

Attachment A

CONTRACT FOR THE COLLECTION OF RESIDENTIAL RECYCLABLE MATERIALS



CITY OF ARDEN HILLS

CONTRACT FOR THE COLLECTION OF RESIDENTIAL
RECYCLABLE MATERIALS

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CITY OF ARDEN HILLS

CONTRACT FOR THE COLLECTION OF RESIDENTIAL
RECYCLABLE MATERIALS

This Contract, is made and entered into this 23rd day of February, 2015, by and between the City of Arden Hills, a Municipal Corporation under the laws of the State of Minnesota (hereinafter called the "City") and Republic Services, Inc. a corporation under the laws of the State of Minnesota, having its principal place of business at 9813 Flying Cloud Drive, Eden Prairie, MN 55347 (hereinafter called the "Contractor").

WITNESSETH

WHEREAS, the City requires the collection and proper management of recyclables within the corporation limits of the City; and

WHEREAS, the Contractor is engaged in the business of collecting, processing, and marketing recyclables; and

WHEREAS, the City released a request for proposals (RFP) for recyclables collection, processing, and marketing services on September 10, 2014; and

WHEREAS, the Contractor (Republic Services) submitted a proposal in response to the City's RFP on October 17, 2014; and

WHEREAS, the City desires to hire the services of the Contractor (Republic Services) and the Contractor (Republic Services) desires to provide the services to the City; and

NOW, THEREFORE, IT IS AGREED BY AND BETWEEN BOTH PARTIES:

That the Recycling Contract for Residential Recycling Services with Republic Services (Contractor) outlines the requested services by the City and costs for these said services for eligible Residential Dwelling Units (RDU) and Multi-Dwelling Units (MDU).

1. Term of Contract

- 1.1. This Contract shall commence on May 4, 2015, and shall remain in full force and effect through May 4, 2020, unless terminated in accordance with Section 13 of this Contract.
- 1.2. The City at its sole discretion may elect to extend the Contract for five (5), one (1) year increments or the City at its sole discretion may elect to extend the Contract for one (1), five (5) year extension. The terms and conditions of this Contract shall apply to any such Contract extension. Nothing in this Contract shall be interpreted to imply or infer that the City is committing to such extensions.
- 1.3. At least six months prior to the expiration of this Contract (or any extension period), the City shall notify the Contractor of its decision as to whether or not to exercise its extension option. The Contractor may request an early decision by the City for a contract extension by submitting a written request.

2. Definitions

The following terms, whenever used in this Contract, shall have the meanings set forth in this Section unless otherwise limited or expanded elsewhere in this Contract.

Aluminum Cans	Disposable containers fabricated primarily of aluminum, commonly used for soda, beer, juice, water or other beverages.
Aseptic Packaging and Milk Cartons	Containers designed to maintain the sterility of a sterile (aseptic) product such as food. (e.g. gable-top milk cartons, juice boxes and aseptic packaging used for soup, broth, soy milk, etc.
Base Collection Services	The base level of recyclables collection services, which services are paid for by the City to the Contractor as specified in this Contract.
Bulky Waste	All large, bulky household materials which do not fit within a garbage cart, and include (but are not limited to) carpeting and padding, mattresses, chairs, couches, tables, appliances, electronics and car parts including wheels, rims and tires.
Carrier Stock	Paperboard coated with resins to resist moisture and used for containers to carry products such as beer, water and soft drinks.
Carts	The wheeled, lidded carts in which recyclable materials can be stored and placed for curbside collection as approved by the City.

City	The City of Arden Hills, Minnesota.
Clothes and Linens	Towels, sheets, blankets, curtains, tablecloths, rags, and clothes including: belts, coats, hats, gloves, shoes and boots which are dry, clean and free of mold, mildew and excessive stains.
Collection Route Sector	A geographic area within the City determined by the City that will be serviced by one or more collection vehicles within one, specified day each week and which may be used to measure collection progress.
Collection Vehicle	Any vehicle licensed and inspected as required by State and County and approved by the City for recyclables collection within the corporate boundaries of the City.
Collection Hours	The time period during which collection of recyclables is authorized by the City.
Commodity	Any individual material, including specific industrial grades of material.
Contract Price for Recyclables Collection Service	The amount of money per Residential Dwelling Unit (RDU) or Multi-Dwelling Unit (MDU) charged by the Contractor to the City per the terms and conditions of this Contract for costs attributable to the base recyclables collection service, including transport of these recyclables to the City-designated recycling center.
Contractor	Republic Services, Inc.
County	Ramsey County, MN
Curbside	That portion of right-of-way adjacent to paved or traveled City roadways. "Curbside" as used in this Contract shall be interpreted to include alleys.
Curbside Collection	The collection of recyclables in accordance with this Contract, City ordinances, and City guidelines regulating the placement of the same.
Detailed Collection Route Plans	The Contractor-established and City-approved truck travel patterns on the City residential streets (e.g., start points, stop points, truck direction) within each daily route sector.
Door-Step Collection	The collection of household waste and recyclable materials at a RDU at a point close to the dwelling unit, in lieu of curbside collection, for producers or occupants who have a documented physical infirmity and when there is not a person living in the dwelling that is able to move wastes to the curb. (Also referred to as "walk-up" service.)
Dwelling Unit	See Residential Dwelling Unit (RDU).

Field Route Audits	Semi-annual counts of all eligible residential dwelling units served through actual field surveys (such as dwelling unit counts by recycling route).
Glass Jars And Bottles	Glass jars, bottles, and containers (lids/caps and pumps removed) that are primarily used for packaging and bottling of food and beverages.
Holidays	Any of the following: New Year's Day, Memorial Day, Independence Day, Labor Day, Thanksgiving Day, and Christmas Day.
HDPE	Plastic bottles and non-bottle plastic containers made from high density polyethylene resin.
Missed Collection	The failure of the Contractor to provide collection service to an RDU subject to this Contract during collection hours on the scheduled day of collection.
Multiple-Unit Dwellings (MDUs)	A building or a portion thereof containing five or more dwelling units.
Materials Recovery Facility (MRF)	A facility in which recyclable materials are processed for marketing and sale. The facility will conform to all applicable rules, regulations and laws of the state, local or other jurisdictions.
Paper Products	Paper products include the following: newspapers including inserts (ONP); household office paper and mail; boxboard; carrier stock cardboard; old corrugated cardboard (OCC) including boxes for delivery and take out of pizzas; phone books; Kraft bags; and magazines/catalogs (OMG).
Participation Rate	Documentation of which specific households on a recycling route set out recyclable materials during one calendar month as a percentage of the overall number of eligible households.
Plastic Food And Beverage Containers	Bottle and rigid plastic containers made of PET (plastic type #1), HDPE (plastic type #2), and PP (plastic type #5).
PET	Plastic bottles and non-bottle plastic containers made from polyethylene terephthalate (e.g. soft drink, water, other bottles, deli clamshells, etc.).
PP	Containers made from polypropylene.

Process Residuals	The materials that cannot be recycled due to material characteristics such as size, shape, color, cross-material contamination, etc. which must be disposed as mixed municipal solid waste. Process residuals include (but are not limited to): bulky items, contaminants, sorted tailings, floor sweepings and rejects from specific processing equipment (e.g. materials cleaned from screens). Process residuals do not include materials that are normally processed and prepared for shipment to markets as commodities but which are of relatively low value because of depressed market demand conditions.
Processing	The sorting, volume reduction, baling, cleaning, containment or other preparation of recyclable materials delivered to the processing center for transportation or marketing purposes.
Processing Fee	Agreed upon unit fee allocated towards Contractor's cost of processing various types of recyclables.
Producer	Occupants of a RDU or MDU property who generate recyclable materials.
Recyclable Materials Or Recyclables	The current list of household recyclables established through guidelines released under the authority of the City. The current list of recyclables, as of the date of Contract Execution, includes: Newspaper and Newspaper Inserts; Magazines and Catalogs; Junk Mail and Envelopes; Cardboard; Office and School Paper; Phone Books; Cereal and Cracker-type boxes; Shoeboxes; Brown Paper Sacks/Bags; Aluminum, Steel and Tin Cans, Scrap Metal less than 3 feet in length; Glass Bottles and Jars, Plastic Bottles and Cups; Plastic Food Containers, Tubs, Bowls, Yogurt Cups and Margarine/Whip Cream Tubs; Plastic Milk Jugs and Paper Milk Cartons; Juice Boxes; and other Paper/Aseptic Cartons.
Recyclables Collection	The collection of all recyclable materials properly set out by residents or property managers from eligible RDUs or MDUs into specially identified recyclable carts. Collection shall also include transporting the recyclable materials to the City-designated recycling center where materials can be processed for the marketplace.
Recyclables Carts	Carts provided by the City for retaining recyclable materials for collection.
Residential Dwelling Unit (RDU)	Any eligible, occupied single-family dwelling, duplex, triplex or fourplex within the City occupied by a person or group of persons. A RDU shall be deemed occupied when water is being supplied thereto.
Scheduled Collection Day	The day or days of the week (Monday through Friday) on which collection by the Contractor is to occur, as specified in the Contract with the City, including Saturdays for weeks that include Holidays.

Single-Stream Recycling	(Also referred to as “single-sort recycling.”) The recycling system whereby residents set out recyclables in one category without further sorting by residents and which materials are later processed at a central materials recovery facility, including sorting into their individual marketable commodities.
Solid Waste	Garbage, rubbish and other discarded solid materials (except animal waste used as a fertilizer), including solid waste materials resulting from industrial, commercial and agricultural operations, and from community activities. Solid waste does not include earthen fill, boulders, rock and other material normally handled in construction operations, solids or dissolved material in domestic sewage or other significant pollutants in waste resources, such as silt, dissolved or suspended solids in industrial waste water effluents, dissolved materials in irrigation return flows, or other common water pollutants. For purposes of this Contract, solid waste does not include recyclables, yard waste, source separated organics, bulky items, appliances or electronic waste. (Also referred to as “mixed municipal solid waste”)
Source Separated Organics (SSO)	Food waste, non-recyclable papers, house plants, and other household organics designated by the City that, once separated by residents, may be recovered for composting or other forms of organics recovery. SSO does not include yard waste for purposes of this Contract.
Steel Cans	Metal containers fabricated primarily of steel and/or tin used to contain food or beverages.

3. Scope of Work: General Provisions

- 3.1. The work under the Contract shall consist of all the items contained in the Contract, including all the supervision, materials, equipment, labor, customer service operations, and all other items and functions necessary to complete such work in accordance with the Contract.
- 3.2. The City’s RFP (including all addenda) and Contractor’s proposal (including responses to City questions) are incorporated by reference into this final Contract. If there is any discrepancy between this final Contract and the City’s RFP or the Contractor’s proposal, this final Contract shall take precedence.
- 3.3. Recycling services will be provided to all RDUs, with opportunities for MDU buildings to “opt-in” to the service. Recyclables collection will occur weekly on Tuesdays for properties south of I-694 and weekly on Wednesdays for properties north of I-694. Appendix A includes a map of route sectors by collection day.

- 3.4. The Contractor will acquaint itself with all pertinent City Ordinances and other City guidelines and comply with said ordinances and guidelines.
- 3.5. The Contractor has made its own examination, investigation and research regarding the proper method of doing the work, and all conditions affecting the work to be done (including street layout, alley layout, overhead obstructions preventing automated lifting of carts, other geography, daily route sector boundaries, etc.) and the labor, equipment and materials needed thereon, and the quantity of work to be performed (including the Contractor's own field verification of RDU and MDU estimates provided by the City), and the Contractor agrees that it has satisfied itself by its own investigation and research regarding all of such conditions, and that this conclusion to enter into the proposed Contract is based upon such investigation and research, and that it shall make no claim against the City because of any of the estimates, statements, or interpretations made by any official officer or agent of the City which may prove to be in any respect erroneous. The Contractor so assumes the risk of all conditions foreseen and unforeseen and agrees to complete the work without additional compensations under whatever circumstances may develop other than as herein provided.
- 3.6. Household recyclables collection service from eligible RDUs shall be performed exclusively by the Contractor.
- 3.7. The Contractor shall be obligated to protect all public and private utilities whether occupying public or private property. If such utilities are damaged by reason of the Contractor's operations under this Contract, it shall repair or replace same or, failing to do so promptly, the City shall cause repairs or replacements to be made and the cost of doing so shall be deducted from payment to be made to the Contractor.
- 3.8. In performing any actions or services under this Contract, the Contractor shall comply with any and all federal and state statutes, rules and regulations and any and all City and County ordinances and regulations pertaining to or regulating the provision of such services or actions, including those now in effect or hereafter adopted.

Any violation of such statutes, ordinances, rules or regulations by the Contractor shall entitle the City to take appropriate corrective action. Any material violation by the Contractor shall entitle the City to terminate this Contract upon twenty-one (21) days written notice of termination to the Contractor except as provided elsewhere herein. Prior to exercising the right of termination, the City shall notify the Contractor in writing and consult with the Contractor in an effort to resolve the dispute. The Contractor may have up to twenty-one (21) days to cure a violation prior to the City's exercise of its termination right, provided that such an opportunity to cure is not in conflict with the provisions of the subject law, ordinance, rule, or regulation. However, the opportunity to cure shall not apply to subsequent and repeated violations of the same law, ordinance, rule or regulation.

Amendments to existing regulatory laws, ordinances, regulations and enactment of new laws, ordinances and regulations shall not serve as justification for the Contractor to terminate its obligations hereunder, unless such changes make the completion of this Contract impossible.

- 3.9. No person shall be illegally excluded from employment rights in, participation in, or be denied the benefits of the program which is the subject of this Contract on the basis of race, religion, color, creed, sex, age, disability, handicapped status, national origin or any other protected class defined under the Minnesota Department of Human Rights and/or federal law. The Contractor agrees to undertake all efforts at reasonable accommodations as may be required by state or federal law.
- 3.10. The Contractor shall obtain all required licenses and permits to perform the Contract and promptly pay all fees required or taxes assessed by the City or any other Governmental agency.
- 3.11. Contractor agrees that no member, officer, or employee of the City shall have any direct or indirect interest in this Contract or the proceeds thereof. Violation of this provision shall cause this Contract to be null and void and Contractor will forfeit any payments to be made under this Contract.
- 3.12. Neither the Contractor nor the City shall be liable for the failure to perform their duties if such failure is caused by a catastrophe, riot, war, fire, act of God, power failure, flood, disaster or other similar contingency beyond the reasonable control of the City or the Contractor. Labor disputes do not constitute situations beyond reasonable control.
- 3.13. The laws of the State of Minnesota shall be used to interpret this Contract.

4. Operations

- 4.1. Collection of recyclables shall not start before 7:00 a.m. or continue after 6:00 p.m. Exceptions to collection hours shall be effected only by prior permission of the City. The Contractor shall request permission from the City for any exception first via telephone and then in writing to the City Recycling Coordinator with an explanation as to the reason for the exception request.
- 4.2. When a holiday falls on the day that recycling should normally be collected, each subsequent collection day will be delayed one day. For Example – if July 4 is on Tuesday, regular collection services that week will be Wednesday and Thursday.

- 4.3. The Contractor's employees shall handle the carts with reasonable precautions to prevent spilling or scattering of recyclable materials. The Contractor shall replace all carts in an upright position and shall immediately clean up and dispose of any contents thereof which may be spilled, regardless of whether the spill occurred on public or private property.
- 4.4. If the Contractor fails to clean up any scattered or spilled material or leaked material or fluids from recycling trucks within three hours after oral or written notice (email is acceptable) from the City, the City may cause such work to be done and deduct the reasonable cost thereof from any payments due and owing the Contractor, in addition to any other remedies provided herein.

5. Collection Services

- 5.1. The recyclables collection service shall be provided every week from a 35-gallon, 64-gallon, 95-gallon or similar sized wheeled recycling cart(s).
- 5.2. Collection shall occur in the same location (i.e., at "curbside") and similar manner as household solid waste collection.
- 5.3. Recyclables "door-step" collection may occur for eligible residents who apply for and receive City approval. Eligible residents may be disabled or handicapped. There will not be an additional charge to residents who are entitled to "door-step" collection.
- 5.4. All occupants of RDUs in the City that set out recyclables for municipal collection shall be required to place their household recyclables in the City-supplied cart(s).
- 5.5. The current list of household recyclables is established under the authority of the City's Recycling Coordinator. The current list of recyclables as of the date of Contract execution are listed under the definition of "Recyclable Materials" in Section 2. This list may be amended by mutual agreement between the City and the Contractor.
- 5.6. All recyclable materials placed for collection by residents or management from eligible RDUs or MDUs shall remain the responsibility and ownership of the residents or property owner until picked up by the Contractor. The City requires that all collected recyclables must be delivered to the Contractor's MRF in a manner acceptable to Ramsey County.
- 5.7. Residential recyclables collected from the City under this Contract will be kept separate from other materials until delivery to the MRF. Residential recyclables generated in Arden Hills shall be weighed on Certified Truck Scales and the weights

reported to the City. The Contractor shall retain truck scale weight tickets for City inspection upon request for a period of at least three years.

- 5.8. The Contractor shall not landfill, incinerate or otherwise dispose of recyclable materials collected for recycling under this Contract without the specific, prior written approval of the City.
- 5.9. When requested by the City, the Contractor shall submit a plan for how the City may be able to add SSO to its residential curbside collection. This plan shall have specifics on added costs and collection methods/operations. The City shall have sole discretion to accept the SSO plan and/or to initiate negotiations with the Contractor to modify the plan, or reject the plan.
- 5.10. Cart Ownership and Management
 - 5.10.1. The City shall own the recycling carts.
 - 5.10.2. The Contractor shall be responsible and pay for all aspects of cart management and operations including (but not limited to), receiving, assembly, distribution (aka new cart “roll out”), management of excess cart inventory, (i.e., provide “warehouse” and inventory control services), cart switches/replacements, cart maintenance, repair or replace damaged carts, and manage all aspects of warranty repairs. Contractor shall deliver 64 gallon carts to all RDUs and exchange with other sizes as requested within one week of a valid request.
 - 5.10.3. The Contractor shall serve as the City’s agent for purposes of implementing cart warranty service and replacements. The Contractor will make its best efforts to help assure eligible cart warranty repairs and replacements are paid for by the cart manufacturer and not the City.
 - 5.10.4. The Contractor’s cart distribution services shall include both the initial cart rollout and ongoing cart replacements (i.e. new customers, service changes, replacement of damaged containers, etc.) during the term of the Contract.
 - 5.10.5. Damaged carts and old recycling bins that are not reusable must be recycled. All costs incurred in recycling old curbside bins and new carts damaged beyond repair shall be the responsibility of the Contractor at no additional cost to the City. Residents may be allowed to keep their City-provided recycling bin for other uses.
- 5.11. Recyclable and Solid Waste collections from City Buildings and Parks
 - 5.11.1. The Contractor shall provide recycling and solid waste collection services at the City owned and operated buildings and parks as listed in Appendix B.
 - 5.11.2. Collection services shall be extended to all new City owned buildings and parks created during the term of the contract.

5.11.3. The Contractor shall provide the recycling and solid waste services at no additional cost to the City. The cost of these collections from City buildings and parks shall be factored into the Contractor's base contract price for residential collections.

5.11.4. The Contractor shall provide containers necessary for said services including, but not limited to dumpsters.

5.12. Customer Service

5.12.1. The Contractor shall maintain throughout the duration of the Contract a designated single contact who is located in Minnesota and who has sufficient authority to resolve issues when officially notified by City staff.

5.12.2. The Contractor shall provide responsive, friendly customer service at all times including interactions with residents by drivers/crews on the collection route, on the phone, emails, web sites, and other forms of communication.

5.12.3. In the case of alleged missed collections, the Contractor shall investigate, and, if such allegations are verified, the Contractor shall then arrange for the collection of the recyclable materials no later than 6 p.m. the following business day.

5.12.4. The Contractor shall establish and maintain an office or call service with continuous supervision to accept complaints and customer calls. The office shall be in service during the hours of 8:00 a.m. until 5:00 p.m. Central Standard Time on all days except Saturday, Sunday and legal holidays. The call service shall be available from 8:00 a.m. to 12:00 (noon) on Saturdays. The address and toll free telephone number of such office shall be posted on the City's web site.

6. Collection Equipment

6.1. When collecting recyclables under this Contract the Contractor shall use separate collection vehicles for recyclables.

6.2. It shall be the Contractor's sole responsibility to comply with all road weight restrictions. The Contractor shall immediately inform the City of any notices of exceeding such restrictions. The City retains the right to inspect and/or weigh the Contractor's trucks at any time.

6.3. All vehicles shall be kept in a clean and sanitary condition; and all collection vehicles shall be cleaned with pressurized hot water at least once a month. It may be necessary to wash these vehicles more often to improve the appearance of the vehicle, eliminate or control insect infestation, and to control odor, if so directed by the City.

- 6.4. The vehicle bodies shall be painted and numbered, and shall have the Contractor's name and telephone number painted in letters of a contrasting color, at least four (4) inches high or easily readable under normal conditions.
- 6.5. The trucks shall be maintained in good working order. They shall be equipped to meet all federal, state and municipal regulations concerning vehicles used on City streets and alleys and maintained to meet these standards.
- 6.6. All vehicles shall be equipped with the safety equipment as required by any local, state or federal laws.

7. Employees

- 7.1. All employees shall be competent and skilled in the performance of the work to which they may be assigned. Failure or delay in the performance of this Contract due to the Contractor's inability to obtain employees of the number and skill required shall constitute a default of the Contract.
- 7.2. The employees shall not use loud or profane language, shall be courteous at all times (arguing will not be tolerated) and shall perform their work as quietly and quickly as possible.
- 7.3. The employees (and vehicles) shall not drive over private property unless requested by property owners.
- 7.4. The City or its authorized agent may inspect the work performed for compliance with the Contract. The Contractor shall furnish all reasonable assistance required by the City or its representative for the proper inspection of the Contractor's premises, facilities, equipment and the MRF to which the City's recyclables are taken.
- 7.5. The Contractor shall maintain, separate from all other records and accounts, complete records and an accurate ledger of accounts of all revenues and expenses relating to the collection of the City's recyclables. Such records and accounts shall, at all reasonable times, be open to inspection by the City and its agents. With reasonable notice, the City shall have the right to audit any portion of the Contractor's records relating to services provided under this Contract.

8. Indemnity

- 8.1. The Contractor shall indemnify, keep and save harmless the City and its respective officers, agents and employees against all suits or claims that may be based upon any injury or damage to persons or property that may occur, or that may be alleged to have occurred, in the performance of this Contract by the Contractor, whether or not it shall be claimed that the injury was caused through an negligent act or omission of the Contractor, its employees, its subcontractors or their agents or in connection with any claim based on lawful demands of subcontractors, workers, or suppliers; and whether or not the persons injured on whose property was damaged were third parties, employees of the Contractor or employees of an authorized subcontractor; and the Contractor shall, at its own expense, defend the City in all litigation, pay all attorneys' fees and all costs and other expenses arising out of the litigation or claim or incurred in connection therewith; and shall, at its own expense, satisfy and cause to be discharged such judgments as may be obtained against the City, or any of its officers, agents or employees.
- 8.2. When requested by the City, the Contractor shall submit satisfactory evidence that all persons, firms or corporations who have done work or furnished supplies under this Contract, for which the City may become liable under the laws of the State of Minnesota, have been fully paid or satisfactorily secured. In case such evidence is not furnished or is not satisfactory, an amount may be retained from compensation due the Contractor, which will be sufficient in the opinion of the City's Attorney, to meet all claims of the persons, firms, and corporations as aforesaid. Such sum shall be retained until the liabilities are fully discharged or satisfactorily secured.

9. Insurance

- 9.1. The Contractor shall provide and maintain in full force and effect during the entire term of this Contract, regular Contractor's Public Liability Insurance, with the City as an additional insured, providing for a limit of not less than Two Million Dollars (\$2,000,000.00) for all damages arising out of bodily injuries or death of one person, and subject to that limit for each person, and regular Contractor's auto, property damage liability insurance providing for a limit of not less than Five Hundred Thousand Dollars (\$500,000.00) for all damages arising out destruction of property in any one accident, and subject to that limit per accident. The Contractor shall also provide workers' compensation insurance and employers' liability insurance as required by law. Policies or coverage required shall be updated as necessary to meet at least the amounts specified in Minn. Stat. § 466.04 for each year of the Contract. Contractor shall provide Environmental Impairment Liability (Pollution Legal Liability) for sudden and non-sudden (gradual) pollution occurrences covering all facilities and equipment owned and used by Contractor, or its agents or employees. Limits of liability shall be no less than \$5,000,000 for each occurrence and \$5,000,000 aggregate, and shall continue for a two year period following termination of this Agreement.

Such policies shall provide for ten (10) days' notice to the City of any change, cancellation, or lapse of such policy. The Certificates of Insurance shall name the City as an additional insured, and state that the Contractor's coverage shall be the primary coverage in the event of a loss. Acceptance of the insurance by the City shall not relieve, limit or decrease the liability of the Contractor.

The Contractor shall further guarantee and save harmless and indemnify the City of and from any and all loss, damage, claims, suits, judgments and recoveries which may be asserted, made or may arise or be had, brought or recovered against the City by reason of any of the foregoing claims except such as are caused by the existence of the disposal sites at the locations specified or contemplated in the Contract; and that it shall immediately appear and defend the same as its own cost and expense.

Prior to the effective date of this Contract, the Contractor shall file a copy of such policies with the Recycling Coordinator.

10. Payment and Performance Bonds/Letter of Credit

- 10.1. Before the Contract shall be valid or binding against the City, the Contractor shall provide both a Payment Bond and a Performance Bond to the City of Arden Hills for the use of said City, and also for the use of anyone who may perform or cause to be performed any work or labor, or furnish or cause to be furnished any skill, labor, equipment, or materials in the execution of such Contract, which bonds shall be signed by the Contractor and shall be in the amount of fifty (50) percent of the yearly Contract amount. The Bonds shall at all times be kept in full force and effect. The Bonds or Letters of Credit shall be approved by the City Attorney and filed with the City Clerk or designee.
- 10.2. The conditions of the Bonds or Letters of Credit shall be that the Contractor shall fully and faithfully perform all conditions of the Contract and these specifications; shall pay anyone who may perform or cause to be performed any work or labor, or furnish or cause to be furnished any skill, labor, equipment or material in the execution of such Contract; and such Bonds or Letters of Credit shall provide the full amount thereof and shall be forfeited upon the Contractor's failure to comply therewith.

11. Transferability of Contract

- 11.1. Other than by operation of law, no transfer or assignment of the Contract or any right accruing under this Contract shall be made in whole or in part by the Contractor without the express written consent of the City. In the event of an assignment, the Contractor shall act as a guarantor of the assignee's satisfactory performance of all Contractual obligations.

12. Reporting and Promotional/Educational Activities

12.1. **Monthly and Annual Materials Reports.** Monthly reports and annual reports regarding the City's recycling program will be submitted to the City. At a minimum, the monthly reports should include the following information:

- 12.1.1. Total number of stops collected, total number of possible stops (set out numbers).
- 12.1.2. Gross amounts of materials collected, by recyclable material (in tons).
- 12.1.3. Net amounts of materials marketed, by recyclable material (in tons).
- 12.1.4. Amounts of materials stored, by recyclable material (in tons), with any notes as to unusual conditions.
- 12.1.5. The markets used for the sales of each of the recyclable commodities during that month.
- 12.1.6. The amounts of process residuals disposed (in tons) and the location(s) of disposal facility.
- 12.1.7. Revenue share credits back to the City, with the calculations by which those credits were determined.
- 12.1.8. Customer information collected on routes:
 - 12.1.8.1. The locations of damaged and replaced carts.
 - 12.1.8.2. Addresses that do not participate in the recycling program.

Monthly reports shall be due to the City by the 15th day of each month subsequent to the month of the report. The first monthly report in 2015 shall be due on June 15, 2015.

Annual reports shall be due by January 15 and shall be a compendium of the previous monthly reports with an annual summary of trends. The annual report will include recommendations for continuous improvement in the City's recycling program (e.g., public education, multi-unit recycling, etc.).

12.2. **Customer Relations Report.** The City will be provided with

- 12.2.1. A quarterly list of all customer complaints, including a description of how each complaint was resolved.
- 12.2.2. The number, address and results of the Annual Cart Checks. Annual Cart Checks are completed by looking inside the cart of 100 residential properties to check for contaminants.
- 12.2.3. A quarterly list of all missed pickups reported to the Contractor.

Quarterly reports shall be due the 15th of the months of February, April, July and October, with the 2015 quarterly reports beginning in July. Annual reports shall be due by January 15th of each year.

- 12.3. **Annual Performance Review.** Meeting to Discuss Recommendations for Continuous Improvement. The City shall schedule an annual meeting to include (but not be limited to):
- 12.3.1. Review annual report, including trends in recovery rate and participation.
 - 12.3.2. Review efforts made to expand recyclable markets.
 - 12.3.3. Review performance based on feedback from residents.
 - 12.3.4. Review recommendations for improvement in the City's recycling program, including enhanced public education and other opportunities.
- 12.4. Promotional/Educational Activities
- 12.4.1. The Contractor and the City shall work together in the preparation and distribution of educational materials to insure accurate information and program directions. The Contractor shall pay for the annual design, printing and mailing of a curbside program flyer with an additional 200 fliers to be placed at City Hall. The flyer shall be approved by the City in writing prior to printing or distribution. The flyer shall be delivered to homes no later than January 31 of each year.
 - 12.4.2. The publicity and promotion program may include articles for City newsletters, public appearances, provision of information for local environmental groups, or attendance at public events sponsored by the City. The Contractor shall at a minimum provide one (1) newsletter article per year. The Contractor is encouraged to develop new public education and outreach materials each year.
 - 12.4.3. The Contractor will work with the City to prepare guidelines for residents of eligible RDUs and MDUs with recycling instructions.
 - 12.4.4. Each year by January 31st, the Contractor shall send a mailing to each residential property that is served by the Contractor with a specific list of instructions for sorting recyclable materials and setting out recycling carts.
 - 12.4.5. The yearly mailing will include instructions for residents of eligible RDUs to have their recyclables carts set out to curbside by 7:00 a.m. on their designated recycling collection day.
 - 12.4.6. The Contractor shall conduct its own promotions and public education to increase participation. The Contractor shall submit a draft of any public education literature for approval by the City at least one month before printing and release of any such literature.
 - 12.4.7. The annual work plan shall include initiatives to improve the City's recycling program. These initiatives may include (but are not limited to) expansion of materials collected, voluntary expansion to businesses, effective education of residents with measurement, community involvement, outreach to low participating communities, and outreach using electronic communications including e-mail reminders and apps.

13. Default and Termination

13.1. If the work to be done under this Contract is abandoned by the Contractor; or if this Contract is assigned by it without the written consent of the City Council; or if the Contractor is adjudged bankrupt; or if a general assignment of assets is made for the benefit of the Contractor's creditors; or if a receiver is appointed for the Contractor of any of its property; or if, at any time, the City determines that the performance of the work under this Contract is being unnecessarily delayed or that the Contractor is violating any of the conditions of this Contract, or that it is executing the same in bad faith or otherwise not in accordance with the terms of this Contract, then the City may serve written notice upon the Contractor and its surety of the City's intention to terminate this Contract.

13.2. Unless within twenty-one (21) days after the servicing of such notice, a satisfactory arrangement is made for continuance, this Contract shall terminate and the Contractor and its surety shall be liable to the City for all costs.

13.3. **The City May Withhold Payments or Performance Bond.** In the event of Contractor's default under the terms of this Contract, all payments due the Contractor shall be retained by the City and applied to the completion of the Contract and to damages suffered and expenses incurred by the City by reason of such default, unless the surety on the performance bond shall assume the Contract, in which event all payments remaining due the Contractor at the time of default, less amounts due the City from the Contractor and less all sums due the City for damages suffered and expense incurred by reason of such default shall be due and payable to such surety. Thereafter, such surety shall receive monthly payments equal to those that would have been paid to the Contractor had such Contractor continued to perform the Contract.

13.4. Liquidated Damages

13.4.1. The imposition of liquidated damages is not a penalty, but recognition of the difficulty of ascertaining the damages resulting from certain types of performance breaches. The assessment of liquidated damages shall be at the reasonable discretion of the City and shall be in lieu of other remedies, if imposed.

13.4.2. The City may deduct the full amount of any liquidated damages from any payment due to the Contractor, but any liquidated damages not so deducted shall remain the obligation of the Contractor and be payable to the City on demand.

13.4.3. The City may assess liquidated damages in lieu of other remedies available to the City for breach of the Contract or violation of the City's ordinances. Failure to impose liquidated damages for lack of performance shall not constitute a waiver of the City's other rights and/or

remedies under either the Contractor or the City's ordinances or any subsequent failure of performance.

13.4.4. The Contractor shall be liable to the City for liquidated damages, in the amount of \$75.00 for the first incident, \$100.00 for the second incident and \$200.00 per incident thereafter; upon determination by the City that performance has not occurred consistent with the following provisions of the Contract:

13.4.4.1. Failure to pick up missed collections by 6:00 p.m. on the day following scheduled collection day.

13.4.4.2. Failure to complete City-wide or route-wide collection by 6:00 p.m. on the scheduled collection day, unless prior approval is received by the City.

13.4.4.3. Failure to adequately address legitimate complaints, whether submitted by residents or the City.

13.4.4.4. Failure promptly to clean up any spills or leaks caused by the Contractor.

13.4.4.5. Failure to clean up scattered or spilled material spilled by the Contractor within three hours of written or oral notice from the City.

13.4.4.6. Disposal of recyclables by the Contractor in a landfill, resource recovery facility or other disposal facility without receiving prior written City permission.

13.4.4.7. Failure to adhere to other collection restrictions and requirements set forth in the Contract. If the Contractor has violated or failed to follow collection restrictions or requirements in general, the City may treat each violation or failure as a separate incident for the purpose of calculating liquidated damages.

13.4.4.8. Failure to request and obtain permission from the City for collecting on the residential routes earlier than 7 a.m. or later than 6 p.m.

14. Payment for Base Collection Services

14.1. The City shall be responsible for invoicing and collecting the utility rate fees from all eligible RDUs and MDUs receiving collection services.

14.2. The City may give the Contractor oral notice of discontinuation of service to RDUs or MDUs, promptly followed by written confirmation of the order. Upon reinstatement of service at the RDU or MDU by the City, the Contractor shall resume collections on the next scheduled collection day.

- 14.3. The Contractor shall bill the City for any collection services rendered to mutually agreed-upon, eligible RDUs and MDUs according to the collection service Contract prices set forth in this Contract. The Contractor shall invoice the City on a monthly basis within ten (10) days following the end of each month in a format to be specified by the City. The Contractor shall itemize applicable charges by county, state or federal agencies.
- 14.4. The City shall pay the Contractor within 35 days after receiving and approving the invoice from the Contractor. The City's payment to the Contractor shall be based on the approved invoice and the collection service Contract prices set forth in this Contract. The Contractor shall be entitled to payment for services rendered provided an approved invoice is submitted to the City pursuant to the terms of this Contract regardless of whether or not the City collects the utility rate fee from the specific RDU or MDU for such services. However, the Contractor shall not be entitled to receive payment for dwelling units for which the Contractor has received notice from the City of discontinuance of service. The City shall be entitled to offsets in its payments to Contractor amounts for Contractor errors or omissions as specified in the Liquidated Damages Section 13.
- 14.5. The City will compensate the Contractor through the base Contract prices set for recyclable collection services for RDUs. Commencing May 4, 2015, the base Contract prices will be:
- Recyclables Collection shall be \$3.03 per eligible RDU per month for weekly recycling service. Eligible RDUs with more than one (1) cart will be charged an additional fee of \$2.00 per household per month per cart.
- 14.6. City will compensate the Contractor through the base Contract prices set for recyclable collection services for MDUs. Commencing May 4, 2015, the base Contract prices will be:
- Recyclables Collection shall be \$55.00 per eligible MDU per month for each four yard container serviced once per week or \$4.25 per eligible MDU per month for each 65 gallon cart serviced once per week.
- 14.7. The City shall provide a count of eligible RDUs and MDUs by January 1 of each year. These annual counts may include additional RDUs and MDUs added due to new development, redevelopment or other such changes.
- 14.8. The Contract price will be multiplied by the total number of RDUs and MDUs as determined by the City to result in the monthly payment amount to Contractor.

14.9. Annual Contract Price Increase

The City agrees that the price per residential dwelling unit will increase each year by the Consumer Price Index for the Upper Midwest as determined by the Federal Reserve Bank of Minneapolis or by three (3) percent, whichever is less. The price change shall go into effect on May 4 of each year. The City will notify the Contractor by the last week of January of the compensation rate for the subsequent contact year.

14.10. Processing Fees and Revenue Share

14.10.1. The processing fee for all recyclable material commodities shall be \$66.00 per ton. The city agrees that the processing rate will increase each year by the Consumer Price Index for the Upper Midwest as determined by the Federal Reserve Bank of Minneapolis or by three (3) percent, whichever is less. The price change shall go into effect May 4 of each year. The City will notify the Contractor by the last week of January of the compensation rate for the subsequent contact year.

14.10.2. The Revenue Share on all commodities shall be split between the City and the Contractor at a rate of 80% (City) and 20% (Contractor).

14.10.3. The revenue will be calculated by multiplying the tons of individual materials collected, times the agreed upon material price. Total revenue shall be calculated by adding all of the revenue generated for each of the materials collected and processed. Contractor shall guarantee a minimum price on all materials of \$0.00 per ton. If a particular material price is negative, a price of \$0.00 per ton shall be used.

14.10.4. Processing fee will be calculated by multiplying the tons of individual materials collected by the agreed upon processing fee as described in Section 14.10.1. Total Processing Fees will be calculated by adding all of the processing fees generated for each of the materials collected and processed.

14.10.5. Revenue share received by the City will be calculated by subtracting the Total Processing Fee from the Total Revenues. If the remainder is positive, that number represents the revenue that shall be split between the City and the Contractor 80% (City) and 20% (Contractor).

14.11. Annual Residual Waste Evaluations.

A load evaluation shall be made in the presence of both parties on a date mutually agreed upon to validate or re-establish the residual percentages used in the payback matrix. The annually validated and agreed upon percentage will be used until the next annual review. The City of Arden Hills and Republic Services agree that the commodity percentages listed on the Revenue Share Matrix are a reasonably accurate approximation of the percentages of each commodity of Recyclable Materials. The Revenue Share Matrix will be updated monthly by the actual percentages of residential single stream material shipped by Republic that month and the agreed upon residual percentages.

14.12. Change in Law Provision.

The City and Republic Services agree that any change in law that materially affects the performance or pricing of the agreement will be reviewed within 30 days of such law taking affect. Both the City and Republic Services agree that following the review the parties will negotiate in good faith to return this agreement to substantially similar terms, conditions, or pricing that were present prior to change in law.

15. Miscellaneous Provisions

15.1. In the event that any provision or portion thereof of any Contract Document shall be found to be invalid or unenforceable, then such provision or portion thereof shall be reformed in accordance with the applicable laws. The invalidity or unenforceability of any provision or portion of this Contract shall not affect the validity or enforceability of any of the remaining provisions or portions of the Contract.

15.2. Any notice or demand required herein shall be in writing and shall be effectively made if delivered to either party in person or, if mailed, sent by certified mail as follows: To the City of Arden Hills at 1245 West Highway 96, Arden Hills, MN 55112; and to the Contractor at 9813 Flying Cloud Drive, Eden Prairie, MN 55347; or to such other address as either party may furnish the other in writing. Any change must be agreed upon by both parties in writing.

IN WITNESS WHEREOF, the parties hereto have caused this instrument to be duly executed this 23rd day of February, 2015.

CITY OF ARDEN HILLS, MN:

BY _____
DAVID GRANT, MAYOR

BY _____
PATRICK KLAERS, CITY ADMINISTRATOR

APPROVED AS TO FORM:

BY _____
JOEL JAMNIK, CITY ATTORNEY

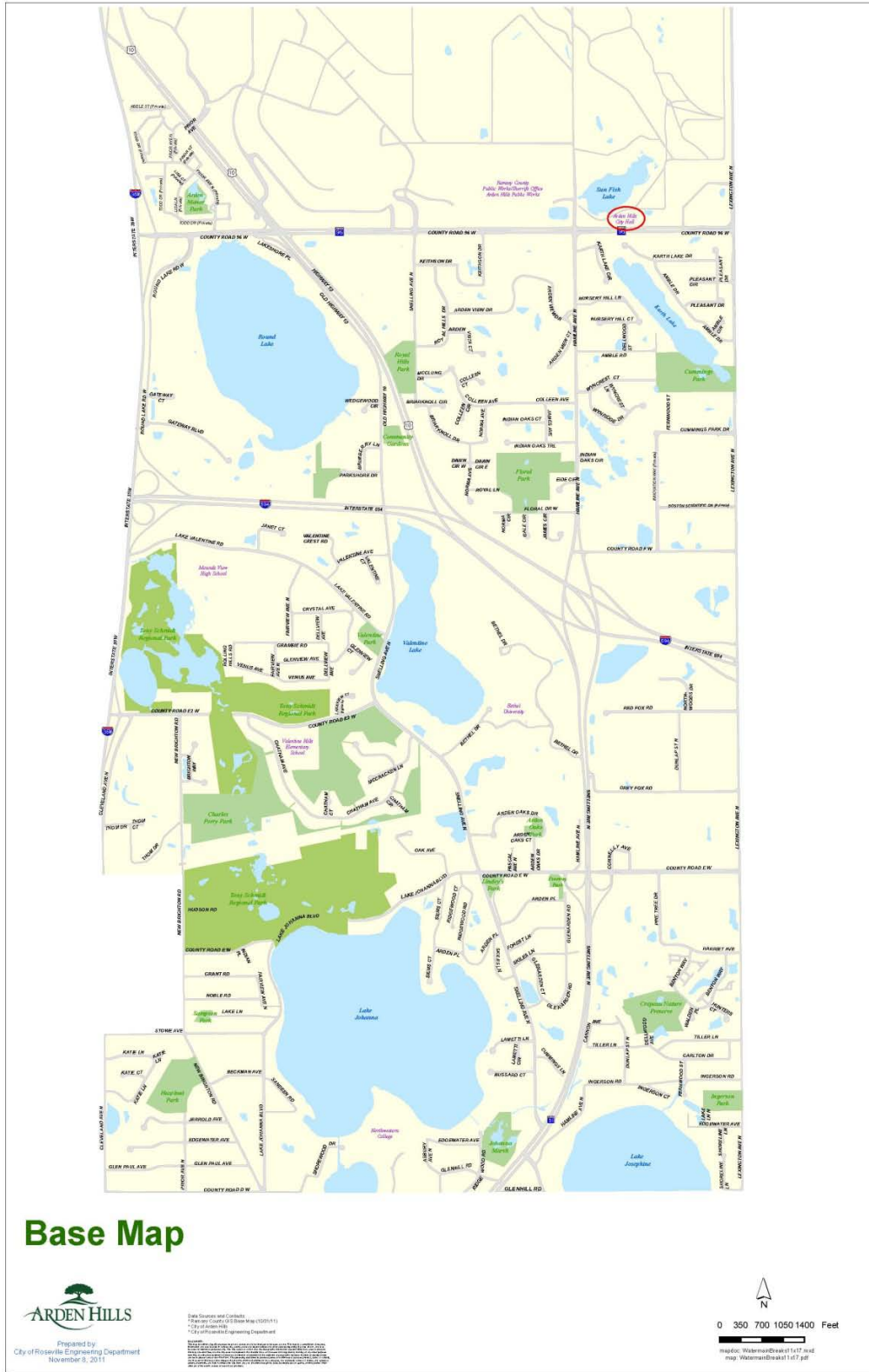
REPUBLIC SERVICES, INC.:

BY _____
ERIK SCHUCK, AREA PRESIDENT

BY _____
TOM CHOVAN, GENERAL MANAGER

Appendix A Map of Route Sectors by Collection Day

(Tuesdays for properties south of I-694 and on Wednesdays for properties north of I-694)



Appendix B
City Facilities to be serviced by the Contractor.

*City Hall and 14 City Parks
(Park Recyclables may be collected from a central location as determined by the Public Works Department)

