- D. **Worker's Compensation Insurance** The Contractor shall provide and maintain worker's compensation insurance as required by law.
- E. **Comprehensive General Liability Insurance** Contractor shall provide and maintain at all times while this Contract is in effect Comprehensive General Liability Insurance insuring against liability imposed by law for bodily injury or death, in the minimum sum of \$1,500,000 any one person and in the minimum sum of \$1,500,000 for two or more persons for the same occurrence, and for damage of property in the minimum sum of \$500,000. The County of Aitkin shall be named a coinsured on said policy for incidents arising out of the Contractor's performance of this Agreement, which shall provide that the coverage may not be terminated or changed by the insurer except upon ten days written notice to the County Auditor. All endorsements shall apply to both bodily injury or death and property damage coverages. The Contractor is also required to provide no fault motor vehicle insurance with regard to all motor vehicles used in carrying out the terms of this Contract, in the same amounts specified.
- F. **Auditing** The Contractor shall allow the County to examine Contractor's books, records, documents, and accounting procedures and practices relevant to this recycling program.
- The Contractor shall also allow the Legislative Auditor or the State Auditor as appropriate to examine Contractor's books, records, documents, and accounting procedures and practices relevant to this Contract.
- G. **Non-Discrimination** Contractor agrees that Contractor shall not discriminate against any employee, applicant for employment or other person, supplier, or contractor because of race, color, religion, sex, marital status, national origin, disability or public assistance.
- H. **Assignment and Subcontracting** Neither the County nor the Contractor shall assign the Agreement, or any part thereof, nor shall either the County or the Contractor sub-contract this Agreement or any part thereof without the prior written approval of the other party.
- The Contractor may not assign any parts of this Agreement via sale, merger or acquisition of the Contractor's company without the prior written approval of the County. The County, at its sole discretion, may elect to fully enforce the provisions of the Contract, rebid or renegotiate the Contract if the Contractor sells, merges or is acquired. The County shall specify its decision and schedule for how to continue the recycling services as specified in this Agreement within its written response to the Contractor.
- I. **Compliance with All Laws, Rules, Regulations and Licensing Requirements** The Contractor shall comply with all municipal, county, state and federal laws, regulations, ordinances and specifications. The Contractor shall be licensed by Aitkin County as a solid waste hauler and shall pay the required annual County license fees. The Contractor shall obtain all other required municipal and county licenses necessary to collect, handle, store, process, transfer, remove, transport or dispose of solid waste within Aitkin County.
- J. **Liquidated Damages** The County and Contractor agree, in addition to any other remedies available to the County, the County may withhold payment from the Contractor in the amounts specified below as liquidated damages for failure of the Contractor to fulfill its obligations:

1. Failure to service and collect full drop-off containers within the one business day limit as specified in Section 2.A.4 (“Servicing Containers”) and Section 2.A.6 (“One-Day Notice for Collection of Unattended Containers”) - \$100 per incident
 2. Failure to provide monthly and annual reports as specified within Sections 2.A.10 and 2.C.5 - \$200 per incident.
 3. Failure to respond to legitimate service complaints in a reasonable, professional and timely manner - \$50 per incident.
 4. These amounts are liquidated damages for losses suffered by the County, and not a penalty.
- K. Dispute Resolution Process** The County and the Contractor agree to first use the following process to resolve disputes about issues related to the performance of this Contract. If an issue arises requiring resolution, either party shall initiate this dispute resolution process by notifying the other party and scheduling a meeting. The meeting shall serve as a fact finding opportunity to identify the issue, clarify the problem, review this Contract provisions relating to the issue, discuss alternative remedies, and agree upon a means of dispute resolution. The parties shall make a good faith effort to complete the agreed-upon tasks within 30 days of the initial dispute resolution meeting, or specify an alternative schedule and deadline for resolving the issue. This dispute resolution process shall be considered as one alternative to the County declaring the Contractor in default as per Section 3.D of this Agreement. Nothing in this Contract section, Dispute Resolution Process, shall be construed or implied to reduce, eliminate or otherwise affect the rights of the County to use any and all other means of legal remedies.
- L. Contact Persons for Legal Notices** The Contractor identifies Jeff Hooper, who shall be designated to receive all notices and communications on behalf of the contracting parties with regard to the Contract. Written notice required to be provided to the County pursuant to this Agreement shall be provided to the County Solid Waste Administrator, Department of Environmental Services, 209 2nd St NW, Aitkin, MN 56431. Written notice required to be provided to the Contractor pursuant to this Agreement shall be provided to Jeff Hooper 19149 360th St, McGregor, MN 55760.
- M. Disposal of Reject Materials** Reject materials shall be disposed of by the Contractor at a permitted facility and will be subject to any applicable tipping fees.
- N. Performance** Contractor shall see that all work done pursuant to this Agreement is accomplished with work forces and equipment which are adequate to insure the satisfactory collection and disposal of said materials at all times. Failure to perform may be excused only by adverse conditions caused by weather or similar hindrances which on other work might be regarded as “acts of providence”.
- O. Conflict of Interest** Neither the Contractor nor its employees either presently have, nor shall acquire interest, direct or indirect, in the Contract in any manner forbidden by law. No County official, or deputy or clerk or employee of such official, shall be directly or indirectly interested in this Contract.
- P. Severability** This Agreement is subject to the laws of the United States of America, the State of Minnesota and Ordinances of the County of Aitkin. In the event that any provision of this Agreement shall be held to be contrary to law or Ordinance by a court of competent jurisdiction from whose final judgment or decree no appeal has been taken within the time provided, such provision or provisions shall be voided. All other terms and conditions of the Agreement shall continue in full force and effect. The voided provision or provisions may be renegotiated at the written request of either party to this Agreement.

- Q. **Governing Law** This Agreement shall be deemed to be a contract made in the State of Minnesota and shall be interpreted and construed in all respects in accordance with the laws of the State of Minnesota applicable to contracts wholly to be performed therein.
- R. **Modification** Any alterations, variations, modification or waivers of the provisions of this Agreement shall only be valid when they have been reduced to writing, signed by the authorized representatives of the County and Contractor and attached to this Agreement.
- S. **Integration** The Parties agree that the entire Agreement between the Parties is contained herein and that this Agreement, including any and all exhibits attached hereto, supercede all oral Agreements and negotiations between the Parties relating to the subject matter hereof, as well as any previous agreements between the Contractor and the County or either of them relating to the subject matter hereof.

5. **PAYMENTS AND RECORDS**

- A. **Monthly Invoices** The Contractor shall submit monthly invoice statements for payments for services rendered, said statements to be submitted to the Aitkin County Department of Environmental Services.
- B. **Service Components** Monthly invoices shall specify the following level of services:
Processing Fee for Aitkin County Residential Recyclables Processed The County shall pay the Contractor for processing and marketing of recyclables from Aitkin County only. Material collected from outside Aitkin County shall not be eligible for payment.
- C. **Payment for Services** The County shall pay the Contractors for services rendered as invoiced upon successful completion of all services required, including, but not limited to, monthly reports as specified above in this Contract in sections 2.A.10 and 2.C.5.
- D. **Compensation / Prices for Contract Services** The County and the Contractor agree that the following prices and revenue share shall be paid by the County and credited back to the County from the Contractor:
Processing price for contracted processing services = \$45 per ton
Less Revenue Risk Share = 0% of revenue from material sales from all tons processed.
- E. **Data Practices** The Contractor shall designate a management official as the responsible authority for the Contractor. Records of the Contractor established, maintained and preserved to the Contract shall be maintained and administered in accordance with the requirements of the Minnesota Government Data practices Act. Contractor designates Jeff Hooper to be the responsible authority.
- G. **County Record of Complaints** Complaints on service received by the County will be recorded in writing listing time, date, and name along with the address and telephone number of the person making the complaint on forms furnished by the County. A written copy of the complaint listing the nature of complaint and corrective action recommended by the County, shall be submitted to the Contractor. Monthly reports to the County by the Contractor shall identify the complaint and follow-up action taken.
- H. **Adjustments** Processing (per ton) fees established in Section 5.D above shall be annually adjusted on January 1st to reflect a similar rate paid to Garrison Disposal for the preceding year (processing fee less revenue share/per ton).

In Witness whereof, the Parties hereto set their hands.

By the duly elected or appointed representatives of **AITKIN COUNTY**:

_____ BOARD OF COMMISSIONERS, CHAIRPERSON	_____ Date
_____ AUDITOR	_____ Date
_____ DIRECTOR OF ENVIRONMENTAL SERVICES DEPARTMENT	_____ Date
_____ AITKIN COUNTY ATTORNEY	_____ Date

By the duly appointed representatives of the **CONTRACTOR**.

The Contractor acknowledges by his/her signature on this document that the Contractor has received a copy of this Contract and is in full agreement with the terms as imposed upon the Contractor by this Agreement and that the Contractor will comply with those terms and conditions.

_____ Jeff Hooper, Owner and President	_____ Date
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Attachment A
PROGRAM DEFINITIONS

1. “Attended Drop-Off Sites” means designated drop-off centers that have staff to supervise and assist residents with recyclables unloading and depositing into the containers (see Attachment B).
2. “Containers” means compartmentalized, covered roll-off boxes with sufficient compartments to allow separate collection of the recyclable materials specified herein.

Other suitable types of container systems may be substituted for roll-off boxes (e.g., rear load dumpsters). Substitute types of containers must be specified in the proposal and must provide: adequate covering to prevent littering and precipitation from getting into the materials; adequate capacity; and ease of access by residents to deposit recyclable materials (e.g., unloading height not too high).

3. “Contamination” or “Contaminants” means incorrect materials deposited in the containers that are not acceptable as recyclables as defined by the County.
4. “Contractor” means the County’s contracted recycling service vendor as per this Agreement.
5. “Designated Drop-Off Center” means a specified facility for storage of recyclable materials. These facilities may be attended or unattended and will be located at site locations and schedules as specified by the County.

Attachment B is the current list of designated drop-off centers, including description of specific site locations and schedules of operations.

6. “End Markets” means the final manufacturing plant or business where the processed recyclables are sold to make a new product (for example, mills). Brokers, intermediate processors and other recycling material reclaimers are not considered end-markets.
7. “Markets” for recyclable material include any person or company that buys (or charges) for recycling of specified materials. “Markets” may include, but are not limited to: end-markets, intermediate processors, brokers and other recycling material reclaimers.
8. “Recyclables Collection” means taking up of all recyclable materials accumulated in containers at designated drop-off centers and the transporting of the recyclable materials to a recycling facility where they can be processed and / or transferred for marketing.
9. “Recyclable Materials” means those “minimum list of materials” identified by the County in Attachment C.
10. “Recycle/Recycling” means the process of collecting, processing and preparing recyclable materials and reusing them in manufacturing processes that do not cause the destruction of recyclable materials in a manner that precludes further use.
11. “Recycling Facility” is a general term means a designated private recycling facility.
12. “Rejects” means materials that, after processing by the Contractor, are not marketable as recyclables and must be disposed as mixed municipal solid waste.
13. “Triggering Event for Renegotiation” means any event that allows either the County or the Contractor to initiate renegotiation of the Contract due to systems changes that may effect costs of services.
14. “Unattended Drop-Off Sites” are designated drop-off centers that do not have staff present whereby residents are asked to unload their own recyclables without supervision.

Attachment B

LIST OF DESIGNATED RECYCLABLES			
Location	Establishment (As Host for Site)	Service Type/Materials ^(a)	Minimum Frequency of Service
McGregor Transfer Station	J&H Transfer Station	Attended/Full service	On Call
J&H Transfer Station	J&H Transfer Station	Attended/Full service	On Call

Notes:

(a) "Full Service" means all County-specified materials collected at this drop-off center (see Attachment C for detailed list).

Attachment C
LIST OF DESIGNATED RECYCLABLE MATERIALS

Acceptable	Items NOT recyclable	Resident Preparation Instructions
Glass Glass bottles and jars (empty) Holding food and beverages only	Ceramic dishes, Dirty bottles, Bottles with caps Dinner Plates. Ovenware Clay pots Drinking glasses, crystal, broken glass Window panes, mirrors Light bulbs	No need to separate by color Remove lids Rinse to remove residue Do not break glass
Plastic No. 1 thru 6 Plastic bottles (empty – remove caps): Milk, pop, beverage containers, Laundry Soap, cool whip and butter tubs	Plastic Bags, screw on lids, Any type of plastic film Pails, tubs, plates, plastic cups, bowls, caps, lids, Ketchup cups Plastic utensils, screw on lids, dirty bottles, rubber products, Styrofoam cups and packing materials, polyvinyl sheeting, heat shrink wrap	Remove caps, lids Rinse to remove residue Do not try to recycle more than these types of bottles Throw away caps and lids Throw away all other non-plastic May be mixed with tin and aluminum cans (a)
Cans: Aluminum and Tin Steel/tin cans Aluminum cans (emptied) Aluminum pie and meat tins Aluminum foil	Wire strapping, dirty cans, cardboard cans, appliances, power tools or batteries, metalized-look plastics, screw-on lids	Rinse to remove residue No need to remove labels May be mixed with plastics (b)

Notes:

- (a) Plastic may be mixed in same recycling container compartment with tin/aluminum cans at discretion of the contractor
- (b) Tin/aluminum cans may be mixed in same recycling container compartment with plastic at discretion of the contractor

Attachment C (continued)
LIST OF DESIGNATED RECYCLABLE MATERIALS

Acceptable	Items NOT recyclable	Resident Preparation Instructions
<p>Cardboard Corrugated cardboard (cardboard from boxes with fluted center and two side panels) Paperboard (cereal, kleenex, chip and pizza boxes).</p>	<p>Chipboard, packing peanuts, cellulose packing, foil, plastic wrap, egg crate material, milk cartons, wood scraps Waxed or coated cardboard No meat or juice stained cardboard</p>	<p>Flatten boxes Remove plastic or waxed paper liners and all Styrofoam packing materials</p>
<p>Paper Newspaper, magazines, catalogs, phone books Office paper: white or pastel Stationary/typing paper Envelopes: White, gold, brown, post-it notes, computer paper, Adding machine paper Index/tab/time cards, manila folders, note paper, thermal fax paper, NCR (carbonless copy-through paper)</p>	<p>Blue prints, carbon paper, construction paper, copy paper wrappers, food packaging, Metal bindings, plastic covers, Puzzle books, comic books, Rubber bands, paper clips, Adhesive labels and stickers Cellophane, foils</p>	<p>Newspaper separate in brown paper bags or bundle with string/twine Magazines separate in brown paper bags or bundle with string/twine Catalogs may be included in same bags with magazines Phone books may be included in same bag with magazines</p>

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