

CITY OF VOLGA

SOLID WASTE COLLECTION, DISPOSAL, AND RECYCLING AGREEMENT

THIS AGREEMENT is made and executed the day and date set forth below, by and between the CITY OF VOLGA, SOUTH DAKOTA, a Municipal Corporation, hereinafter referred to as the "City", and _____, hereinafter referred to as "Contractor".

WHEREAS, the City has adopted an Ordinance providing for the collection and disposal of solid waste produced within the City of Volga and is authorized by said Ordinance to contract for garbage collection and disposal within the City of Volga, together with recycling services as described herein; and

WHEREAS, the Contractor is in the business of garbage (solid waste) collection and disposal and is equipped to provide said service as well as collection of recycling materials in the City of Volga, and has made arrangements for an acceptable disposal site for all solid waste collected and for recycled materials collected within the City of Volga; and

WHEREAS, the City also desires to provide recycling services to the residents of the City of Volga, and has determined that solid waste collection, disposal and recycling can be performed by the same person or firm, and that it is desirable and in the best interest of the City that solid waste collection, disposal and recycling be performed by the same person or firm pursuant to this Solid Waste Collection, Disposal and Recycling Agreement; and

WHEREAS, the Contractor further represents that it has the experience and expertise necessary to perform recycling services in and for the City of Volga, and further has made arrangements for delivery of recyclables collected in the City of Volga to a recyclable material processing facility; and

WHEREAS, the parties to this Agreement desire to enter into an agreement for the collection and disposal of refuse and solid waste and the collection and proper delivery of recyclables in the City of Volga, South Dakota.

NOW THEREFORE, IN CONSIDERATION OF THE MUTUAL AGREEMENTS AND COVENANTS HEREIN CONTAINED, THE CITY AND THE CONTRACTOR DO HEREBY AGREE TO THE FOREGOING AND AS FOLLOWS:

Section 1. Term of Agreement

The term of this Agreement shall begin as of November 1, 2023 and shall terminate on October 31, 2026, subject to the early termination provisions of Sections 12 and 13 of this Agreement. This Agreement is also subject to termination if the City Council does not provide

funding for any service set forth in this Agreement in its Annual Budget Appropriation Ordinance.

Section 2. Area of Service

The area of service in the City in which the Contractor will perform services pursuant to this Agreement will include all areas within the corporate limits of the City of Volga which currently receive garbage collection services provided by the City, as well as any new residential dwelling units which are constructed in the City of Volga. A list of these customers may be obtained from the City of Volga. In addition, there are several customers outside the City limits which are eligible for collection services and are included in the area to be serviced pursuant to this Agreement. The addresses and contact information of such customers will be provided to the Contractor by the City, prior to November 1, 2023.

Section 3. Scope of Services

A. **SOLID WASTE COLLECTION AND DISPOSAL.** The Contractor will provide garbage collection services to the City as follows:

1. **COLLECTION.** The Contractor will use suitable vehicles using a sealed container for the collection and disposal of garbage and solid waste in the City. The City warrants that the pavement, curbing and other driving surfaces in the City of Volga, or any right of way reasonably necessary for the Contractor to provide the services described herein, are sufficient to bear the weight of the Contractor's equipment and trucks in those weight amounts provided for above. The Contractor will not be responsible for damage to any such pavement, curbing, driving surface or right of way, and the City agrees to assume all liabilities for any such damages, which results from the weight of the Contractor's vehicles that is within the weight amounts provided for above.

The Contractor will collect and remove garbage and solid waste, and will perform recycling services, as defined below, from all residential dwelling units in the City as described in the Area of Service above.

2. **GARBAGE, SOLID WASTE AND LAWN AND GARDEN WASTE SUBJECT TO COLLECTION.** Garbage and solid waste includes all household generated garbage, animal waste, rubbish and other materials. Lawn, leaves and garden waste will be collected by Contractor if placed in separate containers provided by the Contractor.

The Contractor will not collect hazardous waste or other wastes that have been identified by local, State or Federal laws, rules or regulations as "hazardous" or "toxic", or as otherwise not being appropriate for disposal in a municipal landfill ("Hazardous Waste").

The Contractor will not collect or pickup the following items:

- (1) Liquid waste oil and paint
- (2) Tires
- (3) Automotive style batteries
- (4) Furniture
- (5) Major appliances, equipment and computer components
- (6) Tree limbs/branches
- (7) Animal and fish waste which is not placed in a securely tied bag. Animal and fish waste will be picked up by Contractor if it is placed in a securely tied bag within the container.

3. **TIME/MANNER OF COLLECTION.** The Contractor will collect the garbage and solid waste one (1) time per week. The time of collection and day of the week for collection will be on Wednesdays of each week or determined by the City and Contractor. The Contractor will also pick up lawn and garden waste once each week on Wednesdays from the months of April to November (weather permitting), or by a schedule adjusted and agreed upon by the City and Contractor. The Contractor will remove all garbage and solid waste and lawn and garden waste collected from the City to a disposal site which meets all requirements of the South Dakota Department of Agriculture and Natural Resources with garbage disposed of at the site for garbage and solid waste, and lawn and garden waste disposed of at a separate site within the landfill which is established for lawn and garden waste.

Residences with home occupations need not qualify for a second account unless they desire to establish a separate account for their home occupation. Residences with home occupations may dispose of business waste together with home waste provided it does not exceed the one (1) 95 gallon or one (1) 65 gallon container limit and does not contain any prohibited items.

4. **CONTAINERS.** In accordance with present City policy, residents must have one (1) ninety-five (95) or one (1) sixty-five (65) gallon container for each pickup, but can elect to have an additional container as well. These containers will be provided by the Contractor at no cost to the City, and remain the property of the Contractor. Residents shall have the option to place lawn and garden waste in a separate ninety-five (95) gallon container provided by the Contractor.

5. **DISRUPTION OF SERVICE.** In the event that Contractor, for any reason, fails or refuses to collect the garbage and waste of any of the residents of the City of Volga, the City will be entitled to make such other arrangements for garbage and waste collection as it deems necessary, pending the resolution of any differences between the parties hereto or until such time as Contractor resumes its collection duties.

B. GENERAL PERFORMANCE REQUIREMENTS.

1. COLLECTION VEHICLES. The collection vehicles used to perform this Agreement will be licensed in the State of South Dakota and will be operated in compliance with applicable State, Federal and municipal regulations. All vehicles must be manufactured and maintained in proper repair and sanitary condition.

2. CONTAINERS. The Contractor will supply, at Contractor's cost, each residence with one (1) 95 gallon container or one (1) 65 gallon container for garbage services and one (1) 95 gallon container or one (1) 65 gallon container for recycling services. These containers will remain the sole property of the Contractor. Each resident may request through the Finance Officer a 65 gallon container in lieu of the 95 gallon container and a 95 gallon container for lawn and garden waste. Any lost, stolen or damaged containers will be promptly replaced or repaired by Contractor. Contractor will seek reimbursement from the customer, and customers will be liable for any lost, stolen or damaged containers.

3. SAFETY REQUIREMENTS. The Contractor shall comply with ANSI, OSHA, and other Federal, State and local laws and regulations applicable to the operation of collection vehicles. No vehicle will be overloaded.

4. STANDARD OF PERFORMANCE. The Contractor's responsibilities under this Agreement will be performed to the satisfaction of the City, with the determination of the level of performance being in the sole discretion of the City.

C. RECYCLING SERVICES.

The Contractor will also perform recycling services in the City of Volga as follows:

1. The Contractor will collect and remove all recyclable materials, which are separated from solid waste and placed in the appropriate containers at the curbside on public streets or in alleys, as the case may be, from all residential dwelling units which currently receive solid waste collection services. Recyclable materials are defined below, but may be combined into a single stream.

2. For the purposes of this Agreement, recyclable materials includes, but is not limited to:

a. Paper Products

Newspaper, Office Paper, Junk Mail, Magazines, Phone Books, Light Colored Paper, Cardboard Boxes and Corrugated Cardboard.

b. Aluminum, Steel and Tin

Drink Cans, Food Cans, Clean Tin Foil, Baking Trays.

c. Plastic Products

#1 Soda and Water Bottles

#2 Milk Jugs, Cleaning Bottles, Plastic Shopping Bags

#3 Plastic Food Wrap, Vegetable Oil Bottles

- #4 Squeezable Food Bottles, Bread and Frozen Food Bags
- #5 Medicine Bottles, Aerosol Caps, Drinking Straws
- #6 CD Cases, Egg Cartons, Aspirin Bottles, Bubble Wrap
- #7 Some Food Containers and Tupperware

d. Glass Products

Clear, Amber and Green Glass

e. Such other added materials or removal of an above listed material as mutually agreed upon in writing by the Contractor and the City. A list provided by the Contractor of current recyclable materials and non-recyclable materials is recommended to provide to the City from time to time in which the City will inform residents on the City's website and other means.

3. The Contractor will collect the residential recyclable materials placed for collection the second and fourth Wednesday of every month.

4. The Contractor will provide three (3) dumpsters for recycling collection to be permanently placed throughout the entirety of this agreement at the original water tower site on and next to the designated cement pad (water tower located east of 108 N Kasan Ave). The Contractor will designate one (1) dumpster for cardboard materials, one (1) dumpster for aluminum materials, and one (1) dumpster for general recyclable materials. The Contractor will replace the dumpster with an empty dumpster on an as-needed basis (subject to Contractor availability) and at a weekly minimum. The dumpsters will be provided for no further monetary compensation to the Contractor.

5. The Contractor will transport the collected recyclable materials to a recyclable material processing facility. No recyclable materials may be disposed of in a landfill or in any other manner. Contractor assumes all responsibility and liability for storage and recycling of these materials. The final disposition of all of the recyclable materials collected by the Contractor must be documented to the City of Volga in a form and manner satisfactory to the City. The City is authorized to verify proper storage and recycling of these materials.

6. The Contractor will, at its sole cost and expense, except as otherwise provided herein, furnish all labor and equipment required to perform collection, processing and marketing of the recyclable material.

7. The Contractor will process and transfer recyclable materials at a material processing facility which is satisfactory to the City.

8. Nothing in this Agreement restricts the rights of the residents of the City to recycle any material they generate, or the right of the City to sponsor, encourage or otherwise require recycling by City residents.

9. Nothing in this Agreement will be interpreted as vesting with the Contractor the exclusive right to collect recyclables in the City, nor will this Agreement be interpreted or implied to create any rights in favor of the Contractor with respect to recyclable materials generated within the City except as to such recyclable materials as are actually collected by the Contractor. The parties hereto understand and agree that certain organizations and non-profit groups shall be permitted to also collect recyclables, however, such groups shall not collect recyclables which are placed for collection by the Contractor.

D. COLLECTION OF LAWN AND GARDEN WASTE.

The Contractor will perform lawn, leaves, and garden waste collection and removal services in the City of Volga as follows:

1. The Contractor will collect and remove all lawn, leaves, and garden waste provided all such waste is placed in a separate ninety-five (95) gallon container provided by the Contractor. Containers will be emptied weekly during the months of April through November (weather permitting). The time of collection will be on Wednesdays each week or another time determined by the City and Contractor.
2. The Contractor will provide two (2) roll-off dumpsters for leaves collection to be permanently placed at separate locations to be determined by the City of Volga. The Contractor will replace the dumpster with an empty dumpster on an as-needed basis (subject to Contractor availability) and at a weekly minimum. The dumpsters will be available during the months of April, May, September, October, and November. This period may be altered due to weather upon mutual agreement by the Contractor and City of Volga. The dumpsters will be provided for no further monetary compensation to the Contractor.
3. The Contractor will provide one (1) dumpster for lawn and garden waste collection to be permanently placed at the Community Gardens parking lot located on the far west side of W 6th Street from the months of May to October (weather permitting). This period may be altered due to weather upon mutual agreement by the Contractor and City of Volga. The Contractor will replace the dumpster with an empty dumpster on an as-needed basis (subject to Contractor availability) and at a bi-weekly minimum.
4. Branches should not be placed in the ninety-five (95) gallon containers or dumpsters. Customers should be advised by the Contractor if problems occur with tree branches that customers can take branches to the tree pile or to the Brookings Area Landfill.

E. HAZARDOUS WASTE. Notwithstanding the foregoing, the Contractor agrees to establish reasonable practices for the screening and elimination of Hazardous Waste from the waste stream including, but not limited to, the training of personnel and the revision

of such practices as necessary to reflect prudent waste screening. However, title to and liability for any Hazardous Waste deposited in Contractor's equipment or placed out by a customer for collection by the Contractor shall remain with such customer, even if the Contractor inadvertently collects such Hazardous Waste. At no time shall title to or liability for Hazardous Waste transfer to the Contractor. If the Contractor finds what reasonably appears to be discarded Hazardous Waste, the Contractor shall notify the customer, if such can be determined, by leaving a tag indicating that the Contractor may not lawfully collect such waste.

F. CITY-WIDE CLEANUP.

The Contractor will also perform city-wide cleanup services in the City of Volga as follows:

1. On the 2nd Tuesday of the months of May and September in addition to the Tuesday following the second full weekend of June (traditionally known as Old Timers Day), the Contractor will collect and remove all materials left on boulevards, which are placed at the curbside on public streets for city-wide cleanup from all residential dwelling units which currently receive solid waste collection services. The City will assist with city-wide cleanup by providing two (2) employees who will also collect materials on the designated days for four-hour periods each pickup day.
2. Throughout the entirety of this agreement, one roll-off dumpster for city-wide cleanup items will be permanently placed at the original water tower site on the designated cement pad (water tower located east of 108 N Kasan Ave). The Contractor will replace the roll-off dumpster with an empty roll-off dumpster on an as-needed basis (subject to Contractor availability) and at a weekly minimum. The City may elect to discontinue the placement of this roll-off dumpster if abuse or other reasons occur in which the City will inform the Contractor of the change.
3. Certain materials as defined below, will not be picked up unless additional fees have been paid through the Finance Office and are marked with a paid sticker. However, hazardous waste will not be picked up. The following items may not be placed curbside for pickup unless a sticker has been placed on the item:
 - i. Any items with Freon including but not limited to refrigerators, freezers, and dehumidifiers;
 - ii. Appliances including stoves, ovens, water heaters, washing machines, and dyers but excluding dishwashers;
 - iii. Car, pickup, truck, or tractor tires or rims.
4. The City of Volga will be directly invoiced by the City of Brookings and will pay the landfill fees associated with materials picked up during City-Wide Cleanup and emptying of roll-off dumpsters. As an option, the Contractor may directly pay the landfill and include landfill fees on the Contractor's invoice to the City if documentation from the landfill is included with each invoice sent to the City.

Section 4. Billing

It is understood and agreed that the City will provide monthly billing services for residential garbage pickup and disposal services, as follows: The City of Volga will bill each residential unit receiving garbage collection and disposal services, and for these billing services, the City will charge and receive from each residential unit receiving garbage collection and disposal services a fee as determined by the City Council. It is further understood and agreed that the Contractor will be solely responsible for billing any commercial units to which it provides services. It is understood that this Agreement does not concern commercial garbage collection and disposal. As and for consideration for residential billing services, Contractor will also collect refuse, garbage and trash from the city park, ball field, community gardens, city buildings and from the City's garbage containers on Kasan Ave as is necessary, and for no further monetary compensation.

It is understood that the Contractor will create and mail a yearly calendar magnet to be sent out to each resident in the month of December of the next year highlighting the schedule of solid waste, recycling, yard waste pick-up days and City-Wide Cleanup days. The magnet calendar must be proofread by the City before mailing. The City will provide a list of all current mailing addresses for the Contractor. 100 magnets will also be delivered to City Hall for new residents to take that move to the City throughout the year and sign-up for services. The mailing of the magnet calendar by the Contractor will be done for no further monetary compensation.

Section 5. Compensation

MONTHLY CHARGE. The Contractor will be compensated by the City on a monthly basis in arrears, based on the number of residences that are provided garbage collection and recycling services in the previous month. All such compensation shall be paid to the Contractor no later than the twenty-fifth (25th) day of the month for the prior month's services. The monthly rate payable to the Contractor during the term of this Agreement will be set by Resolution of the City Council based on the bid for services to be provided by Contractor pursuant to this Agreement.

It is understood and agreed that the total number of residential pickup units will be determined from time to time by the Municipal Finance Officer of the City of Volga, and it will be the duty of the Contractor to notify the City's Municipal Finance Officer from time to time as to any variance noticed by Contractor between the number of units from which Contractor is collecting garbage/waste and recycling materials and the residential pickup units as provided by the City.

Section 6. Independent Contractor

The Contractor performing all work and services described herein is an independent contractor and is not as an officer, agent, servant or employee of the City. The Contractor has the exclusive control of the services and work performed pursuant to this Agreement and all persons performing services for the Contractor will be solely responsible for the acts and omissions of its officers, agents, employees, contractors and subcontractors, if any. Nothing herein shall be construed as creating a partnership or joint venture between the City and the

Contractor. No person performing any of the work or services described hereunder will be considered an officer, agent, servant or employee of the City, nor will any such person be entitled to any benefits available or granted to employees of the City. The Contractor will not enter into any subcontracts for performance of its responsibilities under this Agreement without the written consent of the City.

Section 7. Nonassignment

The Contractor may not assign, transfer or convey this Agreement or the Contractor's rights, duties or obligations hereunder or any part thereof without the previous written consent of the City. The City may, at its option, terminate this Agreement if the Contractor attempts to assign, transfer or convey this Agreement or Contractor's rights, duties or obligations hereunder.

Section 8. Permits and Licenses

The Contractor, at its sole cost and expense, will obtain and maintain through the term of this Agreement all permits, licenses and approvals necessary or required for the Contractor to perform the work and services described herein.

Section 9. Compliance with Laws and Regulations

The Contractor agrees that, in the performance of work and services under this Agreement, the Contractor will qualify under and comply with any and all Federal, State and local laws and regulations now in effect, or hereafter enacted or adopted during the term of this Agreement which are applicable to the Contractor, its employees, agents or subcontractors, if any, with respect to the work and services described herein.

Section 10. Insurance

The Contractor will obtain and maintain throughout the term of this Agreement at the Contractor's sole cost and expense, worker's compensation insurance, and liability insurance coverage. Contractor shall maintain occurrence based commercial general liability insurance or equivalent form with a limit of not less than \$1,000,000 for each occurrence. If such insurance contains a general aggregate limit, it shall apply separately to this Agreement or be no less than two times the occurrence limit. Such insurance shall add the City of Volga as additional insured. Contractor shall also maintain business motor vehicle liability insurance with a limit of not less than \$1,000,000 each accident. Such insurance shall include coverage for owned, hired, and non-owned vehicles. Contractor shall also procure and maintain workers' compensation and employers' liability as required by South Dakota law. The insurance provided herein will hold the City harmless from any or all actions of the Contractor, injuries to the Contractor's employees or others and also hold harmless the City for actions of the Contractor's subcontractors. The Contractor agrees to provide proof of insurance to the City at the time of execution of this Agreement.

Section 11. Indemnification and Hold Harmless Agreement

The Contractor agrees to indemnify, hold harmless and defend the City, its officers, employees, agents and servants from and against any and all liability, claims, demands, actions or suits, of whatsoever character or kind, arising or resulting from, or in any way connected with, the Contractor's negligence or willful misconduct in its performance of this Agreement, the operations of the Contractor, its agents, employees or subcontractors, or the failure of the Contractor to comply with the provisions and requirements of all applicable permits, licenses, laws or regulations.

Section 12. Termination

A. In the event the Contractor defaults in the performance of any part of this Agreement, or in the event the performance of the Contractor becomes unsatisfactory to the City, the City will notify the Contractor in writing of the nature of such default or unsatisfactory condition. Within fifteen (15) days following such notice, the Contractor will:

1. Correct the default or unsatisfactory condition; or
2. In the case of a default or unsatisfactory condition not capable of being corrected within fifteen (15) days, the Contractor will commence correcting the default within fifteen (15) days of the City's notification thereof, and thereafter correct the default or unsatisfactory condition with diligence, and within such specified time beyond fifteen (15) days as the City shall, in its sole discretion, agree to allow.

B. If the Contractor fails to correct the default or unsatisfactory condition as provided above, the City, without further notice, has all of the following rights and remedies which the City may exercise singly or in combination:

1. The right to declare that this Agreement, together with all rights granted to the Contractor hereunder, are terminated, effective upon such date as the City designates.
2. The right to contract with others to perform the services otherwise to be performed by the Contractor hereunder, or to perform such service itself.

C. In the event the City defaults in the performance of any part of this Agreement, including, but not limited to, failure to pay the Contractor in a timely manner as provided for hereunder, the Contractor will notify the City in writing of the nature of such default. Within fifteen (15) days following such notice, the City will:

1. Correct the default; or
2. In the case of a default not capable of being corrected within fifteen (15) days, the City will commence correcting the default within fifteen (15) days of the Contractor's notification thereof, and thereafter correct the default with diligence, and within such specified time beyond fifteen (15) days as the Contractor shall, in its sole discretion, agree to allow.

D. If the City fails to correct the default as provided above, the Contractor, without further notice, has the right to declare this Agreement, together with all obligations of the Contractor hereunder, are terminated, effective upon such date as the Contractor designates, and the City shall be liable to the Contractor for payment of any and all services previously rendered by the Contractor pursuant to this Agreement.

Section 13. Insolvency of Contractor - Termination of Agreement

Either the appointment of a receiver to take possession of all or substantially all of the assets of the Contractor, or a general assignment by the Contractor for the benefit of creditors, or any action taken by or suffered by the Contractor under any insolvency or bankruptcy act will constitute a breach of this Agreement by the Contractor and will, at the option of the City, terminate this Agreement.

Section 14. Notices

All notices required or contemplated by this Agreement shall be personally served or mailed, postage prepaid and addressed to the parties as follows:

To the City:

City of Volga
City Finance Officer
PO Box 217
Volga, SD 57071

To the Contractor:

Section 15. Waiver

Failure of the City to enforce its remedies with respect to any breach of any provision of this Agreement shall not constitute or operate as a waiver of such breach or of any other breach of such provision or of any other provisions of this Agreement.

Section 16. Governing Law

This Agreement is entered into and is to be performed in the State of South Dakota. The City and the Contractor agree that the laws of the State of South Dakota shall govern the rights, obligations, duties and liabilities of the parties to this Agreement and shall govern the interpretation of this Agreement.

Section 17. Amendment

This Agreement may be modified or amended only by a written agreement duly executed by the parties hereto or their representatives.

Section 18. Entirety

This Agreement contains the entire Agreement between the parties as to the matters contained herein. Any oral representations or modifications concerning this Agreement shall be of no force and effect.

Section 19. Contractor's Representations

The Contractor represents that:

1. The Contractor has the power, authority and legal right to enter into and perform its obligations set forth in this Agreement.
2. This Agreement has been duly entered into and delivered and constitutes a legal, valid and binding obligation of the Contractor, enforceable in accordance with its terms.

Dated this ___ day of _____, 2023. CITY OF VOLGA, SOUTH DAKOTA
(SEAL)

Ken Fideler, Mayor

ATTEST:

Krista Larson, Finance Officer

Dated this ___ day of _____, 2020.

By: _____

Its: Site Manager

SPECIFICATIONS FOR CONTAINERS

One (1) 95 Gallon Container/65 Gallon Container to be used for garbage and solid waste collection for each residential unit served. Containers must be the same color, which are like or similar to those shown or described of current-use containers (available for viewing at 109 Samara Ave).

One (1) 95 Gallon Container/65 Gallon Container to be used for recyclable material collection for each residential unit served. Containers must be the same color, which are like or similar to those shown or described of current-use containers (available for viewing at 109 Samara Ave).

One (1) 95 Gallon Container to be used for lawn and garden waste collection for each residential unit served. Containers must be the same color, which are like or similar to those shown or described of current-use containers (available for viewing at 109 Samara Ave).