

WASTE DELIVERY AGREEMENT

This Agreement (“Agreement”) is between the COUNTY OF HENNEPIN, STATE OF MINNESOTA, A-2300 Government Center, Minneapolis, Minnesota 55487, on behalf of the Hennepin County Environment & Energy Department, 701 Fourth Avenue South, Suite 700, Minneapolis, Minnesota 55415, (“COUNTY”), and [hauler], [address], [city], MN [zip], a Corporation organized under the laws of Minnesota, (“HAULER”).

The parties agree as follows:

1. AGREEMENT TERM

This Agreement shall commence on January 1, 2024, and expire on December 31, 2025, unless cancelled or terminated earlier in accordance with the provisions herein.

2. DEFINITIONS

- A. “Acceptable Waste” has the meaning given to "mixed municipal solid waste" in Minnesota Statutes, section 115A.03, subdivision 21, as it may be amended from time to time and does not include Unacceptable Waste as herein defined.
- B. “County Board” is the Hennepin County Board of Commissioners.
- C. “County Facility” or “County Facilities” means the Brooklyn Park Transfer Station (“BPTS”) and Hennepin Energy Recovery Center (“HERC”) and includes transfer stations that the COUNTY has contracted for use.
- D. “Hazardous Waste” has the meaning given to that term in Minnesota Statutes, section 115B.02, subdivision 9, as it may be amended from time to time.
- E. “Hennepin County Solid Waste System Operating Manual” is the manual prepared by the Environment and Energy Department which describes the procedures and requirements for all haulers operating in Hennepin County including the use of the County Facilities.
- F. “Public Entity” means the state; an office, agency, or institution of the state; the Metropolitan Council; a metropolitan agency; the Metropolitan Mosquito Control District; the Minnesota Legislature; federal or Minnesota state courts; a county; a statutory or home rule charter city; a town; a school district; another special taxing district; or any other general or special purpose unit of government in the state.
- G. “Unacceptable Waste” includes explosives, pathological and biological waste, radioactive materials, ashes, incinerator residue, foundry sand, sewage sludge,

cesspool and other human waste, human and animal remains, motor vehicles, major vehicle parts such as transmissions, rear ends, springs and fenders, automobile and small vehicle tires to the extent the air emission criteria applicable to HERC are violated by their combustion, agricultural and farm machinery and equipment, transformers, trees, liquid wastes, non-burnable construction material, sludges from air or water pollution control facilities or water supply treatment facilities, demolition or other construction debris, Hazardous Waste as defined herein, and any material which, if processed at HERC, would cause the bottom ash produced at HERC to be classified as Hazardous Waste, and other wastes as may be listed in the "Hennepin County Solid Waste System Operating Manual."

3. REPRESENTATIONS OF HAULER

- A. HAULER is a duly organized Corporation, validly existing and properly qualified to do business under the laws of the State of Minnesota and is licensed to haul waste in Hennepin County. The Hauler is doing business in Minnesota under the name A & M BUSINESS INTERIOR SERVICES.
- B. This Agreement has been duly executed and delivered by HAULER and constitutes a binding legal obligation of HAULER that is fully enforceable in accordance with its terms and conditions.
- C. The execution, delivery and performance by HAULER of this Agreement does not and will not conflict with any other agreement or contract to which HAULER is a party.

4. REGULATORY COMPLIANCE

HAULER shall at all times during the term of this Agreement operate its business of collecting, transporting, delivering and disposing of waste in compliance with all applicable federal, state, and local laws, rules, regulations, ordinances and licenses, including but not limited to Hennepin County Ordinances 15 and 17.

5. SERVICES TO BE PROVIDED

- A. HAULER agrees to deliver to County Facilities no more than a total tonnage of Ninety (90) tons of Acceptable Waste each calendar quarter generated in Hennepin County that HAULER collects, transports, manages, or disposes, or arranges for the collection, transportation, management or disposal. If the maximum amount of tons as stated above is exceeded, HAULER shall be subject to a higher tipping fee in accordance with Section 7. COUNTY reserves the right to increase the maximum amount at any time during the term of this Agreement.

- B. HAULER agrees to deliver to County Facilities all Acceptable Waste it collects from a Public Entity and to work with each Public Entity to meet the requirements of Minnesota Statutes, section 115A.471.
- C. HAULER agrees that it will not mix or deliver Acceptable Waste generated outside Hennepin County with Acceptable Waste generated in Hennepin County, unless mutually agreed to in writing by the parties prior to the delivery of waste.
- D. HAULER agrees not to deliver any Unacceptable Waste to a County Facility.
- E. HAULER agrees that it will not mix any Unacceptable Waste with Acceptable Waste.
- F. COUNTY may reduce the availability of a County Facility to HAULER at the discretion of COUNTY.
- G. HAULER agrees to abide by the conditions of the Hennepin County Solid Waste System Operating Manual.
- H. HAULER agrees to pay all fees established under this Agreement.
- I. COUNTY reserves the right to refuse deliveries of Acceptable Waste to County Facilities once HAULER has reached the maximum allowable tonnage limit defined in Paragraph A of this Section 5.
- J. HAULER shall comply with COUNTY's rules, policy, and direction regarding use of County Facilities. COUNTY may deny HAULER access to any County Facility at any time and may remove any HAULER personnel from County Facilities at any time and in COUNTY's sole discretion. HAULER shall not allow unauthorized personnel to use County Facilities.

6. RESPONSIBILITY FOR UNACCEPTABLE WASTE

- A. If requested by COUNTY or a County Facility operator, 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 COUNTY or County Facility operator has reason to believe that Unacceptable Waste was delivered by HAULER, and HAULER has left the tipping floor, HAULER agrees to return and remove such Unacceptable Waste as soon as practicable and dispose of it in accordance with all applicable federal, state and local laws.

- C. COUNTY or the County Facility operator has the right to reject entire or partial loads of Unacceptable Waste. 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 HAULER.

7. COSTS AND PAYMENT PROCEDURES

- A. Payments shall be made in accordance with procedures provided in the Hennepin County Solid Waste System Operating Manual.

Subject to Paragraph C of this Section 7, HAULER shall pay **Seventy-Four Dollars and no/100 (\$74.00)** per ton for Acceptable Waste delivered to a County Facility beginning January 1, 2024, through December 31, 2024. HAULER shall pay **Seventy-Seven Dollars and no/100 (\$77.00)** per ton for Acceptable Waste delivered to a County Facility beginning January 1, 2025, through December 31, 2025. For each ton delivered to all County Facilities that exceeds the maximum allowable tonnage limit in Section 5 paragraph A, HAULER shall pay a tipping fee of **One Hundred Five Dollars and no/100 (\$105.00)** per ton.

- B. HAULER will receive the lowest rate given to any hauler who contracts with the COUNTY for delivery of Acceptable Waste. The reference to the "lowest rate given to any hauler" shall not include the rate given to haulers, contracted or non-contracted, who deliver loads of source-separated compostable materials, source-separated recyclable materials, or other materials collected and disposed of as separate waste streams.
- C. A minimum charge of one (1) ton (2,000 pounds) is in effect for all transactions. If HAULER delivers less than one ton, COUNTY will charge HAULER the minimum charge for one ton of Acceptable Waste.

8. INDEPENDENT CONTRACTOR

HAULER shall select the means, method, and manner of performing the services. Nothing is intended nor should be construed as creating or establishing the relationship of a partnership or a joint venture between the parties or as constituting HAULER as the agent, representative, or employee of COUNTY for any purpose. HAULER is and shall remain an independent Hauler for all services performed under this Agreement. HAULER shall secure at its own expense all personnel required in performing services under this Agreement. HAULER's personnel and/or sub-haulers engaged to perform any work or services required by this Agreement will have no contractual relationship with COUNTY and will not be considered employees of COUNTY. COUNTY shall not be responsible for any claims related to or on behalf of any of HAULER's personnel, including without limitation, claims that arise out of employment or alleged employment under the Minnesota Unemployment Insurance Law (Minnesota Statutes, chapter 268) or

the Minnesota Workers' Compensation Act (Minnesota Statutes, chapter 176) or claims of discrimination arising out of applicable law, against HAULER, its officers, agents, sub-haulers, or employees. Such personnel or other persons shall neither accrue nor be entitled to any compensation, rights, or benefits of any kind from COUNTY, including, without limitation, tenure rights, medical and hospital care, sick and vacation leave, workers' compensation, unemployment compensation, disability, severance pay, and retirement benefits.

9. NON-DISCRIMINATION

A. In accordance with COUNTY's policies against discrimination, HAULER shall not exclude any person from full employment rights nor prohibit participation in or the benefits of any program, service or activity on the grounds of any protected status or class, including but not limited to race, color, creed, religion, national origin, sex, gender expression, gender identity, age, disability, marital status, sexual orientation, or public assistance status. No person who is protected by applicable law against discrimination shall be subjected to discrimination.

B. COUNTY encourages HAULER to develop and implement a policy promoting diversity, equity, and inclusion in HAULER's workplace.

10. INDEMNIFICATION

HAULER shall defend, indemnify, and hold harmless COUNTY, its present and former officials, officers, agents, volunteers and employees from any liability, claims, causes of action, judgments, damages, losses, costs, or expenses, including attorney's fees, resulting directly or indirectly from any act or omission of HAULER, a sub-hauler, anyone directly or indirectly employed by them, and/or anyone for whose acts and/or omissions they may be liable in the performance of the services required by this Agreement, and against all loss by reason of the failure of HAULER to perform any obligation under this Agreement. For clarification and not limitation, this obligation to defend, indemnify and hold harmless includes but is not limited to any liability, claims or actions resulting directly or indirectly from alleged infringement of any copyright or any property right of another, the employment or alleged employment of HAULER personnel, the unlawful disclosure and/or use of protected data, or other noncompliance with the requirements of these provisions.

11. INSURANCE

HAULER agrees during the term of this Agreement to have and keep in force at all times the insurance coverage as required by Hennepin COUNTY Ordinance 17.

12. DUTY TO NOTIFY

HAULER shall promptly notify COUNTY of any demand, claim, action, cause of action or litigation brought against HAULER, its employees, officers, agents or subcontractors,

which arises out of the services described in this Agreement. HAULER shall also notify COUNTY whenever HAULER has a reasonable basis for believing that HAULER and/or its employees, officers, agents or subcontractors, and/or COUNTY, might become the subject of a demand, claim, action, cause of action, administrative action, criminal arrest, criminal charge or litigation arising out of and/or related to the services described in this Agreement.

13. DATA, SYSTEMS, AND INTELLECTUAL PROPERTY

A. HAULER, its officers, agents, owners, partners, employees, volunteers and subcontractors shall, to the extent applicable, abide by the provisions of the Minnesota Government Data Practices Act, Minnesota Statutes, chapter 13 (MGDPA) and all other applicable law, rules, regulations and orders relating to data or the privacy, confidentiality or security of data, which may include but is not limited to the Health Insurance Portability and Accountability Act of 1996 and its implementing regulations (HIPAA). For clarification and not limitation, COUNTY hereby notifies HAULER that the requirements of Minnesota Statutes, section 13.05, subdivision 11, apply to this Agreement. HAULER shall promptly notify COUNTY if HAULER becomes aware of any potential claims, or facts giving rise to such claims, under the MGDPA or other data, data security, privacy or confidentiality laws, and shall also comply with the other requirements of this Section.

Classification of data, including trade secret data, will be determined pursuant to applicable law and, accordingly, merely labeling data as “trade secret” by HAULER does not necessarily make the data protected as such under any applicable law.

B. In addition to the foregoing MGDPA and other applicable law obligations, HAULER shall comply with the following duties and obligations regarding County Data and County Systems (as each term is defined herein). As used herein, “County Data” means any data or information, and any copies thereof, created by HAULER or acquired by HAULER from or through COUNTY pursuant to this Agreement, including but not limited to handwriting, typewriting, printing, photocopying, photographing, facsimile transmitting, and every other means of recording any form of communication or representation, including electronic media, email, letters, works, pictures, drawings, sounds, videos, or symbols, or combinations thereof.

If HAULER has access to or possession/control of County Data, HAULER shall safeguard and protect the County Data in accordance with generally accepted industry standards, all laws, and all then applicable COUNTY policies, procedures, rules and directions. To the extent of any inconsistency between accepted industry standards and such COUNTY policies, procedures, rules and directions, HAULER shall notify COUNTY of the inconsistency and follow COUNTY direction. HAULER shall immediately notify COUNTY of any known or suspected security breach or unauthorized access to County Data, then comply with all responsive directions provided by COUNTY. The foregoing shall not be construed as eliminating, limiting or otherwise modifying HAULER’s indemnification obligations herein.

14. RECORDS – AVAILABILITY/ACCESS

Subject to the requirements of Minnesota Statutes, section 16C.05, subdivision 5, COUNTY, the State Auditor, or any of their authorized representatives, at any time during normal business hours, and as often as they may reasonably deem necessary, shall have access to and the right to examine, audit, excerpt, and transcribe any books, documents, papers, records, etc., which are pertinent to the accounting practices and procedures of HAULER and involve transactions relating to this Agreement. HAULER shall maintain these materials and allow access during the period of this Agreement and for six (6) years after its expiration, cancellation or termination.

15. SUCCESSORS, SUBCONTRACTING AND ASSIGNMENTS

- A. HAULER binds itself, its partners, successors, assigns and legal representatives to COUNTY for all covenants, agreements and obligations herein.
- B. HAULER shall not assign, transfer or pledge this Agreement and/or the services to be performed, whether in whole or in part, nor assign any monies due or to become due to it without the prior written consent of COUNTY. A consent to assign shall be subject to such conditions and provisions as COUNTY may deem necessary, accomplished by execution of a form prepared by COUNTY and signed by HAULER, the assignee and COUNTY. Permission to assign, however, shall under no circumstances relieve HAULER of its liabilities and obligations under the Agreement.
- C. HAULER shall not subcontract this Agreement and/or the services to be performed, whether in whole or in part, without the prior written consent of COUNTY. Permission to subcontract, however, shall under no circumstances relieve HAULER of its liabilities and obligations under the Agreement. Further, HAULER shall be fully responsible for the acts, omissions, and failure of its subcontractors in the performance of the specified contractual services, and of person(s) directly or indirectly employed by subcontractors. Contracts between HAULER and each subcontractor shall require that the subcontractor's services be performed in accordance with this Agreement. HAULER shall make contracts between HAULER and subcontractors available upon request. For clarification and not limitation of the provisions herein, none of the following constitutes assent by COUNTY to a contract between HAULER and a subcontractor, or a waiver or release by COUNTY of HAULER's full compliance with the requirements of this Section: (1) COUNTY's request or lack of request for contracts between HAULER and subcontractors; (2) COUNTY's review, extent of review or lack of review of any such contracts; or (3) COUNTY's statements or actions or omissions regarding such contracts.
- D. HAULER shall notify COUNTY in writing if another person/entity acquires, directly or indirectly, more than fifty percent (50%) of the voting power of the shares entitled to vote for directors of HAULER. Notice shall be given within ten (10) days of such

acquisition and shall specify the name and business address of the acquiring person/entity. COUNTY reserves the right to require the acquiring person/entity to promptly become a signatory to this Agreement by amendment or other document so as to help assure the full performance of this Agreement.

16. MERGER, MODIFICATION AND SEVERABILITY

- A. The entire Agreement between the parties is contained herein and supersedes all oral agreements and negotiations between the parties relating to the subject matter. All items that are referenced or that are attached are incorporated and made a part of this Agreement. If there is any conflict between the terms of this Agreement and referenced or attached items, the terms of this Agreement shall prevail.

HAULER and/or COUNTY are each bound by its own electronic signature(s) on this Agreement, and each agrees and accepts the electronic signature of the other party.

- B. Any alterations, variations or modifications of the provisions of this Agreement shall only be valid when they have been reduced to writing as an amendment to this Agreement signed by the parties. Except as expressly provided, the substantive legal terms contained in this Agreement, including but not limited to Indemnification, Insurance, Merger, Modification and Severability, Default and Cancellation/Termination or Minnesota Law Governs may not be altered, varied, modified or waived by any change order, implementation plan, scope of work, development specification or other development process or document.
- C. If any provision of this Agreement is held invalid, illegal or unenforceable, the remaining provisions will not be affected.

17. DEFAULT AND CANCELLATION/TERMINATION

- A. If HAULER fails to perform any of the provisions of this Agreement, fails to administer the work so as to endanger the performance of the Agreement or otherwise breaches or fails to comply with any of the terms of this Agreement, it shall be in default. Unless HAULER's default is excused in writing by COUNTY, COUNTY may upon written notice immediately cancel or terminate this Agreement in its entirety.
- B. Notwithstanding any provision of this Agreement to the contrary, HAULER shall remain liable to COUNTY for damages sustained by COUNTY by virtue of any breach of this Agreement by HAULER. Upon notice to HAULER of the claimed breach and the amount of the claimed damage, COUNTY may withhold any payments to HAULER for the purpose of set-off until such time as the exact amount of damages due COUNTY from HAULER is determined. Following notice from COUNTY of the claimed breach and damage, HAULER and COUNTY shall attempt to resolve the dispute in good faith.

- C. The above remedies shall be in addition to any other right or remedy available to COUNTY under this Agreement, law, statute, rule, and/or equity.
- D. COUNTY's failure to insist upon strict performance of any provision or to exercise any right under this Agreement shall not be deemed a relinquishment or waiver of the same, unless consented to in writing. Such consent shall not constitute a general waiver or relinquishment throughout the entire term of the Agreement.
- E. This Agreement may be cancelled/terminated with or without cause by COUNTY upon thirty (30) days' written notice.
- F. HAULER has an affirmative obligation, upon written notice by COUNTY that this Agreement may be suspended or cancelled/terminated, to follow reasonable directions by COUNTY, or absent directions by COUNTY, to refrain from incurring or making further costs, expenses, obligations or encumbrances arising out of or related to this Agreement.

18. SURVIVAL OF PROVISIONS

Provisions that by their nature are intended to survive the term, cancellation or termination of this Agreement do survive such term, cancellation or termination. Such provisions include but are not limited to: INDEPENDENT CONTRACTOR; INDEMNIFICATION; INSURANCE; DUTY TO NOTIFY; DATA, SYSTEMS, AND INTELLECTUAL PROPERTY; RECORDS-AVAILABILITY/ACCESS; DEFAULT AND CANCELLATION/TERMINATION; MEDIA OUTREACH; and MINNESOTA LAW GOVERNS.

19. CONTRACT ADMINISTRATION

In order to coordinate the services of HAULER with the activities of the Environment and Energy Department so as to accomplish the purposes of this Agreement, Enrique Vinas, Senior Financial Management Analyst, or successor ("Contract Administrator"), shall manage this Agreement on behalf of COUNTY and serve as liaison between COUNTY and HAULER.

[NAME, PHONE NUMBER, AND EMAIL shall manage the agreement on behalf of HAULER. HAULER may replace such person but shall immediately give written notice to COUNTY of the name, phone number and email of such substitute person and of any other subsequent substitute person.]

20. COMPLIANCE AND NON-DEBARMENT CERTIFICATION

- A. HAULER shall comply with all applicable law, conditions of any funding sources, regulations, rules and ordinances currently in force or later enacted.

B. HAULER certifies that it is not prohibited from doing business with either the federal government or the state of Minnesota as a result of debarment or suspension proceedings. HAULER shall immediately notify COUNTY if HAULER is debarred or suspended during the term of this Agreement.

21. RECYCLING

COUNTY encourages HAULER to have a single-sort recycling program or provide recycling service for at least three types of materials, which may include food waste. COUNTY also encourages HAULER to educate employees about the recycling program.

22. NOTICES

Unless the parties otherwise agree in writing, any notice or demand which must be given or made by a party under this Agreement, or any statute or ordinance shall be in writing and shall be sent registered or certified mail. Notices to COUNTY shall be sent to the COUNTY Administrator with a copy to the originating COUNTY department at the address given in the opening paragraph of this Agreement. Notice to HAULER shall be sent to the address stated in the opening paragraph of this Agreement or to the address stated in HAULER's Form W-9 provided to COUNTY.

23. CONFLICT OF INTEREST

HAULER affirms that to the best of HAULER's knowledge, HAULER's involvement in this Agreement does not result in a conflict of interest with any party or entity which may be affected by the terms of this Agreement. Should any conflict or potential conflict of interest become known to HAULER, HAULER shall immediately notify COUNTY of the conflict or potential conflict, specifying the part of this Agreement giving rise to the conflict or potential conflict, and advise COUNTY whether HAULER will or will not resign from the other engagement or representation. Unless waived by COUNTY, a conflict or potential conflict may, in COUNTY's discretion, be cause for cancellation or termination of this Agreement.

24. MEDIA OUTREACH

HAULER shall notify COUNTY, prior to publication, release or occurrence of any Outreach (as defined below). The parties shall coordinate to produce collaborative and mutually acceptable Outreach. For clarification and not limitation, all Outreach shall be approved by COUNTY, by and through the Public Relations Officer or their designee(s), prior to publication or release. As used herein, the term "Outreach" shall mean all media, social media, news releases, external facing communications, advertising, marketing, promotions, client lists, civic/community events or opportunities and/or other forms of outreach created by, or on behalf of, HAULER (i) that reference or otherwise use the term "Hennepin COUNTY" or any derivative thereof; or (ii) that directly or indirectly

relate to, reference or concern the COUNTY of Hennepin, this Agreement, the services performed hereunder, or COUNTY personnel, including but not limited to COUNTY employees and elected officials.

25. MINNESOTA LAWS GOVERN

The laws of the state of Minnesota shall govern all questions and interpretations concerning the validity and construction of this Agreement and the legal relations between the parties and their performance. The appropriate venue and jurisdiction for any litigation will be those courts located within the County of Hennepin, state of Minnesota. Litigation, however, in the federal courts involving the parties will be in the appropriate federal court within the state of Minnesota.

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COUNTY BOARD AUTHORIZATION

Reviewed for COUNTY by
the COUNTY Attorney's Office:

COUNTY OF HENNEPIN
STATE OF MINNESOTA

By:

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Reviewed for COUNTY by:

ATTEST:

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Board Resolution No:
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HAULER

HAULER warrants that the person who executed this Agreement is authorized to do so on behalf of HAULER as permitted by applicable articles, bylaws, resolutions or ordinances which will be submitted to COUNTY upon COUNTY's request.

By:

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