



**Agreement Between
the Ramsey/Washington Recycling & Energy Board
and _____ for Waste Delivery**

THIS AGREEMENT is made and entered into by and between the Ramsey/Washington Recycling & Energy Board hereinafter referred to as the (“R&E Board”), a joint powers board comprised of Ramsey and Washington Counties (“Counties”) and _____, with its principal place of business at _____, hereinafter referred to as the (“Hauler”).

RECITALS:

WHEREAS, the State of Minnesota by the enactment of the Minnesota Waste Management Act, Minn. Stat. Chapter 115A and Minn. Stat. Chapter 473, has declared that it is the State’s policy to improve municipal solid waste management through the separation and recovery of energy and materials from municipal solid waste and through the reduction of disposal of such waste;

WHEREAS, the R&E Board desires to promote the State’s municipal solid waste management policy, in part, through recovery of resources from municipal solid waste at the Ramsey/Washington Recycling & Energy Center (the “R&E Center”), located at 100 Red Rock Road, Newport, Minnesota;

WHEREAS, Ramsey and Washington Counties are implementing waste designation as provided for in Minnesota law, including the negotiation of waste delivery agreements with waste haulers;

WHEREAS, Hauler is licensed to operate in Ramsey and/or Washington County as a solid waste hauler;

WHEREAS, the R&E Board desires for Hauler to deliver all Acceptable Waste generated in Ramsey County or Washington County that is collected by the Hauler to either a Specified Transfer Station under contract to the R&E Board or directly to the R&E Center.

NOW THEREFORE, in consideration of the mutual promises and conditions contained herein, the parties hereby agree as follow:

1. Implementation of this Agreement

Implementation of this Agreement is conditioned on the approval of the *Ramsey and Washington Counties Joint Designation Plan*, Ramsey and Washington County Waste Designation Ordinances, and Hauler Waste Delivery Agreements by the Minnesota Pollution Control agency (“MPCA”). Should any of these documents not be approved by the MPCA and designation is not implemented, this Agreement shall not go into effect.

2. Recitals

Each of the parties hereto agrees that the Recitals set forth above are true and correct and are incorporated into this Agreement.

3. Definitions

- a. "Acceptable Waste" means waste that is acceptable at the R&E Center in Newport, Minnesota. It includes any type of Solid Waste that has been designated by County ordinance and which is not otherwise Unacceptable Waste.
- b. "Back-up Facility" means the landfill(s) or other facility(-ies) that the R&E Board has under contract for disposal of waste from the R&E Center and which may be used by the Hauler in the event that Acceptable Waste is being diverted from the R&E Center.
- c. "Hauler Handbook" means a written document prepared by the R&E Board, and made available to Haulers, that describes the policies and procedures a Hauler must follow when delivering Acceptable Waste to the R&E Center. The Hauler Handbook can be found at www.morevaluelesstrash.com.
- d. "Hazardous Waste" has the meaning given to it in Minnesota Statutes, Section 115B.03, Subdivision 9, as it may be amended from time to time.
- e. "Hauler Rebate" means a per ton payment administrated by the R&E Board to the Hauler for delivery of Acceptable Waste to the R&E Center or transfer station approved by the R&E Board. Information on the Hauler Rebate, including current rebate amounts, can be located at www.morevaluelesstrash.com.
- f. "Mixed Municipal Solid Waste" or "MSW" means garbage, refuse, and other Solid Waste from residential, commercial, industrial, and community activities that the generator of the waste aggregates for collection. It does not include auto hulks, street sweepings, ash, construction debris, mining waste, sludges, tree and agricultural wastes, tires, lead acid batteries, motor and vehicle fluids and filters, and other materials collected, processed, and disposed of as separate waste streams.
- g. "Solid Waste Ordinances" means the Ordinances adopted by the Ramsey and Washington County Boards that regulate solid waste management, respectively, and that contain designation requirements for the delivery of Acceptable Waste to the R&E Center.
- h. "R&E Center" means the Ramsey/Washington Recycling & Energy Center, a waste processing facility owned and operated by the Ramsey/Washington Recycling & Energy Board, located at 100 Red Rock Road, Newport Minnesota.
- i. "Recyclable Materials" means materials that are separated from MSW for the purpose of recycling or composting, including paper, glass, plastics, metals, automobile oil, batteries, source-separated compostable materials, and sole source food waste streams that are managed through biodegradative processes. Refuse-derived fuel or other material that is destroyed by incineration is not a recyclable material.
- j. "Solid Waste" means garbage, refuse, sludge from a water supply treatment plant or air contaminant treatment facility, and other discarded waste materials and sludges, in solid, semisolid, liquid, or contained gaseous form, resulting from industrial, commercial, mining, and agricultural operations, and from community activities, but does not include hazardous waste; animal waste used as fertilizer; earthen fill, boulders, rock; concrete diamond grinding and saw slurry associated with the construction, improvement, or repair of a road when deposited on the road project site in a manner that is in compliance with best management practices and rules of the agency; sewage sludge; solid or dissolved material in domestic sewage or other common pollutants in water resources, such as silt, dissolved or suspended solids in industrial wastewater effluents or discharges

which are point sources subject to permits under section 402 of the Federal Water Pollution Control Act, as amended, dissolved materials in irrigation return flows; or source, special nuclear, or by-product material as defined by the Atomic Energy Act of 1954, as amended.

- k. "Specified Transfer Station" means a facility permitted to receive Acceptable Waste on behalf of the R&E Center. The Specified Transfer Station is a facility that has entered into an agreement with the R&E Board to accept delivery of Acceptable Waste from any Hauler, and prepare that waste for transfer to the R&E Center.
- l. "Unacceptable Waste" means waste that is not acceptable at the R&E Center in Newport, MN. The R&E Center shall make available to the Hauler a current list of Unacceptable Waste. Unacceptable Waste includes wastes which would likely pose a threat to health or safety, or which may cause damage to or materially adversely affect the operation of the R&E Center.

4. Representations of Hauler

- a. The Hauler is a duly organized company, validly existing and properly qualified to do business under the laws of the State of Minnesota, and is licensed to haul waste in Ramsey and Washington Counties. The Hauler is doing business in Minnesota under the name _____.
- b. This Agreement has been duly executed and delivered by the Hauler and constitutes a binding legal obligation of the Hauler that is fully enforceable in accordance with its terms and conditions.
- c. The execution, delivery and performance by the Hauler of this Agreement does not and will not conflict with any other agreement or contract to which the Hauler is a party.

5. Scope of Services

- a. **Delivery of Acceptable Waste.** The Hauler shall deliver all Acceptable Waste from Ramsey and Washington Counties that it collects directly to the R&E Center, or to a Specified Transfer Station under contract to the R&E Board to receive Acceptable Waste. When delivering Acceptable Waste to the R&E Center, the Hauler agrees to comply with R&E Center policies and practices with respect to safe vehicle operation as detailed in the R&E Center Hauler Handbook. When delivering Acceptable Waste to a Specified Transfer Station, the Hauler agrees to comply with that facility's site safety and operations procedures.
- b. **Waste Origin.** The parties agree that the purpose of this Agreement is to assure the delivery to the Facility all Acceptable Waste generated in Ramsey and Washington Counties and collected by the Hauler. The parties acknowledge that there will be times when small amounts of waste generated in other counties, referred to as incidental waste, is collected along with Acceptable Waste for operational and routing efficiency. The parties agree that the incidental delivery of small amounts of waste from other counties is allowed under this Agreement, so long as a) the Hauler agrees that, before any such incidental delivery of waste can occur, it will provide the R&E Board with a written list of the day and municipality from where waste will be delivered from other counties, as well as an estimated volume. This list shall be provided on a form provided by the R&E Board and updated annually; and b) the County agrees in writing to that list.
- c. **Back-up Facility.** If the R&E Center and Specified Transfer Stations cannot receive Acceptable Waste, the R&E Board will provide access to a Back-up Facility. Fees to use a Back-up Facility shall be the same as charged by the R&E Board, and the R&E Board will invoice the Hauler for those fees.
- d. **Acquisition or Merger.** In addition to the Acceptable Waste the Hauler has agreed to deliver as described in part 5.a., above, the Hauler further agrees to deliver to the R&E Center all Acceptable

Waste currently required by contract or Solid Waste Ordinances to be delivered to the R&E Center by any and all entities which the Hauler acquires or with which the Hauler merges or otherwise becomes affiliated during the term of this Agreement.

- e. **Unacceptable Waste.** The Hauler agrees to use its best efforts to avoid delivering any Unacceptable Waste to the R&E Center and shall not knowingly mix any Unacceptable Waste with Acceptable Waste.
- f. **Rejection of Deliveries.** The Hauler may be denied entrance to the R&E Center, or to a Specified Transfer Station, if the R&E Board has a reasonable basis to believe that a vehicle contains Hazardous Waste or a significant amount of Unacceptable Waste.
- g. **Regulatory Compliance.** The Hauler shall at all times operate its business in compliance with all applicable federal, state, and local laws, rules, regulations, ordinances and licenses. This includes but is not limited to collecting, transporting, delivering and disposing of waste; and billing, collecting, reporting and remitting the County Environmental Charge.

6. Responsibility for Unacceptable Waste

- a. If requested by the R&E Center or a Specified Transfer Station, the Hauler agrees to reload and dispose of waste deposited on the tipping floor if the waste contains Unacceptable Waste, including Acceptable Waste contaminated by Unacceptable Waste.
- b. If the R&E Center or a Specified Transfer Station has reason to believe that Unacceptable Waste was delivered by the Hauler, and the Hauler has left the tipping floor, the Hauler agrees to return and remove such Unacceptable Waste and dispose of it in accordance with all applicable federal, state and local laws.
- c. The R&E Center and the Specified Transfer Stations have the right to reject entire or partial loads of Unacceptable Waste. The Hauler shall be provided with documentation specifying the rejection and reasons therefore. All costs of reloading, removal and disposal of Unacceptable Waste shall be borne by the Hauler.

7. Payment

- a. **Payment of Fees:** The Hauler agrees to pay all fees established under this Agreement. The R&E Board shall invoice the Hauler on a monthly basis, and the Hauler shall pay the charges owed on that invoice pursuant to the credit policy established by the R&E Board. The Hauler agrees to abide by the R&E Board's credit policy at all times. The credit policy may be revised from time to time and can be found at www.morevaluelesstrash.com.
- b. **Tipping Fee:** The Hauler shall pay the per ton tipping fee adopted by the R&E Board for each ton for Acceptable Waste delivered to the R&E Center and/or Specified Transfer Stations.
- c. **Special Waste Fees.** The Board, in its sole discretion, may apply charges for certain special wastes or services as listed in the Hauler Handbook and delivered by the Hauler. The R&E Board will provide at least 90-days advance written notice to the Hauler of any changes to the special waste fees.
- d. **Adjustment of Tipping Fee:** The R&E Board, in its sole discretion, shall establish the tipping fee for Acceptable Waste delivered to the R&E Center and Specified Transfer Stations. The tipping fee for the R&E Center and Specified Transfer Stations shall be the same, and there shall be no additional charge to the Hauler for use of Specified Transfer Stations. The R&E Board shall establish the tipping

fee on an annual basis. In the event of an emergency, the R&E Board may make additional adjustments the tipping fee. The R&E Board will provide at least 90-days advance written notice to the Hauler of any changes in the tipping fee.

e. **Hauler Rebate for Waste Generated in Ramsey and Washington Counties Only:**

- i. The R&E Board agrees to provide a Hauler Rebate program, and, in its sole discretion, determine the administrative procedures for Hauler Rebates. The Hauler will receive a Hauler Rebate from the R&E Board for every ton of Acceptable Waste delivered to the R&E Center or a Specified Transfer Station only for Acceptable Waste generated in Ramsey and Washington Counties.
- ii. The Hauler Rebate for 2018 shall be \$12 per ton, and in 2019 shall be \$10.00 per ton. The Hauler Rebate for the years 2020, 2021, and 2022 will be established by the R&E Board at the time it establishes changes to the Tipping Fee, and will give the Hauler the same advance notice as is given for changes in the tipping fee.
- iii. The R&E Board reserves the right to withhold Hauler Rebates if the Hauler is delinquent in the payment of the Tipping Fee and/or the County Environmental Charge in either County.

- f. **Minimum Price:** During the term of this Agreement, the Hauler shall be charged a tipping fee that will be equal to that charged to all other haulers under contract with the Board for delivery of Acceptable Waste.

8. Term

The term of the Agreement shall be effective from January 1, 2018 through December 31, 2022.

9. Termination

- a. The R&E Board may immediately terminate this Agreement if any proceeding or other action is filed by or against the Hauler seeking reorganization, liquidation, dissolution, or insolvency of the Hauler under any law relating to bankruptcy, insolvency or relief of debtors. The Hauler shall immediately notify the R&E Board in writing upon the commencement of such proceedings or other action.
- b. If either party violates any material terms or conditions of this Agreement the other party may, without prejudice to any right or remedy, give the offending party, and its surety, if any, seven (7) calendar days written notice of its intent to terminate this Agreement, specifying the asserted breach. If the offending party fails to cure the deficiency within the seven (7) day cure period, this Agreement shall terminate upon expiration of the cure.
- c. The R&E Board may terminate this Agreement without cause upon giving at least sixty (60) calendar days written notice thereof to the Hauler. In such event, the R&E Board shall be entitled to receive compensation for services provided in compliance with the provisions of this Agreement, up to and including the effective date of termination.
- d. The Hauler shall have sixty (60) calendar days to terminate this Agreement after the R&E Board notifies the Hauler of any price change under this Agreement. In such event:
 - i. The R&E Board shall be entitled to receive compensation for services provided in compliance with the provisions of this Agreement, up to and including the effective date of termination.
 - ii. The Hauler shall be subject to Designation and will no longer receive Hauler Rebates.

10. Indemnification

- a. **Indemnification of R&E Board.** The Hauler agrees to defend, indemnify, and hold harmless the R&E Board, its elected officials, officers, agents, and employees (including duly authorized volunteers) from any liability, claims, causes of action, judgments, damages, losses, costs, or expenses, including reasonable attorney's fees, resulting directly or indirectly from any act, or omission, of the Hauler, its officers, agents, employees (including duly authorized volunteers), or contractors, or anyone whose act, or omission, any of them may be liable for in the performance of the services required by this Agreement, and against all loss by reason of the failure of said Hauler to perform fully, in any respect, all obligations under this Agreement.
- b. **No Waiver of Immunities.** Nothing in this Agreement shall constitute a waiver or diminution by the R&E Board of any immunities or statutory limitation on liability as set forth in Minn. Stat. Chapter 466 or as otherwise provided by law.

11. Insurance Requirements

The Hauler agrees that in order to protect itself as well as the R&E Board, under the indemnity provisions set forth above, it will at all times during the term of this agreement keep in force policies of insurance providing the following checked-off liabilities, in an amount equal to the R&E Board's liability limits set forth in Minnesota Statute Chapter 466 and the workers compensation requirements in Minn. Stat. Chapter 176:

- a. Commercial General Liability with contractual liability coverage in the amount of \$1,500,000 per occurrence, \$2,000,000 general aggregate. The R&E Board, its officials, employees, and agents shall be added to the policy as an additional insured on a primary basis with respect to the ongoing and completed operations of the Hauler, using ISO endorsement form CG 20 26 and CG 20 37 or the equivalent.
- b. Workers' Compensation as required by Minnesota Law. Employer's Liability with limits of \$500,000/500,000/500,000.
- c. Automobile Liability in the amount of \$1,500,000 per occurrence combined single limit. The policy shall cover owned, hired and non-owned vehicles.

The Hauler agrees as a condition subsequent to increase the required insurance coverage as the liability limits in section 466.04 increase. Nothing in this Agreement shall constitute a waiver by the R&E Board of any statutory limits upon liability.

Prior to the effective date of this Agreement, the Hauler will furnish the R&E Board with a current and valid proof of insurance certificate indicating insurance coverage in the amounts required by this agreement. Evidence of Insurance shall be provided before this Agreement is effective. The R&E Board shall be given thirty (30) days advance written notice of any changes in coverage. As a condition subsequent to this agreement, Hauler shall insure that the certificate of insurance provided to the R&E Board will at all times be current. The parties agree that failure by the Hauler to maintain a current certificate of insurance with the R&E Board shall be a substantial breach of the Agreement and Hauler Rebate payments on the Agreement shall be withheld to the Hauler until a certificate of insurance showing current insurance coverage in amounts required by the Agreement is provided to the R&E Board. Any policy obtained and maintained under this clause shall provide that it shall not be cancelled, materially changed, or not renewed without thirty days' notice thereof to the R&E Board.

12. Data Privacy

All data collected, created, received, maintained or disseminated for any purpose by the activities of the Hauler, because of this agreement shall be governed by the Minnesota Government Data Practices Act, Minnesota Statutes Chapter 13 (Act), as amended and the Rules implementing the Act now in force or as amended. The Hauler is subject to the requirements of the Act and Rules and must comply with those requirements as if it is a governmental entity. The remedies contained in section 13.08 of the Act shall apply to the Hauler.

13. Record Disclosures/Monitoring

Pursuant to Minn. Statute 16C.05, Subd. 5, the books, records, documents and accounting procedures and practices of the Hauler relevant to the Agreement are subject to examination by the R&E Board, and either the legislative auditor or the state auditor, as appropriate. The Hauler agrees to maintain and make available these records for a period of six years from the date of termination of this agreement

14. Nondiscrimination

The Hauler shall comply with and be subject to the requirements and conditions contained in Minn. Stat. Chapter 364 and Minn. Stat. 181.59.

15. Compliance with Law

The Hauler shall abide by all federal, state, or local laws, statutes, ordinances, rules and regulations now in effect or hereinafter adopted insofar as they relate to the Hauler's performance of the provisions of this Agreement. Failure to meet the requirements of this section may be cause for cancellation of the Agreement effective the date of receipt of the Notice of Cancellation. The Hauler, at its own expense, shall secure and pay for all permits, fees, charges, duties, licenses, certifications, inspections, and other requirements and approvals as necessary for the execution and completion of this Agreement.

16. Firearms prohibited

Unless specifically required by the terms of this Agreement, no provider of services pursuant to this Agreement, including but not limited to employees, agents, or subcontractors of the Hauler shall carry or possess a firearm on R&E Board premises or while acting on behalf of the R&E Board pursuant to the terms of this Agreement. Violation of this provision shall be considered a substantial breach of the Agreement; and, in addition to any other remedy available to the R&E Board under law or equity. Violation of this provision is ground for immediate suspension or termination of this Agreement.

17. Independent Contractor

Parties agree that the Hauler is acting as an independent contractor under this agreement. Neither the Hauler nor its employees will at any time be construed to be employees of the R&E Board. The Hauler is responsible for its employees' compensation, fringe benefits and all insurance coverage.

18. Successors, Subcontracting and Assignment

- a. The Hauler binds itself, its partners, successors, assigns and legal representatives to the R&E Board in respect to all covenants, contracts and obligations contained in this Agreement.
- b. The Hauler shall not enter into any subcontract for performance of any services contemplated under this agreement nor novate or assign any interest in the agreement without the prior written approval of the R&E Board. Any assignment or novation may be made subject to such conditions and provisions as the R&E Board may impose. The Hauler is responsible for the performance of all subcontractors.

19. Non-Conforming Services

The acceptance by the R&E Board of any non-conforming goods/services under the terms of this Agreement for the foregoing by the R&E Board of any of the rights or remedies arising under the terms of this Agreement shall not constitute a waiver of the R&E Board's right to conforming services or any

rights and/or remedies in respect to any subsequent breach or default of the terms of this Agreement. The rights and remedies of the R&E Board provided or referred to under the terms of this Agreement are cumulative and not mutually exclusive.

20. Force Majeure

Neither party shall be liable for any loss or damage incurred by the other party as a result of events outside the control of the party (“Force Majeure Events”) including, but not limited to: war, storms, flooding, fires, strikes, legal acts of public authorities, or acts of government in time of war or national emergency.

21. Unavailability of Funding

Providing Hauler Rebates under this Agreement is subject to the availability and provision of funding from Ramsey and Washington Counties, using funds collected using the County Environmental Charge. The R&E Board may immediately terminate providing rebates if the funding for the rebate payments is no longer available from the counties. Notice of termination of rebate payments will be made in writing and posted to the R&E Board website. Upon receipt of the R&E Board's notice of termination of rebate payments, the Hauler shall discontinue applying for Rebates. Termination of the availability of Rebates will not result in any penalty or expense to the R&E Board.

22. Interpretation of Agreement; Venue

- a. The Agreement shall be interpreted and construed according to the laws of the State of Minnesota. All litigation regarding this Agreement shall be venued in the appropriate State or Federal District Court in Ramsey County, Minnesota.
- b. The provisions of this Agreement are severable. If any part of this Agreement is rendered void, invalid or unenforceable, such rendering shall not affect the validity and enforceability of the remainder of this Agreement.

23. Entire Agreement

The written Agreement, including all attachments, represent the entire and integrated agreement between the parties hereto and supersede all prior negotiations, representations or contracts, either written or oral. No subsequent agreement between the R&E Board and the Hauler to waive or alter any of the provisions of this Agreement shall be valid unless made in the form of a written Amendment signed by authorized representatives of the parties.

IN WITNESS WHEREOF the parties have executed this Agreement as of the dates below.

Name of Hauler

By: _____

Date: _____

Title: _____

Federal ID No.: _____

RAMSEY/WASHINGTON RECYCLING & ENERGY BOARD:

Joint Leadership Team:

By: _____
Zack Hansen, Ramsey County

Date: _____

By: _____
Judy Hunter, Washington County

Date: _____

By: _____
Sean Pfeiffer, Ramsey County Finance

Date: _____

Approved As To Form:

By: _____
Assistant County Attorney

Date: _____