

**AGREEMENT FOR COLLECTION OF REFUSE, RECYCLING,
LANDSCAPE WASTE, AND OTHER WASTE MATERIALS
PER RFP 18-041
BETWEEN THE CITY OF NAPERVILLE AND
GROOT INDUSTRIES, INC.**

TABLE OF CONTENTS

<u>RECITALS</u>	<u>1</u>
<u>ARTICLE 1: DEFINITIONS</u>	<u>1-9</u>
<u>ARTICLE 2: SCOPE</u>	<u>9</u>
SECTION 2.1 – SCOPE OF AGREEMENT	9
<u>ARTICLE 3: TERM</u>	<u>9</u>
SECTION 3.1 – TERM OF AGREEMENT	9
<u>ARTICLE 4: COLLECTION BY CITY SECTORS</u>	<u>10</u>
SECTION 4.1 – RESIDENTIAL COLLECTION BY CITY SECTORS	10
SECTION 4.2 – AMENDMENT OF CITY SECTORS	10
<u>ARTICLE 5: REGULAR WEEKLY COLLECTION SCHEDULE FOR REFUSE, RECYCLABLES, AND OTHER WASTE MATERIAS</u>	<u>11</u>
SECTION 5.1 – COLLECTION OF WASTE MATERIALS	11
SECTION 5.2 – UNLIMITED COLLECTION WITH EXCEPTIONS	11
SECTION 5.3 – TOP-OF-THE-DRIVE	11
<u>ARTICLE 6: HOLIDAY COLLECTION SCHEDULE</u>	<u>11-12</u>
SECTION 6.1 – IMPLEMENTATION AND NOTICE OF HOLIDAY COLLECTION SCHEDULE	11-12
<u>ARTICLE 7: HOURS AND STANDARDS OF COLLECTION</u>	<u>12-13</u>
SECTION 7.1 – HOURS OF COLLECTION	12
SECTION 7.2 – CONTINUATION OF SERVICES	12
SECTION 7.3 – RESIDENT DISRUPTION MINIMIZED	12
SECTION 7.4 – CURBSIDE DISPOSAL	12
SECTION 7.5 – CURBSIDE COLLECTION	12
SECTION 7.6 – LOCATION OF EMPTIED DISPOSAL CONTAINERS	12
SECTION 7.7 – CONTRACTOR CAUSED SPILLS AND DEBRIS	12
SECTION 7.8 – SPILLS AND DEBRIS NOT CAUSED BY CONTRACTOR	12
SECTION 7.9 – NON-INTERFERENCE	12-13
SECTION 7.10 – ADEQUATE ACCESS TO DISPOSAL SITES AND FACILITIES	13

ARTICLE 8: PROPER DISPOSAL OR PROCESSING BY CONTRACTOR 13-14

SECTION 8.1 – GENERAL REQUIREMENTS	13
SECTION 8.2 – REFUSE REQUIREMENTS	13-14
SECTION 8.3 – LANDSCAPE WASTE REQUIREMENTS	14
SECTION 8.4 – RECYCLING REQUIREMENTS	14

ARTICLE 9: RESIDENTIAL REFUSE AND RECYCLING SPECIFICATIONS 15

SECTION 9.1 – WASTE CONTAINERS	15
SECTION 9.2 – CONTRACTOR DAMAGE OF CONTAINERS	15
SECTION 9.3 – NO CONTRACTOR RENTAL OR LEASE OF REFUSE OR RECYCLING CONTAINERS	15
SECTION 9.4 – LOST AND STOLEN CARTS	15
SECTION 9.5 – CITY RECYCLING CARTS REQUIRED	15
SECTION 9.6 – CITY REFUSE CARTS OPTIONAL	15

ARTICLE 10: LANDSCAPE WASTE SPECIFICATIONS 15-18

SECTION 10.1 – COLLECTION AND DISPOSAL-MARCH 15TH THROUGH DECEMBER 15TH	15
SECTION 10.2 – FALL LANDSCAPE WASTE COLLECTION AND DISPOSAL AND CHRISTMAS TREE DISPOSAL	16
SECTION 10.3 – LANDSCAPE WASTE STICKERS-PRINTING, DISTRIBUTION, AND SALE	16-17
SECTION 10.4 – LANDSCAPE WASTE STICKER DESIGN AND ACCOUNTABILITY	17-18
SECTION 10.5 – LANDSCAPE WASTE STICKER PRICE	18
SECTION 10.6 – OPTIONAL CITY ADMINISTRATIVE SURCHARGE	18
SECTION 10.7 – LANDSCAPE WASTE CARTS	18

ARTICLE 11: HOUSEHOLD CONSTRUCTION AND DEMOLITION DEBRIS 19

SECTION 11.1 – COLLECTION OF HOUSEHOLD CONSTRUCTION AND DEMOLITION DEBRIS AT NO CHARGE	19
SECTION 11.2 – RESIDENT PAYMENT FOR COLLECTION OF ADDITIONAL HOUSEHOLD CONSTRUCTION AND DEMOLITION DEBRIS	19

ARTICLE 12: E-WASTE 19-20

SECTION 12.1 – E-WASTE COLLECTION AND CHARGES	19-20
SECTION 12.2 – RESIDENT PAYMENT FOR COLLECTION OF E-WASTE	20
SECTION 12.3 – NO LIMIT ON COLLECTION OF E-WASTE	20
SECTION 12.4 – RECEIPT FOR PAYMENT FOR COLLECTION OF E-WASTE	20
SECTION 12.5 – COMMUNICATION OF E-WASTE COLLECTION AVAILABILITY AND PAYMENT PROCESS	20
SECTION 12.6 – DISPOSAL OF E-WASTE IN COMPLIANCE WITH THE LAW	20

ARTICLE 13: SPECIAL HOUSEHOLD COLLECTION SERVICE - OUTSIDE SERVICES PROVIDED UNDER THIS AGREEMENT **21**

SECTION 13.1 – RESIDENT CONTRACTING FOR CERTAIN COLLECTION SERVICES	21
SECTION 13.2 – RECYCLING DROP-OFF FACILITY AND RESIDENT CONTRACTING FOR COLLECTION OF RECYCLING	21
SECTION 13.3 – RESIDENT RESPONSIBLE	21

ARTICLE 14: ITEMS LEFT FOR CHARITABLE ORGANIZATIONS **21**

SECTION 14.1 – NO INTERFERENCE WITH CHARITABLE OFFERINGS	21
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ARTICLE 15: MISSED COLLECTONS AND COMPLAINTS **21-22**

SECTION 15.1 – CONTRACTOR RECEIPT AND RESOLUTION OF RESIDENT COMPLAINTS	21
SECTION 15.2 – COMMUNICATION OF COMPLAINTS	21
SECTION 15.3 – COLLECTION AFTER NOTICE OF MISSED PICK-UPS	21
SECTION 15.4 – COMPLAINT RESOLUTION TIMEFRAME	22
SECTION 15.5 – NOTICE TO CITY OF UNRESOLVED COMPLAINTS/CITY ACTION	22
SECTION 15.6 – COMPLAINT LOG	22

ARTICLE 16: RECYCLING DROP-OFF CENTER **22**

SECTION 16.1 – CONTRACTOR STAFFING AND OPERATION	22
SECTION 16.2 – RECYCLING DROP-OFF CENTER CONTRACTOR RESPONSIBILITIES	22

ARTICLE 17: REFUSE AND RECYCLING COLLECTION FROM CITY-OWNED FACILITIES **23**

SECTION 17.1 – COLLECTION OF WASTE MATERIALS AT CITY-OWNED FACILITIES	23
SECTION 17.2 – NO CHARGE FOR COLLECTION OF WASTE MATERIALS AT CITY-OWNED FACILITIES	23

ARTICLE 18: FESTIVAL REFUSE AND RECYCLING SERVICES **23-24**

SECTION 18.1 – FESTIVAL CONTAINER AND DUMPSTER SERVICE	23
SECTION 18.2 – SPONSORSHIP FOR FESTIVAL AND RECYCLING COLLECTION SERVICES	24
SECTION 18.3 – REPORTING FESTIVAL DATA	24

ARTICLE 19: VEHICLES USED IN THE PERFORMANCE OF THIS AGREEMENT **24-26**

SECTION 19.1 – DISPLAY OF CONTRACTOR NAME/TELEPHONE NUMBERS	24
SECTION 19.2 – GOOD WORKING ORDER/SUBSTITUTE VEHICLES	24
SECTION 19.3 – FULLY ENCLOSED/LEAK-PROOF	24
SECTION 19.4 – CLEAN-UP IF DEBRIS OR LEAKS CAUSED BY CONTRACTOR	24

SECTION 19.5 – CITY CLEAN-UP AND CHARGE BACK	24
SECTION 19.6 – ANNUAL VEHICLE INSPECTION	25
SECTION 19.7 – NUMBER OF VEHICLES USE OF DIESEL AND CNG	25
SECTION 19.8 – SAFETY TRACKING EQUIPMENT	26
SECTION 19.9 – VEHICLE LIST	26

ARTICLE 20: CONTRACTOR’S ACCIDENT PREVENTION AND NOTIFICATION 26

SECTION 20.1 – COMPLIANCE WITH SAFETY REQUIREMENTS	26
SECTION 20.2 – SAFETY TRAINING	26
SECTION 20.3 – NOTIFICATION TO CITY OF CONTRACTOR ACCIDENTS	26
SECTION 20.4 – WRITTEN ACCIDENT REPORT	26
SECTION 20.5 – SAFETY AND TRACKING EQUIPMENT ON CONTRACTOR VEHICLES	26
SECTION 20.6 – DISCOURTEOUS OR UNSAFE BEHAVIOR	26

ARTICLE 21: CUSTOMER SERVICE, EDUCATION, AND OUTREACH 27-29

SECTION 21.1 – CRITICAL COMPONENTS,	27
SECTION 21.2 – ROUTE SUPERVISORS	27
SECTION 21.3 – CUSTOMER SERVICE OFFICE	27
SECTION 21.4 – CONTRACTOR FACILITIES	28
SECTION 21.5 – DISSEMINATION OF INFORMATION REGARDING HOLIDAY COLLECTIONS AND SERVICE DISRUPTIONS	28
SECTION 21.6 – CONTRACTOR LIAISONS	28
SECTION 21.7 – CONTRACTOR CONTACT INFORMATION FOR RESIDENTS	28
SECTION 21.8 – BROCHURES	28
SECTION 21.9 – OTHER INFORMATIONAL MATERIALS	28
SECTION 21.10 – FIRST QUARTER METTING	29
SECTION 21.11 – COMMUNITY OUTREACH AND EDUCATION	29
SECTION 21.12 – CONTRACTOR WEBSITE	29
SECTION 21.13 – CONTRACTOR PHONE APP	29
SECTION 21.14 – SORRY TAGS	29
SECTION 21.15 – FOR YOUR INFORMATION TAGS	29

ARTICLE 22: EMPLOYEES AND CONDUCT 30

SECTION 22.1 – MANNER OF PERFORMANCE OF SERVICES	30
SECTION 22.2 – KNOWLEDGEABLE AND COURTEOUS PERSONNEL	30
SECTION 22.3 – DRUGS, ALCOHOL, PRESCRIPTION MEDICATIONS	30
SECTION 22.4 – REPLACEMENT OF UNSUITABLE CONTRACTOR EMPLOYEES	30
SECTION 22.5 – UNIFORMS	30
SECTION 22.6 – COMPLIANCE WITH ILLINOIS VEHICLE LAWS	30

ARTICLE 23: TRANSITION PERIOD 30-31

SECTION 23.1 – TRANSITION AT THE COMMENCEMENT OF THIS AGREEMENT	30-31
SECTION 23.2 – TRANSITION AT THE EXPIRATION OR TERMINATION OF THIS AGREEMENT	31

ARTICLE 24: DATA COLLECTION; REPORTS; AND INSPECTION OF RECORDS 31-33

SECTION 24.1 – MONTHLY REPORTS	31-32
SECTION 24.2 – DELIVERY OF MONTHLY REPORTS	32
SECTION 24.3 – FESTIVAL DATA	32
SECTION 24.4 – CITY SURVEYS	32
SECTION 24.5 – CITY INSPECTION OF CONTRACTOR VEHICLES	32
SECTION 24.6 – CONTRACTOR TIPPING FEE RECEIPTS	32
SECTION 24.7 – ADDITIONAL DATA AND REPORTS	32
SECTION 24.8 – CITY USE OF DATA AND REPORTS	33
SECTION 24.9 – SURVIVAL	33

ARTICLE 25: CONTRACTOR COMPENSATION 33-34

SECTION 25.1 – COMPENSATION PER YEAR	33-34
SECTION 25.2 – OTHER CONTRACTOR COMPENSATION	34

ARTICLE 26: DISASTER AND EMERGENCY CLEAN-UP REFUSE SPECIFICATIONS AND EMERGENCY RESPONSE PLAN 35-37

SECTION 26.1 – DECLARATION OF EMERGENCY OR DISASTER AND REQUEST FOR ADDITIONAL SERVICES	35
SECTION 26.2 – CONTRACTOR RESOURCES FOR EMERGENCIES AND DISASTERS	35-36
SECTION 26.3 – CONTRACTOR’S RESPONSE	36
SECTION 26.4 – ADDITIONAL CONTRACTOR RESPONSE SPECIFICATIONS	36-37
SECTION 26.5 – CITY PAYMENT FOR DISASTER SERVICES	37
SECTION 26.6 – FORCE MAJEURE	37

ARTICLE 27: PARTNERSHIP SUPPORT 37-38

SECTION 27.1 – ADDITIONAL SERVICES	37
SECTION 27.2 – CONTRACTOR OFFICE SPACE	37-38

ARTICLE 28: DEFENSE, INDEMNIFICATION AND HOLD HARMLESS 38

SECTION 28.1 – OBLIGATIONS TO INDEMNIFIED PARTIES	38
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ARTICLE 29: INSURANCE AND PERFORMANCE BOND 38

SECTION 29.1 – INSURANCE	38
SECTION 29.2 – PERFORMANCE BOND	38

ARTICLE 30: DAMAGE TO PROPERTY 39

SECTION 30.1 – CONTRACTOR PRECAUTIONS	39
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SECTION 30.2 – COLLECTION RECEPTACLES	39
SECTION 30.3 – DAMAGE TO OTHER PROPERTY	39
SECTION 30.4 – DEDUCTION OF COSTS UPON FAILURE TO REPAIR	39
<u>ARTICLE 31: NON-ASSIGNMENT, SUB-CONTRACTING, AND MERGER</u>	39
SECTION 31.1 – NON-ASSIGNMENT	39
SECTION 31.2 – PERFORMANCE BY SUBSIDIARIES	39
SECTION 31.3 – MAINTAINING CORPORATE EXISTENCE	39
<u>ARTICLE 32: DEFAULT AND TERMINATION</u>	40-42
SECTION 32.1 – NON-PERFORMANCE AND DEFAULT	40-41
SECTION 32.2 – CITY REMEDIES	41-42
<u>ARTICLE 33: GENERAL TERMS AND CONDITIONS</u>	42-48
SECTION 33.1 – COMPLIANCE WITH APPLICABLE LAWS, ORDINANCES AND REGULATIONS	42-43
SECTION 33.2 – TAXES, LICENSES, PERMITS, AND CERTIFICATES	43
SECTION 33.3 – INDEPENDENT CONTRACTOR	43-44
SECTION 33.4 – TITLE	44
SECTION 33.5 – LOCAL IMPROVEMENTS	44
SECTION 33.6 – CHANGE IN LAW	44-45
SECTION 33.7 – TRANSPORTATION COSTS	45
SECTION 33.8 – SEVERABILITY	45
SECTION 33.9 – GOVERNING LAW AND VENUE	45
SECTION 33.10 – NUMBER OF COPIES	45
SECTION 33.11 – NO WAIVER	45
SECTION 33.12 – OPTION TO MODIFY SERVICE; AMENDMENTS	45
SECTION 33.13 – FORCE MAJEURE	45-46
SECTION 33.14 - LIMITED MOST FAVORED NATION STATUS	46
SECTION 33.15 – NOTICES	46-47
SECTION 33.16 – AUTHORITY	47
SECTION 33.17 – AMBIGUITY	47
SECTION 33.18 – CAPTIONS AND PARAGRAPH HEADINGS	47
SECTION 33.19 – NO FRANCHISE INTENDED	47
SECTION 33.20 – RECITALS INCORPORATED	47
SECTION 33.21 – APPENDICES INCORPORATED	47
SECTION 33.22 – EXTENSION	47
SECTION 33.23 – BINDING EFFECT	47
SECTION 33.24 – ENTIRE AGREEMENT	47
SECTION 33.25 – ORDER OF PRECEDENCE	48
SECTION 33.26 – EFFECTIVE DATE	48

APPENDICES

APPENDIX A: CITY-OWNED FACILITIES AND SERVICES	51-53
APPENDIX B: ROUTE MAP-COLLECTION DAYS	54
APPENDIX C: INSURANCE REQUIREMENTS	55-58
APPENDIX D: PERFORMANCE BOND	59-64
APPENDIX E: REPORTING TEMPLATE	65

THIS AGREEMENT is entered this ____ day of _____, 2018 by and between the City of Naperville, an Illinois Municipal Corporation and home rule unit of local government under the Constitution and laws of the State of Illinois, with its principal office located at 400 South Eagle Street, Naperville, Illinois 60540 (hereinafter the “City”) and Groot Industries, Inc., with offices at 1565 Aurora Avenue Ln., Aurora, Illinois 60506 (hereinafter the “Contractor”).

RECITALS

WHEREAS, the City of Naperville (“City”) issued Request for Proposal (“RFP”) #18-041 for the Residential collection of Refuse, Recycling, and Landscape Waste throughout the City, for the collection of Refuse and Recycling from City of Naperville facilities, and for collection of recycling and refuse during Rib Fest and the Last Fling; and

WHEREAS, the RFP also includes a provision for operation of Recycling Drop-off Center at a location provided by the City at the Naperville Public Works Service Center located at 180 Fort Hill Drive and for collection of electronic waste; and

WHEREAS, the Contractor responded to the RFP and is willing to provide the services described herein in a safe, well-scheduled, well-executed, courteous and cutting-edge manner; and

NOW THEREFORE, in consideration of the premises and mutual covenants contained in this Agreement, the parties agree as follows:

ARTICLE 1 DEFINITIONS

1.1 For the purposes of this Agreement, the following words and phrases shall have the meanings specified in this Section.

Agreement	This Agreement and all Appendices hereto. The Contractor’s response to RFP #18-041 for the Services described herein is made part of this Agreement by reference as though fully incorporated herein. In the event of a conflict in terms between the response to the RFP and the remaining terms of this Agreement, this Agreement shall control.
City Owned Facilities	The facilities listed in Appendix “A” and other facilities added to Appendix “A” at the sole discretion of the City.
Complaint	Any written or verbal communication from a Resident or the City directed to the Contractor expressing unsatisfactory service by the Contractor, including but not limited to any of the following:

- 1) Properly prepared waste material placed at the curb by 6:00 a.m. was not collected by the end of the work day;
- 2) The Contractor emptied Recyclables or Landscape Waste, which were separated from Refuse, into a Refuse vehicle;
- 3) The Contractor spilled material without a reasonable attempt to clean up the spill;
- 4) The Contractor failed to provide accessible, prompt information to a Resident or the City;
- 5) The Contractor broke a tree limb or damaged a mail box or container or other private or public property.
- 6) Failure to timely collect any Waste Materials in the manner provided for herein. The City may contact the Contractor on its own behalf and on the behalf of individual Residents.

Contractor	Groot Industries, Inc. or any of its officers, employees or agents.
Contractor Liaisons	Two (2) individuals designated by the Contractor as set forth in Section 21.6 hereof.
Contractor Vehicles	Any vehicles used in the performance of Services under this Agreement.
Curbside	The area adjacent to the street pavement, alley pavement, or gutter, and within five (5) feet thereof in any direction.
Customer Service Office	An office which is adequately staffed by the Contractor so that the Contractor may provide prompt and accurate information to City Residents and to the City and for the purposes of registering, responding to and maintaining complaints and documentation of responses thereto.
Days	Calendar days are intended unless otherwise specifically described as "business" or "working" days.
Director of the Department of Public Works	The City of Naperville's Director of the Department of Public Works, or his or her designee.
Disposal Site/Facility	The site or facility at which Contractor collection vehicles empty their materials. Disposal Sites and Facilities shall include only transfer stations, landfills, Material Recovery

Facilities, and composting sites, including farms, and any other 'pollution control facility' as defined by 415 ILCS 5/3.330.

Disposal Unit

A properly prepared container, bag, or bundle as set forth below:

- 1) Where describing Refuse collection, a single Disposal Unit includes:
 - a) One (1) water-tight, reusable waste container, no larger than thirty-two (32) gallons in capacity or sixty (60) pounds in weight;
 - b) One (1) securely tied or sealed, waterproof, disposable container not to exceed thirty-two (32) gallons in capacity and sixty (60) pounds in weight.
 - c) One (1) securely tied rug or roll of carpet, not exceeding two (2) feet in diameter, four (4) feet in length, and eighty (80) pounds in weight; or
 - d) One 35-gallon, 68-gallon or 95-gallon two wheeled lidded City supplied cart no more than 220 pounds in weight.

- 2) Where describing Landscape Waste collection, a single Disposal Unit includes:
 - a) One (1) biodegradable, two-ply, fifty (50) pound wet-strength Kraft paper bag designed for Landscape Waste collection not exceeding thirty-three (33) gallons in capacity and sixty (60) pounds in weight;
 - b) One (1) water-tight, reusable waste container, not exceeding thirty-two (32) gallons in capacity or sixty (60) pounds in weight labeled "Yard Waste Only" or "Landscape Waste Only;"
 - c) One (1) securely tied bundle of brush or branches not exceeding three (3) inches in diameter, sixty (60) pounds in weight, two (2) feet in diameter, and four (4) feet in length; or

- d) Landscape Waste Carts provided by the Contractor which may contain Landscape Waste including but not limited to Organic Waste.
 - e) Each live Christmas tree, free of tinsel, lights, and ornaments which is not bagged or bundled.
- 3) Where describing Recycling collection, a single Disposal Unit includes:
- a) One 35-gallon, 64-gallon or 96-gallon two wheeled lidded City supplied cart no more than 220 pounds in weight.
 - b) One (1) single piece or pile of flattened cardboard or paperboard boxes unlimited in size.
- 4) Where describing E-Waste, a single Disposal Unit includes:
- a) E-Waste screen devices (e.g. televisions, monitors); or
 - b) E-Waste Bundles as defined herein.
- 5) A Disposal Unit shall also include a total of not more than two Large Household Items per week per Household.

E-Waste

All covered electronic devices which are banned from Illinois landfills as defined in 415 ILCS 150/10 of the Illinois Electronic Products Recycling and Reuse Act (415 ILCS 150/1 *et seq.*) as amended from time to time, including but not limited to: computers (desktop, laptop, notebook, tablet), electronic keyboards, videocassette recorders, portable digital music players, digital video disc players, video game consoles, scanners, electronic mice, digital converter boxes, cable receivers, digital video disc recorders, cell phones, portable digital assistant (PDA), zip drives, computer monitors, televisions, printers, keyboards, facsimile machines, videocassette recorders, portable digital music players, satellite receivers, digital video disc players, video game consoles, computer mice, scanners, digital converter boxes, cable receivers, satellite receivers, digital video disc recorders, and small-scale servers. For

avoidance of doubt, E-Waste shall not include Hazardous Waste.

E-Waste Bundles E-Waste which does not exceed the size of a brown paper grocery bag of approximately 12 x 7 x 17 inches.

E-Waste Screen Devices Screens associated with electronic devices (such as televisions and computer monitors) not including screens on electronic devices that can fit into an E-Waste Bundle (such as tablets, E-Readers, telephones, or other telecommunication devices).

FYI Tags Tags attached to Residents' Recycling Carts which notify Residents: (i) that materials disposed of in the Recycling Cart were not Recyclable materials and were therefore treated as Refuse, or (ii) that the contents of the Recycling Disposal Unit have been contaminated or commingled with Refuse such that all materials in the Recycling Cart was treated as Refuse. The FYI Tag shall include a general description of the material in question.

Hazardous Waste Hazardous waste as defined in Section 5/3.220 of the Illinois Environmental Protection Act as amended from time to time [415 ILCS 5/1 *et seq.*]

Holiday New Year's Day; Memorial Day (fourth Monday in May); Independence Day; Labor Day (first Monday in September); Thanksgiving Day (fourth Thursday in November); and Christmas Day. If the Holidays listed above fall on a Saturday or Sunday, that Holiday will be defined as the day the City observes for that Holiday. This definition may be modified by the written agreement of the Director of the Department of Public Works.

Household Single family detached living units (including single-family homes, townhomes, duplexes, and tri-plexes); and

Residential buildings with not more than four units which have direct access to public right-of-way unless otherwise approved by the City and communicated to the Contractor.

Household Construction and Demolition Debris Waste materials from interior and exterior Household construction, remodeling and repair projects, including, but not limited to, drywall, plywood, paneling pieces, lumber, windows, doors, cabinets, carpeting, bathroom and kitchen fixtures, small amounts of sod, earth, clay, sand, concrete, rocks, and other building and similar materials. For

avoidance of doubt, Household Construction and Demolition Debris shall not include Hazardous Waste. Such debris includes only small items, including but not limited to carpeting, placed in suitable disposable containers not exceeding sixty (60) pounds in weight, or in bundles not exceeding two (2) feet in diameter and four (4) feet in length. No more than two rolls of carpeting, weighing no more than sixty (60) pounds each, may be left Curbside on any scheduled pick-up day.

Each such container or bundle is a single Disposal Unit.

Non-conforming materials shall be subject to the special collection requirements as specified in Article 13/Special Household Collection Service of this Agreement.

Landscape Waste

Grass clippings, leaves, branches, brush, yard and garden trimmings, vines, garden plants and flowers, weeds, tree droppings (for example, pine cones and crabapples), and other similar organic waste materials accumulated as the result of the cultivation and maintenance of lawns, shrubbery, vines, trees, and gardens. Landscape Waste shall also include Organic Waste as defined herein. Sod is not Landscape Waste and shall be disposed of as Refuse, unless composting is available. For avoidance of doubt, Landscape Waste shall not include Hazardous Waste.

Landscape Waste is synonymous with "yard waste."

Landscape Waste Cart

Carts rented or leased by the Contractor to Residents when requested by Residents for the sole purpose of disposal of Landscape Waste (which includes, but is not limited to, Organic Waste). Landscape Waste placed in Landscape Carts do not require Landscape Waste Stickers.

Landscape Waste Sticker

Payment for Landscape Waste collection services where one pre-paid Landscape Waste Sticker must be affixed to each properly prepared Landscape Waste Disposal Unit.

Large Household Items

Any discarded and unwanted large household furnishings, including, but not limited to: pianos, organs, tables, chairs, mattresses, box springs, bookcases, sofas, and similar furniture. Large Household Items, including but not limited to household appliances that do not contain White Good Components as defined in 22.28 of the Illinois Environmental Protection Act (415 ILCS 5/22.28), shall be treated as Refuse. Large Household Items also includes White Goods as defined herein except that White Goods

which contain White Good Components must be disposed of in compliance with the provisions of Section 4/22.28 of the Illinois Environmental Protection Act as amended from time to time.

Material Recovery Facility	A facility capable of sorting and marketing Recyclables in a manner that is consistent with the processing of materials into new products.
Organic Waste	A subset of Landscape Waste comprised of fruits, breads, pastas, coffee grounds, vegetables, grains, cereal, and tea leaves which may be disposed of as Refuse or in Landscape Waste Carts.
Properly Prepared Disposal Unit	<i>See, Disposal Unit.</i>
Recycling Carts	35, 64, or 96 gallon carts provided by the City which are the only receptacle which may be used for Recycling purposes within the City.
Recyclables	Recyclables include but are not limited to newspapers and magazines, paper bags, office paper, mixed paper, colored paper, envelopes, unwanted mail, catalogs, telephone books, soft and hard cover bound books, paperboard, cardboard (including wet strength carrier stock) unlimited in size, frozen food packaging, Aseptic Packaging, Gable-Top Containers, glass bottles, jars, aluminum cans, foil, baking dishes, steel or tin containers, empty aerosols, plastic containers including #1 (PET), #2 (HDPE), #3 (V), #4 (LDPE), #5 (PP), #7 (other), and plastic carrier straps and other material mutually agreed to by the City and the Contractor. For avoidance of doubt, Recyclables shall not include Hazardous Waste.
Recycling Drop Off Center	The enclosure located at 156 Fort Hill Drive used to provide recycling services to City Residents and businesses for Recyclables as defined in this Agreement.
Residents	Individuals who reside within the corporate limits of the City of Naperville.
Refuse	All discarded and unwanted biodegradable and non-biodegradable household and kitchen wastes, including, but not limited to, food, food residues, and materials necessarily used for packaging, storing, preparing, and consuming same, usually defined as "garbage"; and all combustible and non-combustible waste materials resulting from the routine of domestic housekeeping, including, but

not limited to, aluminum and steel cans, glass containers, plastic containers, crockery and other containers, medical waste generated as general household waste, metal, paper of all types, including newspapers, books, magazines, and catalogs; boxes and cartons; cold ashes, furniture, furnishings, and fixtures; small household appliances of all kinds, textiles and leather, dead animals and animal waste, toys and recreational equipment, and similar items. Refuse does not include Landscape Waste, White Goods, or E-Waste. Refuse does include Large Household Items other than White Goods.

The terms "garbage," "rubbish," "solid waste," "trash," and "waste" are synonymous with Refuse unless otherwise more specifically defined (for example, "Landscape Waste"). For avoidance of doubt, Refuse shall not include Hazardous Waste.

Route Supervisors Those individuals assigned by the Contractor to act in a supervisory capacity on a daily basis to oversee the performance of Services hereunder.

Services Contractor's performance obligations under this Agreement, including but not limited to collection and disposal services, the manner in which collection and disposal is achieved, and customer service, education and outreach.

Sorry Tags Tags attached to uncollected Waste Materials which explain to Residents the specific reasons why such Waste Materials were not collected.

Stop Each Household eligible for collection of Waste Materials hereunder shall be considered a Stop.

Term This Agreement shall be in effect, unless earlier terminated as provided herein, from May 1, 2019 through April 30, 2029.

Tipping Fee The fee charged to the Contractor or the City at any disposal site.

Transportation Costs	The Contractor’s fuel costs and pro-rata vehicle depreciation expenses for the operation of Contractor Vehicles over the distance traveled to and from the corporate boundaries of the City and an entrance to any refuse, recycling, composting, or other site while providing the Services described herein.
Waste Materials	All materials to be collected pursuant to this Agreement, including but not limited to Refuse, Recyclables, Landscape Waste, Large Household Items, Household Construction and Demolition Debris, and E-Waste.
White Goods	“White goods” are as defined by the Illinois Environmental Protection Act (415 ILCS 5/22.28), as amended from time to time, and/or as defined by any other applicable law, which include “white good components” - CFC’s (chlorofluorocarbon), electrical switches containing mercury, and any device that contains or may contain PCBs (polychlorinated biphenyls). White goods include, but are not limited to: refrigerators, freezers, air conditioners, humidifiers, dehumidifiers, washers, dryers, water heaters, water softeners, dishwashers, stoves, ranges, furnaces, and fluorescent lamps that contains mercury. For avoidance of doubt, White Goods shall not include Hazardous Waste.

ARTICLE 2
SCOPE

2.1 Scope of Agreement. In strict accordance with the terms and conditions of this Agreement, the Contractor shall provide the labor, personnel, materials, tools, equipment, supplies, vehicles, transportation services, landfill and compost facility space, Material Recovery Facility, and any and all other resources and facilities required to timely and effectively perform and complete the Services described herein within the corporate limits of the City and any territory hereinafter annexed. Except as otherwise specified herein, the Contractor shall have the exclusive right to perform the Services specified hereunder.

ARTICLE 3
TERM

3.1 Term of Agreement. This Agreement shall remain in full force and effect beginning on May 1, 2019, for a period of ten (10) years, terminating at 12 a.m. on May 1, 2029, unless terminated earlier or extended in accordance with the terms hereof.

ARTICLE 4
COLLECTION BY CITY SECTORS

4.1 Residential Collection by City Sectors. The City shall be divided into five (5) sectors for the purpose of collecting Refuse, Recyclable and Landscape Waste as shown on the Route Map in **Appendix "B"**. Each sector shall be scheduled to receive all collection services as provided herein on the same day. All Refuse, Recycling, Large Household Items, Household Construction and Debris collection services shall be provided at least once per week, Monday through Friday year-round to all Households within the City's corporate limits. Landscape Waste collection service shall be provided at least once per week, Monday through Friday, from approximately March 15 until December 31st. Said collections shall be made from all Households within the City's corporate limits and all property annexed to the City during the Term of this Agreement.

4.2 Amendment of City Sectors. The Contractor may, from time to time, submit its written request to amend the current collection sectors as shown on **Appendix "B"**.

- a) Such a request shall include a proposal for specific changes, together with a detailed explanation concerning the reasons for changing the sector boundaries or collection schedule.
- b) The Director of the Department of Public Works may at his or her reasonable discretion grant or deny the Contractor's request to change the sector boundaries or collection schedule for any or all areas served by the Contractor under this Agreement.
- c) Any change of the sector boundaries or the collection schedule shall be approved by the Director of the Department of Public Works at least sixty (60) days before such changes may become effective.
- d) If the Director of the Department of Public Works approves any change of the sector boundaries or the collection schedule, the Contractor shall, at its sole cost and expense, design, print and distribute a written letter to each affected Household explaining the reasons for the changes and the date on which the change will become effective, and provide to the City a copy of a map outlining the revised collection schedule and sector boundaries in a form requested by the City. The content and distribution of any such letter shall be subject to the City's prior written approval. Such letter of explanation shall be distributed by the Contractor to arrive at each Resident's house at least two (2) weeks prior to the effective date of any service changes.
- e) During the first week following any City-approved change in the collection schedule, the Contractor shall operate its collection vehicles on the previous collection schedule in addition to the new schedule.
- f) During the second and third week following any City-approved change in the collection schedule, the Contractor shall immediately respond to Complaints concerning missed collections from Residents who are confused by the new schedule if such Residents will have to wait longer than two (2) days for collection.

ARTICLE 5
REGULAR WEEKLY COLLECTION SCHEDULE FOR REFUSE, RECYCLABLES, AND
OTHER WASTE MATERIALS

5.1 Collection of Waste Materials. The Contractor shall provide weekly Curbside collection and disposal as provided herein of properly prepared Disposal Units of Household Refuse, Recycling, Household Construction and Demolition Debris, and Large Household Items within the City's corporate boundaries and all property annexed to the City during the Term of this Agreement. The Contractor shall also provide Curbside collection of E-Waste as provided herein.

5.2 Unlimited Collection with Exceptions. Residents may place an unlimited number of properly prepared Disposal Units at the curb for collection each week, and the Contractor shall collect them. Notwithstanding the foregoing, only two (2) Large Household Items may be put out for collection per week per Household and only two (2) items of Household Construction and Demolition Debris as set forth in Section 11.1.1.

5.3 Top-of-the-Drive. The Contractor shall collect Refuse and Recyclables from the top-of-the-drive from Households that are deemed hardship cases by the City. The Contractor shall receive no additional compensation for these collections, but the total amount of these collections shall not exceed 2% of the total Households collected under this Agreement.

ARTICLE 6
HOLIDAY COLLECTION SCHEDULE

6.1 Implementation and Notice of Holiday Collection Schedule. If any specified Holiday is observed on a regularly scheduled collection day, all collection services shall be rescheduled as follows:

- a) During the week of the Holiday, each succeeding collection day including and following a Holiday shall occur one day after the regular schedule. If a Holiday occurs on a Friday, the Friday route will be performed on Saturday.
- b) No residential collection shall be allowed on a Sunday unless specifically directed by the City.
- c) The Contractor shall provide publish notice of Holiday Schedules in the Naperville Sun and the Daily Herald.
- d) All such notices shall be forwarded to the above-specified newspapers no more than fourteen (14) days and not less than seven (7) days prior to the Holiday in the form of a public service announcement/ advertisement using font no less than twelve (12) points. The required notice shall include the date and time the rescheduled collection(s) will occur; the date and time the normal collection will resume and the regular collection schedule.

- e) A copy of the notice, in a form requested by the City, shall be forwarded to the City's Department of Public Works.
- f) Holiday collection schedules shall be prominently displayed on the Contractor's Website and on the Contractor's phone app. Phone alerts shall be provided if that functionality is available on the phone app.
- g) The provisions of Article 7 shall apply to Holiday collections.

ARTICLE 7
HOURS AND STANDARDS OF COLLECTION

7.1 Hours of Collection. Subject to the Force Majeure provisions set forth in Section 33.13 hereof, the Contractor shall not begin its collection operations within the City before 6:00 a.m., and shall cease collection by 6:00 p.m. No residential collection shall be allowed on Sunday unless specifically directed by the City.

7.2 Continuation of Services. The Contractor shall furnish sufficient numbers of vehicles and personnel to perform the Services required by this Agreement notwithstanding adverse conditions, breakdowns, strikes, or similar hindrances.

7.3 Resident Disruption Minimized. The Contractor's crews shall perform collection services with as little noise, disturbance, and disruption to the City's Residents as reasonably possible.

7.4 Curbside Disposal. Residents shall place Disposal Units Curbside to facilitate collection by the Contractor.

7.5 Curbside Collection. Subject to the Top of the Drive provisions set forth in Section 5.3 hereof, the Contractor shall collect all properly prepared Waste Materials from the Curbside.

7.6 Location of Emptied Disposal Containers. The Contractor shall return all empty containers at each Stop to the general location at which they were found. Empty containers shall not be placed in the middle of driveways, in driveway aprons, or near the curb in a manner that will increase the likelihood that an empty container will block a sidewalk or fall or roll into the street.

7.7 Contractor Caused Spills and Debris. The Contractor shall handle all containers with reasonable care to avoid damage and spills. Where collection crews break or spill any item of Waste Materials onto parkways, premises, curb-and-gutter, or streets, the crews shall immediately clean up the debris in a workmanlike manner. A broom and shovel shall be required as standard equipment on each vehicle.

7.8 Spills and Debris Not Caused by Contractor. The Contractor shall not be responsible for collecting or cleaning up Refuse, Recyclables, Landscape Waste, or Household Construction and Demolition Debris that has blown, fallen, leaked or been scattered from bags, cans, bins, or other containers through no fault of the Contractor.

7.9 Non-Interference. Any contracts between the Contractor and any other person or entity, including but not limited to businesses, commercial operations, Condominium\Townhomes,

rental buildings, institutions, schools, and/or units of government or agencies thereof, shall not interfere with or in any way delay or detract from Contractor's performance of Services hereunder.

7.10 Adequate Access to Disposal Sites and Facilities. At all times during the Term of this agreement or any extension hereof, the Contractor shall have sufficient access to Disposal Sites and Facilities needed in order to properly process and dispose of Waste Materials collected as provided herein. Within seven (7) days of a request from the City, the Contractor shall provide the City with reasonable assurances concerning the availability of adequate Disposal Sites and Facilities for disposal of each type of Waste Materials collected under this Agreement.

ARTICLE 8

PROPER DISPOSAL OR PROCESSING BY CONTRACTOR

8.1 General Requirements:

- a) The Contractor shall remove all collected Waste Materials from the City no later than 6:00 p.m. on the day of collection.
- b) The Contractor shall dispose of all Waste Materials before the vehicle returns to the City the following service day.
- c) Except upon the City's written authorization, the Contractor shall neither arrange for nor permit the collection or disposal of Recyclables, separated from Refuse, in a landfill or incinerator.
- d) Any such unauthorized disposal of separated Recyclables collected within the City shall be deemed to be a substantial default under this Agreement.

8.2 Refuse Requirements:

- a) The Contractor shall own, co-own, rent, lease, control, or otherwise have access to transfer stations, landfills, or waste-to-energy incinerators with sufficient capacity to dispose of all collected Refuse within the City under all circumstances.
- b) The Contractor shall be solely responsible for compliance with all applicable laws (General Provisions/Section 33.1).
- c) On or before May 1, 2019, the Contractor shall provide to the City, in writing, the name and location of the Refuse Disposal Sites and Facilities it intends to use during the term of this Agreement.
- d) Upon the City's request, the Contractor shall provide the City with proof that such Disposal Sites and Facilities comply with all laws and regulations governing such sites and facilities.
- e) Upon prior reasonable notice, the City shall have the right to visit and inspect Contractor's Disposal Sites and Facilities during regular business hours.

- f) The Contractor shall give the City written notice of any changes in the Refuse Disposal Sites and Facilities referenced in Section 8.2(c) above.

8.3 Landscape Waste Requirements:

- a) The Contractor shall own, co-own, rent, lease, control, or otherwise have access to a properly licensed and permitted composting facility, farm, and/or a landscape waste transfer station with sufficient capacity to dispose of collected Landscape Waste within the City under all circumstances.
- b) The Contractor shall be solely responsible for compliance with all applicable laws (see General Provisions/Section 33.1).
- c) Contractor shall provide the City, in writing, with the name and location of the Landscape Waste Disposal Sites and Facilities it intends to use during the term of this Agreement.
- d) Upon the City's request, the Contractor shall provide the City with proof that such Disposal Sites and Facilities comply with all laws and regulations governing such facilities.
- e) Upon reasonable notice, the City shall have the right to visit and inspect such Disposal Sites and Facilities during regular business hours.
- f) The Contractor shall give the City written notice of any changes in Landscape Waste Disposal Site/Facility referenced in 8.3(c) above.

8.4 Recycling Requirements:

- a) The Contractor shall own, co-own, rent, lease, control, or otherwise have access to Material Recovery Facilities with sufficient capacity to dispose of all collected Recyclables within the City under all circumstances.
- b) The Contractor shall be solely responsible for compliance all applicable laws (see General Provisions/Section 33.1).
- c) On or before May 1, 2019, the Contractor shall provide to the City, in writing, the names and locations of the Material Recovery Facilities it intends to use for City related Services during the term of this Agreement.
- e) Upon reasonable notice, the City shall have the right to visit and inspect such facilities during regular business hours.
- f) The Contractor shall give written the City written notice of any changes in the Material Recovery Facilities referenced in 8.4(c) above.

ARTICLE 9
RESIDENTIAL REFUSE AND RECYCLING SPECIFICATIONS

9.1 Waste Containers. The Contractor shall collect all properly prepared Recyclables and Refuse from all Resident-owned containers which conform to the requirements set forth herein and in the City Code. The Contractor shall collect all other Waste Materials as provided herein.

9.2 Contractor Damage of Containers. Where any Resident-owned container is broken or damaged due to the negligence, gross negligence, or intentional conduct of the Contractor, the Contractor shall promptly replace such container or offer restitution to the Resident. Where any Landscape Waste Cart rented or leased by the Contractor to a Resident is broken or damaged due to the negligence, gross negligence, or intentional conduct of the Contractor, the Contractor shall promptly replace such container.

9.3 No Contractor Rental or Lease of Refuse or Recycling Containers. The Contractor shall not rent or lease any containers to Residents for weekly Refuse or Recycling collection without the City's prior written consent.

9.4 Lost and Stolen Carts. The Contractor is not responsible for replacing Recycling or Refuse Carts which are lost or stolen.

9.5 City Recycling Carts Required. In order to participate in the City's Recycling program, Residents are required to purchase and use a City-issued Recycling Cart.

9.6 City Refuse Carts Optional. Although, not required to be purchased or used, the City makes carts available for purchase to City Residents to be used for the disposal of Refuse. Residents may elect, however, to use other Disposal Units for Refuse as defined herein.

ARTICLE 10
LANDSCAPE WASTE SPECIFICATIONS

10.1 Collection and Disposal – March 15th through December 15th.

10.1.1 Weekly Landscape Waste Collection: March 15th – December 15th. Every year during the term of this Agreement, or any extension hereof, beginning on March 15th and continuing through December 15th, the Contractor shall provide weekly Curbside collection and disposal of all properly prepared Disposal Units of Landscape Waste from Households within the City's corporate boundaries.

10.1.2 Landscape Waste Stickers and Landscape Waste Carts. During the period described in Section 10.1.1 above, the Contractor shall collect all properly prepared Landscape Waste Disposal Units set out for collection to which a Landscape Waste Sticker has been properly affixed except that Landscape Waste Carts rented or leased to Residents by the Contractor require no Landscape Waste Sticker.

10.1.3 No Combination of Landscape Waste and Refuse. The Contractor shall not combine Landscape Waste and Refuse in the same collection vehicle. Notwithstanding the

foregoing, the Contractor shall not be held responsible if Residents combine Landscape Waste and Refuse in garbage bags such that the Contractor is unaware that they have been combined.

10.2 Fall Landscape Waste Collection and Disposal and Christmas Tree Disposal.

10.2.1 Six-Week No Charge Landscape Waste Collection. Every year during the Term of this Agreement or any extension thereof, for a period of six (6) weeks, beginning on or about November 1st and ending on or about December 15th, the Contractor shall collect Landscape Waste Disposal Units without affixed Landscape Waste Stickers. At all other times, Landscape Waste shall be collected by the Contractor only if a Landscape Waste Sticker is properly affixed to a Landscape Waste Disposal Unit. (Note: Landscape Waste Stickers are never required for Landscape Waste disposal if a Landscape Waste Cart, as defined herein, is used by a Resident.)

10.2.2 Optional City Leaf Vacuuming. From year to year, the City may, but shall not be obligated to, provide a leaf vacuum collection program to as many City-selected homes as it determines appropriate.

10.2.3 Christmas Trees. During the first two full week of January of each Contract year, the Contractor shall collect discarded natural Christmas Trees that are placed Curbside at no charge to Residents. All ornaments, lights, tinsel and other decoration with the exception of flocking must be removed by the Resident prior to disposal. Christmas Trees may be chipped or composted at the Contractor's discretion.

10.3 Landscape Waste Stickers – Printing, Distribution, and Sale.

10.3.1 Contractor Creation and Distribution of Landscape Waste Stickers. Subject to the City's reasonable approval, the Contractor shall, at its sole cost and expense, print, distribute, and arrange for the sale of an adequate supply of Landscape Waste Stickers which will be sold by the City and designated retail outlets.

10.3.2 Retail Outlet Sale of Landscape Waste Stickers. Subject to the City's reasonable approval, the Contractor shall enter into agreements with at least twenty (20) local retail outlets conveniently located throughout the City for the sale of the Landscape Waste Stickers.

10.3.3 No Retailer Fee. Retailers may not add a handling or similar fee to the sale price of Landscape Waste Stickers.

10.3.4 Contractor's Monthly Supply of Landscape Waste Stickers. The Contractor shall supply Landscape Waste Stickers to retailers on a thirty (30) day billing cycle, and at the end of every thirty (30) day period, the Contractor shall require all retailers to pay the Contractor for all previously supplied Landscape Waste Stickers before additional supplies are delivered.

10.3.5 Contractor Responsibility. The Contractor shall not charge either the retailers or the City for printing, storage, handling, delivery, or any other services associated with the

distribution or sale of Landscape Waste Stickers. The Contractor shall be solely responsible for collection of monies from the sale of Landscape Waste Stickers.

10.3.6 Retailers Failure to Pay. The Contractor may suspend or terminate the supply of Landscape Waste Stickers to any retailer which becomes more than thirty (30) days in arrears in payments for such Landscape Waste Stickers.

10.3.7 Retailers Failure to Stock Landscape Waste Stickers. The Contractor may suspend or terminate the supply of Landscape Waste Stickers to any retailer which repeatedly fails to stock a sufficient number of Landscape Waste Stickers to meet the Residents' needs.

10.3.8 Notification to City of Retailer Suspension or Termination. The Contractor shall immediately notify the City of the names of any retailer to which the supply of stickers has been suspended or terminated for any reason.

10.3.9 Annual Retailer List. By March 1st of each year during the Term of this Agreement, the Contractor shall provide the City with a current list of retail sales outlets.

10.3.10 No Limit on Purchase of Landscape Waste Stickers. Subject to availability, Residents shall have the right to purchase one or any number of Landscape Waste Stickers at any time.

10.3.11 "Forever" Landscape Waste Stickers. Residents may continue to use Landscape Waste Stickers purchased at any time during the duration of this Agreement, or any extension hereof, even if the price of such Stickers has increased since the Residents purchased them.

10.4 Landscape Waste Sticker Design and Accountability.

10.4.1 Materials and Dimensions of Landscape Waste Stickers. Landscape Waste Stickers shall be produced on paper and have an elongated rectangular form with minimum dimensions of 19 centimeters in length and 4 centimeters in width.

10.4.2 Design of Landscape Waste Stickers. The front of the Sticker shall have a bright background and shall include the Contractor's name and phone number and an approved City symbol printed in contrasting type.

10.4.3 Landscape Waste Sticker Expiration Date. Each Landscape Waste Sticker shall be printed with the words "Expiration Date" and shall include the date on which this Agreement expires.

10.4.4 Proper Use of Landscape Waste Stickers. The back of each Landscape Waste Sticker shall include instructions for proper use of the Stickers as well as other information pertinent to the proper disposal of Landscape Waste.

10.4.5 Adhesiveness of Landscape Waste Stickers. All Landscape Waste Stickers shall be fabricated with pressure sensitive adhesive which will adhere to the Disposal Units in all weather conditions.

10.4.6 Contractor Liability for Landscape Waste Stickers. The Contractor shall be solely liable to account for all Landscape Waste Stickers used by Residents. The City shall not be liable for Landscape Waste Stickers sale proceeds or debts relating to Landscape Waste Stickers incurred by any retailer or the Contractor. The City shall not be liable for any counterfeiting of Landscape Waste Stickers that may occur.

10.5 Landscape Waste Sticker Price.

10.5.1 Landscape Waste Sticker Pricing. Beginning May 1, 2019, through April 30, 2029, the Contractor shall sell each Landscape Waste Sticker pursuant to this Agreement for not more than the following prices: \$2.25 from May 1, 2019 through December 31, 2020; \$2.50 from January 1, 2021 through December 31, 2023; and \$2.75 from January 1, 2024 through April 30, 2029. The only exception to this flat Landscape Waste Sticker price shall be in the event that the City exercises its option under Section 10.6 below to add an administrative surcharge.

10.6 Optional City Administrative Surcharge.

10.6.1 Landscape Waste Stickers Optional City Surcharge. The City shall have the right, but not the obligation, to assess a fixed administrative surcharge, adjusted from time to time, to the Contractor's sale of each Landscape Waste Sticker pursuant to the terms of this Agreement. Said surcharge shall not exceed ten percent (10%) of the price of the Landscape Waste Sticker.

10.6.2 Notification of City Surcharge. If the City determines to assess such a surcharge, it shall notify the Contractor by February 1st for implementation on March 1st.

10.6.3 Surcharge Remittance. Should the City assess an administrative surcharge to the sale of Landscape Waste Stickers, the Contractor shall submit a monthly accounting of the total number of stickers sold, and remit a check to the City equal to the amount of the administrative surcharge multiplied by the total number of Stickers sold during such monthly period.

10.6.4 Surcharge Report and Payment. The report and remittance referenced in Section 10.6.3 above shall be delivered to the City no later than fifteen (15) days after the last day of each month.

10.7 Landscape Waste Carts.

10.7.1 **Landscape Waste Carts** may, but are not required to be used by Residents for the collection of Landscape Waste. The Contractor shall rent or lease Landscape Waste Carts to Residents who desire them. The cost to rent or lease a Landscape Waste Cart from the Contractor shall be \$225.00 per year for the 2018 through 2020 calendar years. These rates shall be revisited from time to time beginning January 1, 2021 upon mutual agreement between the parties.

ARTICLE 11
HOUSEHOLD CONSTRUCTION AND DEMOLITION DEBRIS

11.1 Collection of Household Construction and Demolition Debris at No Charge.

11.1.1 Limited quantities of remodeling or construction materials, such as rolled carpeting, bathroom fixtures, cabinets, wood or drywall will be collected weekly at no additional charge as follows:

- a) Carpeting must be placed at the curb in rolls measuring no more than 4 feet long and 2 feet wide and weigh no more than 60 pounds. A maximum of 2 rolls of carpeting is allowed per week.
- b) Construction materials, such as drywall and wood paneling, must either be in 32-gallon containers that do not exceed 60 pounds or tied in bundles measuring 4 feet long, 2 feet wide and weigh less than 60 pounds.
- c) A maximum of two (2) 32-gallon cans, two (2) bundles, two (2) rolls, or any combination of each for a maximum of two (2) units is allowed to be set out for collection per week

11.2 Resident Payment for Collection of Additional Household Construction and Demolition Debris.

11.2.1 Additional household construction or remodeling materials, in excess of those described in Section 11.1 above, may be collected by special arrangement between a Resident and the Contractor by which the Resident agrees to pay the Contractor separately for the collection of such materials. The Contractor shall charge an amount not to exceed \$22.00 per cubic yard for collection of such materials. for the 2018 through 2020 calendar years. This rate shall be revisited from time to time beginning January 1, 2021 upon mutual agreement between the parties. Notwithstanding the foregoing, Residents have the right to solicit competitive prices for collection of said materials as well as for other materials as set forth in Article 13.

ARTICLE 12
E-WASTE

12.1 E-Waste Collection and Charges.

12.1.1 As an additional service provided under this Agreement, the Contractor shall provide for the collection and disposal of E-Waste so long as a pick-up has been scheduled and paid for by the Resident. The cost of E-Waste collection shall be as follows:

- a) E-Waste Bundles: \$35.00 each.

b) E-Waste Screen Devices:

- (i) Screens weighing fifty pounds (50lbs.) or less: \$35.00 each.
- (ii) Screens weighing fifty pounds (50lbs.) or more: \$50.00 each.

c) In addition to the foregoing provisions, Residents shall be allowed to put out up to six (6) E-Waste items per call for a total cost of fifty dollars (\$50.00), including an E-Waste Screen Device, if the E-Waste Screen Device weighs fifty pounds (50 lbs.) or less; and (ii) Residents shall be allowed to put out up to six (6) E-Waste items per call for a total cost of seventy dollars (\$70.00), including an E-Waste Screen Device, if the E-Waste Screen Device weighs more than fifty pounds (50 lbs.) or more.

d) E-Waste shall be left Curbside by the Resident subject to any other location which is mutually agreed upon by the Resident and the Contractor.

e) The rates set forth in this Section 12.1.1 shall be set for the 2018 through 2020 calendar years. These rates shall be revisited from time to time beginning January 1, 2021 upon mutual agreement between the parties.

12.2 Resident Payment for Collection of E-Waste. The Contractor shall accept payment from Residents for E-Waste collections either online or by phone. Payment on the Contractor's phone app shall also be available if the phone app has that functionality.

12.3 No Limit on Collection of E-Waste. There shall be no minimum or maximum amount of E-Waste that Residents may have collected provided that each item has been properly prepared and paid for as provided herein.

12.4 Receipt for Payment for Collection of E-Waste. The Contractor shall leave a receipt with Residents for E-Waste that has been paid for and collected.

12.5 Communication of E-Waste Collection Availability and Payment Process. The Contractor shall use all reasonable efforts to communicate the availability of the E-Waste collection service to Residents and shall make the process for scheduling and paying for E-Waste collection as convenient as possible.

12.6 Disposal of E-Waste in Compliance with the Law. All E-Waste shall be collected and disposed of in compliance with the Illinois Electronic Recycling and Reuse Act, 415 ILCS 150/1 *et seq.*, as amended from time to time, and with any other applicable laws, regulations, or ordinances.

ARTICLE 13
SPECIAL HOUSEHOLD COLLECTION SERVICE
OUTSIDE SERVICES PROVIDED UNDER THIS AGREEMENT

13.1 Resident Contracting for Certain Collection Services. Residents desiring to dispose of large quantities of non-containerized Refuse, Landscape Waste, or Household Construction and Demolition Debris shall be allowed to solicit competitive prices for such services from the Contractor and/or entities other than the Contractor, and may select the Contractor or any other entity to provide such services.

13.2 Recycling Drop-off Facility and Resident Contracting for Collection of Recycling. Any Residents desiring to dispose of large quantities of Recyclable materials shall be allowed to utilize the Recycling Drop-off Facility. They shall also be allowed to solicit competitive prices for such services from the Contractor and/or entities other than the Contractor, and may select the Contractor or any other entity to provide such services.

13.3 Resident Responsible. Residents shall be solely responsible for full payment for all the private services described in this Article 13. No private collection agreement or arrangement shall affect the terms of this Agreement.

ARTICLE 14
ITEMS LEFT FOR CHARITABLE ORGANIZATIONS

14.1 No Interference with Charitable Offerings. Households within the City may leave household goods and items Curbside for any charitable organization (including not-for-profit organizations). The Contractor shall not collect or dispose of such items as long as they are clearly marked as intended for collection by a charitable organization.

ARTICLE 15
MISSED COLLECTIONS AND COMPLAINTS

15.1 Contractor Receipt and Resolution of Resident Complaints. The Contractor shall promptly and courteously investigate, respond to, and resolve all Complaints including but not limited to Complaints concerning missed collections.

15.2 Communication of Complaints. The Contractor shall have the ability to accept and respond to Complaints by email, text messages, Web form (Contractor's Website), and through Contractor's phone app.

15.3 Collection After Notice of Missed Pick-Ups. If the Contractor is notified of a missed collection before 12:30 p.m., the Contractor shall provide collection from such Household that day. If notification is received after 12:30 p.m. and the Contractor is no longer reasonably able to return to the Household in question that day, the Contractor shall provide for collection from such Household the next working day. Notwithstanding the foregoing, if a Household has repeat occasions of missed pick-ups due to Waste Material being put out too late for collection, the Contractor shall advise the Resident and the Director of the Department of Public Works to that effect by email or by phone and shall provide for collection from that Household at its earliest convenience, which may be the next regular collection day applicable to that Household.

15.4 Complaint Resolution Timeframe. The Contractor shall resolve all Complaints concerning Services to be performed hereunder within twenty-four (24) hours after it receives notice of such Complaint. If a Complaint cannot be resolved within that timeframe, the Contractor shall give written notification (which may be by email) to the Director of the Department of Public Works as provided in Section 32.1.2 hereof.

15.5 Notice to City of Unresolved Complaints/City Action. When any dispute arises between the Contractor and any Resident of the City which Contractor is unable to resolve to the Contractor's and Resident's satisfaction, the Contractor shall notify the Director of the Department of Public Works within twenty-four (24) hours of such impasse occurring. The Contractor shall provide a written summary of the Complaint, including the time and date the Complaint was received, Contractor's attempts to resolve the Complaint, and the name, address, and telephone number of the Resident making the Complaint. The Director of the Department of Public Works shall arbitrate such Complaint and his or her decision regarding a resolution of such Complaint shall be binding upon the Contractor.

15.6 Complaint Log. The Contractor shall maintain a daily log of Complaints ("Complaint Log") received in a format approved by the Director of the Department of Public Works, such approval not to be unreasonably withheld, conditioned, or delayed. The Complaint Log shall state the name and address of the individual submitting the Complaint, the day and hour the Complaint was received, the day and hour the Complaint was resolved, how it was resolved, and the name and title of the Contractor representative responsible for its resolution. A copy of the Complaint Log shall be provided to the Director of the Department of Public Works at the end of each month (for that month) with Contractor's invoice for services.

ARTICLE 16

RECYCLING DROP-OFF CENTER

16.1 Contractor Staffing and Operation. The Contractor shall operate a Recycling Drop-Off Center at the Naperville Public Works Service Center located at 156 Fort Hill Drive, Naperville. The Contractor shall accept Recyclables at the Recycling Drop-Off Center and dispose of them in accord with the provisions of this Agreement. The Recycling Drop-Off Center shall be open and staffed by the Contractor from 8:00 a.m. until 4:00 p.m. every Wednesday and Saturday unless Wednesday or Saturday fall on a Holiday in which case the Center may be closed.

16.2 Recycling Drop-Off Center Contractor Responsibilities. The Contractor shall provide at least one English-speaking employee to open the Recycling Drop-Off Center, to staff it from 8:00 a.m. to 4:00 p.m., to direct participants, to provide educational materials to participants, and to securely close the Recycling Drop-Off Center. The Contractor shall not charge for any materials brought to the Recycling Drop-Off Center and shall remove and dispose of Recyclable materials at the end of each day the Recycling Drop-Off Center is open.

ARTICLE 17
REFUSE AND RECYLING COLLECTION FROM CITY-OWNED FACILITIES

17.1 Collection of Waste Materials at City-Owned Facilities.

17.1.1 The Contractor shall, at its sole cost and expense, provide dumpsters/containers to each City-Owned Facility, including but not limited to Naper Settlement and each Naperville Library location, for the collection of Waste Materials. The size and placement of such dumpsters/containers and the frequency of collection shall be specified and adjusted by the City from time to time in accordance with **Appendix "A"** attached hereto and incorporated herein by reference. **Appendix "A"** may be modified by the City from time to time.

17.2 No Charge for Collection of Waste Materials at City-Owned Facilities. There shall be no cost to the City for the collection of dumpsters/containers at City-Owned Facilities during the Term of this Agreement or any extension hereto.

ARTICLE 18
FESTIVAL REFUSE AND RECYCLING SERVICES

18.1 Festival Container and Dumpster Service.

18.1.1 Beginning on May 1, 2019, during the term of this Agreement and any extension hereof, the Contractor shall provide the festival Refuse collection and Recycling Services specified in this Agreement, including but limited to, collection of the festivals' Refuse and Recycling from centralized locations, container delivery including Refuse and Recycling boxes, and adequate dumpster collection service for Rib Fest over the fourth of July weekend, and the Last Fling over Labor Day weekend. These services shall include all labor and conveyance devices required to remove all Refuse and Recyclables from the festival daily.

18.1.2 The Contractor shall deliver a sufficient number of thirty-two (32) gallon capacity Refuse and Recycling collection boxes for each event at a ratio of two (2) Refuse boxes for every one (1) Recycling box supplied

18.1.3 The Contractor shall also deliver and provide collection from a sufficient number of dumpsters to enable the Contractor's workers to empty the containers into the dumpsters and maintain clean and sanitary conditions on the festival grounds at all times.

18.1.4 Festival Recycling services shall include, without limitation, cardboard Recycling and commingled container Recycling.

18.1.5 The Contractor shall deliver on May 1, 2019, and on the first day of every May thereafter throughout the Term of this Agreement and any extension thereof, two hundred and fifty (250) 32-gallon capacity Refuse and Recycling collection boxes for use by the City to be delivered to a site designated by the Director of the Department of Public Works.

18.2 Sponsorship for Festival and Recycling Collection Services.

18.2.1 Beginning on May 1, 2019, and throughout the Term of this Agreement and any extension thereof, the Contractor shall, at its sole cost and expense, provide festival Refuse and Recycling collection services to the City for the Last Fling and Rib Fest. Such services shall be provided without any cost or expense to the City or the event organizers provided the Contractor is designated as a corporate sponsor at an appropriate level based on cost of service determined by the event organizers and acknowledged as such in all promotional material for the Rib Fest and Last Fling.

18.3 Reporting Festival Data.

18.3.1 Within five (5) working days after Rib Fest and Last Fling, the Contractor shall email a report to the City itemizing the total tons of Refuse and Recyclables collected for Disposal or processing. This information should also include the number and sizes of dumpsters delivered and the number of collections from each dumpster. The Contractor shall provide such additional information regarding work performed for Rib Fest and Last Fling as may reasonably be requested by the City. The provisions set forth in this section shall survive the expiration or termination of this Agreement for a period of one (1) year.

ARTICLE 19

VEHICLES USED IN THE PERFORMANCE OF THIS AGREEMENT

19.1 Display of Contractor Name/Telephone Numbers. All vehicles used in the performance of Services under this Agreement (herein "Contractor Vehicles") shall clearly display on both sides of each vehicle the name of the Contractor, a local or toll-free telephone number, and a vehicle identification number.

19.2 Good Working Order/Substitute Vehicles. The Contractor shall maintain all Contractor Vehicles in good working order and appearance, free of excessive rust, and clean at the start of each collection day. If any Contractor Vehicle is not properly operable, a substitute vehicle which meets the operating standards specified herein shall be immediately be provided.

19.3 Fully Enclosed/Leak-Proof. Contractors' Vehicles shall be fully enclosed, leak-proof vehicles, operated so that no Refuse, Recycling or Landscape Waste leaks, spills, or blows off the vehicles. Drain plugs, if available, shall be kept sealed, except during collections in rainy weather.

19.4 Clean-up if Debris or Leaks Caused by Contractor. The Contractor shall be solely responsible for collecting or cleaning up any litter, fluids, Refuse, Recyclables or Landscape Waste which may leak, spill, or blow off a vehicle due to the vehicle operator's failure to properly monitor the load, to operate the vehicle, or due to failure of any mechanism.

19.5 City Clean-Up and Charge Back. If such litter or fluids are not cleaned up after verbal or written notice from the City, the City may, but shall not be obligated to, clean up such litter or fluids. In such an event, any costs incurred for clean-up shall be deducted from the Contractor's monthly invoice.

19.6 Annual Vehicle Inspection. Upon the City's request, the Contractor shall make all vehicles available for an annual inspection during regular business hours.

19.7 Number of Vehicles and Use of Diesel and CNG. Contractor anticipates that it will use ten (10) Refuse, eight (8) Recycling, and five (5) Landscape Waste (on a seasonal basis) for a total of twenty-three (23) vehicles to provide the Services specified in this Agreement (herein "Contractor Vehicles"). Except as provided below, Contractor Vehicles shall be fueled by diesel fuel in compliance with the USEPA 2018 diesel engine emission standards or such other standards as may be in effect during the Term of this Agreement.

19.7.1 If the City participates in the development of a compressed natural gas ("CNG") fueling station, anticipated to be constructed on a portion of real property owned by the City located at 1720 W. Jefferson Avenue, Naperville, IL 60540 (herein "Naperville CNG Facility"), the Contractor agrees to transition its Contractor Vehicles from diesel fuel to CNG sufficient so that Contractor's Vehicles use the following minimum amounts of gasoline gallon equivalents of CNG ("GGEs") at the Naperville CNG Facility as follows:

19.7.1.1 Fifty thousand (**50,000**) GGE(s) in the first year the Naperville CNG Facility is first operational (as documented by notice given to the Contractor by the City) so long as the Facility is open, and notice has been given, with a minimum of five (5) months remaining in the calendar year;

19.7.1.2 One hundred thousand (**100,000**) GGE(s) in the first full year following the year the Naperville CNG Facility being operational;

19.7.1.3 Two hundred thousand (**200,000**) GGE(s) in the second year following the Naperville CNG Facility being operational, and for each year of the remainder of the Term of this Agreement.

19.7.2 CNG Rebates. Contractor agrees that the City shall be entitled to payment of 50% of any rebate resulting from Contractor's purchase of CNG from the Naperville CNG Facility. If rebate payments are made to the Contractor instead of to the City, the Contractor agrees that it shall remit such payment to the City within thirty (30) days of receipt.

19.7.3 CNG Reports. In February of each year this Agreement is in effect, the Contractor shall submit a report to the Director of the Department of Public Works for the prior calendar year (or partial calendar year in the first year the Naperville CNG Facility is operational) which sets forth:

19.7.3.1 The number of GGEs by the Contractor at the Naperville CNG Facility;

19.7.3.2 The amount of rebates received by the Contractor; and

19.7.3.3 The amount of rebates remitted from the Contractor to the City.

The City shall have the right, upon request of the Director of the Department of Public Works, to review Contractor's records pertaining to Contractor's use of the Naperville CNG Facility, including but not limited to records reflecting GGE(s) used, rebates paid, and rebates transmitted to the City.

19.8 Safety Tracking Equipment. All Contractor vehicles serving the City under this Agreement shall be equipped with an operational camera recording system, GPS tracking capability, and collision avoidance safety features (equivalent to “Third Eye” MobileVision, Digital, and Collision Avoidance Radar Systems) (hereinafter “Safety and Tracking Equipment”). Contractor shall train employees performing Services under this Agreement in the correct operation of said Safety and Tracking Equipment and shall require its employees, when operating Contractor vehicles during the performance of this Agreement, to use said Safety and Tracking Equipment. Upon the City’s request, Contractor shall provide the City with copies of or direct access to information generated by said Safety and Tracking Equipment.

19.9 Vehicle List. A listing of vehicles to be utilized by the Contractor in carrying out this Agreement shall be provided to the Director of the Department of Public Works prior to starting work under this Agreement and shall be provided from time to time when requested by the Director of the Department of Public Works. If CNG vehicles are used, those vehicles shall be identified on each list provided.

ARTICLE 20
CONTRACTOR’S ACCIDENT PREVENTION AND NOTIFICATION

20.1 Compliance with Safety Requirements. The Contractor shall comply with the safety provisions of all applicable laws, regulations and codes, including, but not limited to, the installation and maintenance of safeguards on machinery and equipment, the elimination of hazards, and worker safety training.

20.2 Safety Training. The Contractor shall exercise strict care at all times to protect the safety of persons and property, including but not limited to providing continuing and comprehensive and up-to-date training for its employees who perform Services hereunder

20.3 Notification to City of Contractor Accidents. The Contractor shall immediately notify the Director of the Department of Public Works in writing of any accident of any kind which involves the general public or private or public property which occurs during the performance of Services pursuant to this Agreement.

20.4 Written Accident Report. The Contractor shall provide the Director of the Department of Public Works with a written report including the details of any such accident.

20.5 Safety and Tracking Equipment on Contractor Vehicles. The Contractor shall equip Contractor Vehicles with the Safety and Tracking Equipment described in Section 19.8 above.

20.6 Discourteous or Unsafe Behavior. Upon written notice from the City advising the Contractor that the City has reason to believe, and provides the basis therefor, that any employee of the Contractor has exhibited discourteous or disrespectful behavior toward members of the public on multiple occasions, has exhibited egregious behavior toward one or more members of the public on a single occasion, or has failed to operate a Contractor Vehicle in such a manner as to protect the safety and security of the public, the Contractor shall not permit said employee to perform Services hereunder.

ARTICLE 21
CUSTOMER SERVICE, EDUCATION, AND OUTREACH

21.1 Critical Components. The Services provided by the Contractor under this Agreement have a direct and daily impact on Residents of the City. Therefore, the customer service, education, and outreach provided by Contractor under this Agreement are considered critical components of the provision of Services hereunder.

21.2 Route Supervisors. The Contractor will assign two Route Supervisors to act in a supervisory capacity on a daily basis to oversee the performance of Services hereunder. The Contractor will provide the City with the names and contact information of the Route Supervisors.

21.3 Customer Service Office. Throughout the Term of this Agreement, the Contractor shall maintain a local Customer Service Office to which the public and City personnel may call or send inquiries and Complaints, and from which the public and City personnel may receive instructions. "Local" does not necessarily mean within the corporate limits of the City, but does mean within the Chicagoland area. Minimum customer service standards for responding to Resident phone calls shall be enforced by the Contractor and shall include, but are not limited to the following:

21.3.1 Except as otherwise directed by the City, Contractor's Customer Service Office shall be open and available to respond to Resident inquiries and Complaints at least between the hours of 7:30 a.m. and 4:30 p.m., Monday through Friday, except during Holidays as defined herein. Contractor shall provide other means of communication for Residents during hours when customer service representatives are not available, including but not limited to email, text messages, Web form (Contractor's Website), and through Contractor's phone app.

21.3.2 The Contractor shall equip the Customer Service Office which serves the City with a sufficient number of telephones, computers, employees, and other resources necessary to accommodate Resident inquires, and shall provide management personnel to supervise such Office during Office hours. Two customer service representatives shall be dedicated to respond to City of Naperville Resident inquiries and Complaints and shall have detailed knowledge of all aspects of this Agreement. Notwithstanding the foregoing, all customer service representatives shall have a detailed understanding of all aspects of this Agreement and shall be capable of responding promptly and accurately to Resident inquiries and Complaints. All customer service representatives shall be provided with a detailed summary of the provisions of this Agreement so that they are able to promptly, clearly, and accurately supply information in response to Resident inquiries and Complaints. The City shall be provided a copy of said summary and any revised summaries.

21.3.3 Phone calls to the Customer Service Office shall be answered within forty-five (45) seconds (including wait time and time spent "on hold" waiting for a customer service representative). Residents placing calls to the Customer Service Office shall receive a busy signal no more than five percent (5%) of the time. A phone call which is transferred from one individual at the Customer Service Office to another individual shall be connected within thirty seconds. Upon request of the City, the Contractor shall make data available to demonstrate compliance with these provisions.

21.4 Contractor Facilities. The Contractor shall provide City personnel with a written summary describing the location, telephone number(s), and mailing address of the local Customer Service Office, Contractor's Vehicle storage facility, and any other facility that will be used to provide Services under this Agreement, and shall update that information as it changes.

21.5 Dissemination of Information Regarding Holiday Collections and Service Disruptions. When routine collections will not be made due to Holidays, weather events, or for any other reason, the Contractor shall provide for phone call and email inquiries from Residents to be responded to by personnel at the Customer Service Office or with an automatic message informing them that collections are not being made due to the applicable reason and advising them when to expect the next collection. The Contractor shall prominently display the same information available on its website, phone app, and on any social media that it uses. If the Contractor's phone app has the capability of providing alerts to Residents who have requested such alerts, this information shall also be provided by that means.

21.6 Contractor Liaisons. The Contractor shall designate and provide contact information for two (2) individuals who will be available to respond to inquiries from City officials or personnel related in any way to this Agreement, including but not limited to obtaining instructions, answering inquiries, and resolving Complaints. Such individuals shall be promptly available to discuss, and if necessary, meet with City officials or personnel to resolve problems.

21.6.1 The Contractor shall also provide the City with at least one telephone number which may be used by City officials or personnel to communicate with the Contractor after regular business hours or during an emergency.

21.7 Contractor Contact Information for Residents. The Contractor shall provide a local or toll-free Customer Service Office telephone number and email address for Resident use. The Contractor shall also provide a web address for the Contractor Website described herein, and information regarding Contractor's phone app as described herein. The City and the Contractor will publicize the Contractor's Customer Service Office telephone number, email address, website, phone app, and any other means the Contractor has to communicate with Residents.

21.8 Brochures. The Contractor shall, at its sole expense, provide to each Household thirty (30) days prior to May 1, 2019 and thirty (30) days prior to the anniversary date of each subsequent year of this Agreement, a brochure detailing the schedule for the Services described herein, applicable collection requirements, and any other information requested by City. At the meeting to be held during the first quarter of the calendar year as set forth in Section 21.10 below, the Contractor shall provide the City with a copy of the proposed brochure for the forthcoming year, and the City shall approve the brochure's content and layout prior to its distribution. When the brochure is distributed each year, the Contractor shall provide 4000 copies of the brochure to the City along with a PDF version of the brochure (unless a lesser number is requested in writing by the City).

21.9 Other Informational Materials. Upon the City's reasonable request, the Contractor shall provide the City with any other informational materials deemed necessary or appropriate.

21.10 First Quarter Meeting. During the first quarter of each calendar year this Agreement is in effect, the Contractor and one or more representatives of the City, shall meet in person to discuss what information should be included in the upcoming year's brochure and to discuss potential educational opportunities and events for the upcoming year. Educational and outreach events shall be prominently included in Contractor's website and, as appropriate, on Contractor's phone app.

21.11 Community Outreach and Education. The Contractor shall participate in Festivals and other outreach events as reasonably requested by the City, including but not limited to "Touch a Truck" events in order to educate Residents about Contractor services, appropriate disposal methods and alternatives, and to encourage safe behavior by the public when the Contractor is performing collections.

21.12 Contractor Website. The Contractor shall provide a website customized for the City of Naperville which is easy to navigate and which provides current and accurate information pertaining to the Services hereunder. Said Website shall be searchable by term and shall include but not be limited to the following: videos demonstrating proper preparation of Waste Materials by Residents, information regarding schedules for regular pick up and schedules for Holiday pick-up, the availability and cost of: (i) dumpster service, (ii) Landscape Waste Carts, (iii) E-Waste collection, (iv) collection of Household Construction and Demolition Debris not covered by regular collection as provided in Section 11.2 hereof, and Special Household Collection Services as described in Article 13 hereof, (v) Recycling Disposal Center availability and acceptable Recycling materials, and (vi) information regarding how Residents may submit questions to the Contractor and or Complaints regarding missed pick-ups or other matters, and the manner in which Complaints will be addressed and resolved.

21.13 Contractor Phone App. The Contractor shall make available to City Residents a phone app usable on Android or Apple (or similar) devices which will provide information, including but not limited to, regular collection schedules, types of Waste Materials collected, proper methods to dispose of Waste Materials., Landscape Sticker prices and retail outlet locations where they can be purchased (and during Transition at the expiration or termination of this Agreement, information as to how Residents may seek a refund of Landscape Waste Stickers), collection of E-Waste and Household Construction and Demolition Debris. Additionally, the Contractor's phone app shall provide text alerts regarding Holiday collection schedules and delays in collection due to weather events or other reasons.

21.14 Sorry Tags. The Contractor shall issue tags, which have been pre-approved by the City, that inform Residents of the specific reasons why the Contractor did not collect all Refuse, Recyclable and/or Landscape Waste material placed at the curb ("Sorry Tags"). The Contractor shall leave the Sorry Tag attached to the uncollected Waste Materials.

21.15 For your Information Tags. The Contractor shall issue tags, which have been pre-approved by the City, that inform Residents that materials which the Resident disposed of in a Recycling Cart were not Recyclable materials and were therefore treated as Refuse ("FYI Tags"). The FYI Tag shall include a general description of material in question. The Contractor shall leave the FYI Tag attached to the Resident's Recycling Cart. The number of FYI Tags issued each month shall be included in the Monthly Reports submitted to the City pursuant to Section 24.1 hereof.

ARTICLE 22
EMPLOYEES AND CONDUCT

22.1 Manner of Performance of Services. The Contractor shall use care and diligence in the performance of this Agreement and shall perform all collection and Disposal services required by this Agreement in a neat, orderly, timely, and efficient manner.

22.2 Knowledgeable and Courteous Personnel. The Contractor shall promptly provide neat, orderly, and courteous personnel for its collection crews and shall provide courteous and knowledgeable personnel for its Customer Service Offices.

22.3 Drugs, Alcohol, Prescription Medications. The Contractor shall prohibit its drivers and crew members from consuming any alcoholic beverages while working or using any controlled substance or prescription medication that negatively affects their ability to perform their duties under this Agreement.

22.4 Replacement of Unsuitable Contractor Employees. If the City reasonably determines that any of the Contractor's employees is unfit or unsuitable to perform the services under this Agreement as a result of intoxication, drug use, or by virtue of abusive or unacceptable behavior, then, upon the City's written request, the Contractor shall immediately remove such employee from work within the City and furnish a suitable and competent replacement employee.

22.5 Uniforms. All of the Contractor's permanent collection employees working within the City shall be required to wear a work uniform including a shirt or jacket clearly indicating that the employee is employed by the Contractor.

22.6 Compliance with Illinois Vehicle Laws. All of the Contractor's vehicle operators working within the City shall carry valid Illinois state driver's licenses for the class of vehicle operated. Such vehicle operators shall obey all traffic regulations, including but not limited to weight and speed limits.

ARTICLE 23
TRANSITION PERIOD

23.1 Transition at the Commencement of this Agreement. For a consecutive thirty (30) day period, commencing May 1, 2019, the Contractor shall perform all duties pursuant to this Agreement with special care and attention to detail by:

23.1.1 Training Contractor customer service representatives concerning the City's collection policies and the terms and conditions set forth herein, and by providing access to City maps, including but not limited to the Route Map attached hereto as **Appendix "B"**.

23.1.2 Training Contractor drivers concerning the City's collection policies, training each driver concerning the specifics of each assigned route, and providing each driver with a route map as well as a City map, including but not limited to the Route Map attached hereto as **Appendix "B"**.

23.1.3 Training the Route Supervisors concerning the City's collection policies, and training each Route Supervisor concerning the specifics of each assigned route and all public streets and unincorporated areas within the City limits. Each Route Supervisor shall be provided maps of their routes as well as a City map.

23.1.4 Making additional Contractor Vehicles available to respond to Complaints.

23.1.5 Honoring Landscape Waste Stickers. For a consecutive sixty (60) day period, commencing May 1, 2019 the Contractor shall accept and honor, at its sole cost and expense, Landscape Waste Stickers authorized for use by the City within the City prior to the Effective Date of this Agreement.

23.2 Transition at the Expiration or Termination of this Agreement.

23.2.1 Honoring Landscape Waste Stickers at the Expiration or Termination of this Agreement:

23.2.1.1 The Contractor shall refund to all Residents the full purchase price of any Landscape Waste Stickers returned to the Contractor within ninety (90) days after the expiration or termination of this Agreement, or any extension hereof if the City selects a different contractor to perform Services hereunder.

23.2.1.2 The Contractor shall reimburse retailers for returned or unsold Landscape Stickers within sixty (60) days after the expiration or termination of this Agreement, or any extension thereof.

23.2.2 The provisions of this Section 23.2 shall survive the expiration or termination of this Agreement.

ARTICLE 24

DATA COLLECTION; REPORTS; AND INSPECTION OF RECORDS

24.1 Monthly Reports. The Contractor shall collect and maintain accurate data, records, and receipts, and shall submit monthly reports to the City including all relevant information concerning the collection of Refuse, Recycling and Landscape Waste within the City, including, without limitation:

- a) The total weight of Refuse and Recyclables, and the cubic yards of Landscape Waste collected each month, listed separately for Household stops and City Owned Facilities;
- b) The total number of Landscape Waste Stickers sold per month;
- c) The number of Landscape Waste Carts rented per month;
- d) The total number of White Goods collected per month;

- e) The number of E-Waste pick-ups per month with a break-down by percentage of pick-ups of E-Waste Screen Devices in comparison to other E-Waste.
- f) The name and location of each landfill, incinerator, transfer station, compost facility, farm, or Material Recovery Facilities to which Waste Material was transported, together with a statement of the aggregate tonnage transported to each such facility;
- g) The number of FYI tags issued each month.
- h) During the Six-Week No Charge Landscape Waste Collection period described in Section 10.2.1 herein, the monthly reports shall include data showing the volume of Landscape Waste picked up on a weekly basis by cubic yards. At any facility to which such Landscape Waste is taken which has a scale, the Contractor shall also provide the City with data showing the weight of Landscape Waste taken there during that timeframe. At any facility to which such Landscape Waste is taken which does not have a scale, the Contractor shall take the average weight of the trucks when they are loaded and multiply that out to the total number of loads taken to that facility.

24.2 Delivery of Monthly Reports. Such monthly reports shall be delivered to the City by the Contractor with the Contractor's monthly invoice for services, no later than fifteen (15) days after the last day of the month. Such reports shall be submitted in the format set forth in **Appendix "E"** attached hereto, or in such other format as may be mutually agreed upon by the Contractor and the Director of the Department of Public Works.

24.3 Festival Data. The Contractor shall collect and maintain accurate data reflecting the total weight of Refuse and Recyclables collected and disposed of for Rib Fest and the Last Fling and shall provide a report of that data to the Director of the Department of Public Works within thirty (30) days after the conclusion of each festival.

24.4 City Surveys. The City may, but is not obligated to, conduct periodic surveys of different collection areas to determine set-out rates and Resident participation in the solid waste programs. In conducting such surveys, the City will use its best efforts not to interfere with the Contractor's collection personnel, but may require temporary delays for selected portions of routes.

24.5 City Inspection of Contractor Vehicles. Upon reasonable notice, and during regular business hours, the City or its authorized designees may inspect and examine any and all of the Contractors' records pertaining to the collection, transportation, disposal, or processing of all Waste Materials which take place pursuant to this Agreement.

24.6 Contractor Tipping Fee Receipts. Upon the City's request, the Contractor shall provide to the City copies of the Contractor's receipts for Tipping Fees for Refuse, Recycling or Landscape Waste collected pursuant to this Agreement.

24.7 Additional Data and Reports. Upon the City's reasonable request from time to time, the Contractor shall also provide any additional data, information, statistics, or reports concerning any of the Services provided hereunder, including but not limited to Contractor sale of any Waste Materials.

24.8 City Use of Data and Reports. Upon receipt by the City, all reports, data, and information shall become the property of the City. These documents may be used for purposes including, without limitation, publicizing Landscape Waste, Recycling and Refuse participation rates, quantities and other statistics, as well as preparing reports concerning Refuse, Recycling and Landscape Waste generation, diversion, and composting for the State of Illinois or other agencies during the term of this Agreement.

24.9 Survival. The provisions set forth in this Article 24 shall survive the expiration or termination of this Agreement for a period of one (1) year.

ARTICLE 25

CONTRACTOR COMPENSATION

25.1 Compensation Per Year. During the first year of this Agreement, the compensation to be paid to the Contractor by the City for the Services hereunder (excluding Services which specify payment by individual Residents and payment for Disaster Services as specified herein) shall be a total payment of **\$12.95 per Household per month**. Each year thereafter for the Term of this Agreement, said payment shall be increased by a fixed rate of 2.8%.

25.1.1 Price change computations which result in fractions equal to or greater than one quarter of one cent shall be rounded up to the nearest half cent. Price change computations which result in fractions less than one quarter of one cent shall be rounded down to the nearest half cent.

25.1.2 Price change computations which result in fractions equal to or less than three-quarters of one cent shall be rounded down to the nearest half cent. Price change computations which result in fractions greater than three quarters of one cent shall be rounded up to the nearest full cent.

25.1.3 The Contractor shall submit all invoices (“Invoices” or “Invoice”) for payment to the City of Naperville Department of Public Works, Attention: Budget and Administrative Manager, 180 Fort Hill Drive, Naperville, IL 60540 by email to an address provided by the City or as otherwise directed by the Director of the Department of Public Works.

25.1.4 The City shall pay the Contractor within thirty (30) days of receipt of an Invoice from the Contractor. The interest provisions of the Illinois Local Government Prompt Payment Act, 50 ILCS 505/1 *et seq.* shall apply to any late payments about which there is no question or dispute.

25.1.4.1 If the Contractor does not receive payment as described above, it shall give written notice by regular mail and by email to the Director of the Department of Public Works and to the Budget and Administrative Manager that there is an unpaid Invoice within seven (7) days from the date such payment was due.

25.1.4.2 Notwithstanding the provisions set forth in 25.1.4 above, if the Director of the Department of Public Works or the Budget and Administrative Manager have questions or dispute any portion of an Invoice, the City shall submit payment to the Contractor of the remainder of the Invoice about which it has no

questions or disputes within thirty (30) days of receipt of an Invoice from the Contractor, and shall notify an individual designated by the Contractor for such purpose by email of the City's questions or disputes. If said questions or disputes are not resolved to the satisfaction of the Director of the Department of Public Works within forty-five (45) days of the City's receipt of the Invoice, the Contractor and the Director of the Department of Public Works shall arrange to meet in person in a further attempt to resolve in good faith such questions or disputes. Said meeting shall take place within sixty (60) days of the City's receipt of the Invoice, or such other timeframe as may be mutually agreed upon by the Director of the Department of Public Works and the Contractor.

25.1.5 Residents shall not be charged more than the monthly fee set forth above at any time for the Services provided in this Agreement unless specifically provided for herein. Except as specifically provided in Sections 25.2.5 and 26.5 below (related to City payment for disaster services), the above-described per Household payment shall be the full and only amount due to the Contractor from the City hereunder and shall include, without limitation, the costs of permits, licenses, and other certifications and approvals required by Federal, State and local laws, regulations and ordinances, and all applicable taxes and fees. Nothing herein prevents the City and Contractor from agreeing to Contractor performance of services outside this Agreement as mutually agreed upon.

25.2 Other Contractor Compensation. In addition to the compensation to be paid to the Contractor above, other compensation to the Contractor, subject to the provisions set forth in this Agreement, includes:

25.2.1 Landscape Waste Stickers purchased by Residents in the amounts set forth in Section 10.5 hereof (subject to the provisions of Section 10.6 hereof.)

25.2.2 Contractor's direct charge to Residents, upon a Resident's request, for collection of additional construction or remodeling materials as set forth in Section 11.2 hereof.

25.2.3 Contractor's direct charge to Residents, upon a Resident's request, for collection of E-Waste as provided in Section 12.1 hereof.

25.2.4 Contractor's direct charge to Residents, upon a Resident's request, for Landscape Carts as set forth in Section 10.7 hereof.

25.2.5 Payment by the City for disaster Services as provided in Section 26.5 hereof.

ARTICLE 26
DISASTER AND EMERGENCY CLEAN-UP REFUSE SPECIFICATIONS AND
EMERGENCY RESPONSE PLAN

26.1 Declaration of Emergency or Disaster and Request for Additional Services.

26.1.1 Upon the Mayor's declaration of a disaster or state of emergency and the Contractor's receipt of the City's written request for additional services, the Contractor shall provide, in a timely manner, all additional collection services and resources requested by the City which are vital to maintain or re-establish the public health, safety and welfare.

26.1.2 In the event of a regional disaster, including one or more communities within twenty (20) miles of the City's corporate limits, the Contractor shall not give preference to providing disaster services to any community.

26.2 Contractor Resources for Emergencies and Disasters.

26.2.1 The Contractor shall provide the City with a list of emergency numbers, including but not limited to after-hours numbers for Contractor's management personnel who have the authority to respond to the City in the case of an immediate need for service.

26.2.2 The Contractor shall maintain a corporate structure which enables it to respond quickly to emergencies and disasters affecting the City and shall have access to additional equipment and manpower upon which it can draw to provide additional support and services to the City.

26.2.3. The Contractor's local operations and facilities shall be available to respond to all of the City's immediate needs for emergency and disaster services. The Contractor shall have available, or have the ability to access, a pool of not less than double the number of vehicles specified in Section 19.7 above which can mobilize within twenty-four (24) hours in case of a localized emergency such as tornado damage or other storm damage, to provide collection of tornado/storm-related Waste Materials from Residents and City-Owned Facilities. Such resources shall be available without interrupting the Contractor's regularly scheduled collection routes.

26.2.4 The Contractor's service standards shall provide for immediate response from its diverse facilities in the event that additional collections are requested due to an emergency or disaster affecting the City.

26.2.5 The Contractor shall have at least two (2) spare vehicles available for use as Contractor Vehicles in case of breakdowns which may be mobilized to provide Services hereunder in case of an emergency or disaster affecting the City.

26.2.6 The Contractor shall, as needed, use all of its Disposal Sites and Facilities in the Chicagoland Area to ensure adequate resources to meet the City's needs during any emergency or disaster situation affecting the City.

26.2.7 The Contractor shall maintain, or have access to, a “strike force” composed of drivers and supervisors which may be mobilized in not more than three (3) calendar days to respond to a labor stoppage or natural disaster of major proportion affecting City Services provided hereunder.

26.3 Contractor Response.

26.3.1 In the event of an emergency or disaster affecting the City which requires, or may require, the collection of additional Refuse or Large Household Items (not including White Goods) within the City, the following provisions shall apply:

- a) Upon a request from the City, the Contractor shall immediately meet with designated City representatives to determine the response level needed from the Contractor to assist the City in protecting public health, safety, and welfare. Such meeting shall be scheduled at a time and place designated by the City and may be called at any time, 24 hours a day, 7 days a week. The Contractor’s representative at any such meeting shall be the General Manager in charge of the Naperville area, or his or her designee.
- b) At such meeting, a response plan shall be developed including but not limited to response times and locations, the number and types of vehicles to be used, and the manpower to be deployed. A Contractor’s manager will be designated to direct the effort and to coordinate and carry out the Contractor’s response to the declared emergency.
- c) Levels of service to be provided shall depend on the type and severity of the emergency.
- d) As soon as practicable, but no later than twenty-four (24) hours after receiving a request from the City, the Contractor shall deploy vehicles and manpower as instructed by the Director of the Department of Public Works to meet the needs of the citizens of Naperville for collection and disposal services.
- e) The Contractor shall provide a location for Disposal capacity as needed, including 24-hour service if the response plan calls for it.

26.4 Additional Contractor Response Specifications.

26.4.1 The Contractor’s service standards shall provide for immediate response from its diverse facilities in the event that additional collections are requested due to an emergency or disaster affecting the City.

26.4.2 In the event the City declares an emergency or disaster, and additional waste is generated as a result of such emergency or disaster, the Contractor shall secure the use of additional vehicles and employees in order to maintain a normal collection schedule throughout the City within seven (7) working days after such emergency or disaster is declared.

26.4.3 The City will determine the number and placement of any dumpsters in the event of such emergency or disaster.

26.4.4 During any emergency or disaster, the Contractor shall not be required to collect Landscape Waste, appliances, or White Goods except those which have been affected by the emergency or disaster. The collection of such material shall immediately resume after the City notifies the Contractor that the emergency or disaster has sufficiently abated.

26.4.5 Where the City delivers its written request for additional emergency and disaster services to the Contractor, and the Contractor is not able to respond to such request within twenty-four (24) hours, the City shall have the right, but not the obligation, to hire other entities to perform the required Refuse collection disaster services, and the Contractor shall reimburse the City for the difference between the rates set forth in Section 26.5.1 below and the rates the City paid for such services within thirty (30) days of receipt of an invoice therefor.

26.5 City Payment for Disaster Services.

26.5.1 Beginning on May 1, 2019 and during the term of this Agreement or any extension thereof, the Contractor's fee for additional disaster Refuse collection services shall be fixed at:

\$56.00 Per ton of Refuse in excess of expected amounts of Refuse for the same period of time had no disaster been declared.

26.6 Force Majeure.

26.6.1 The Contractor's and the City's obligations under this Section 26 are subject to the Force Majeure provisions set forth in Section 33.13 hereof.

**ARTICLE 27
PARTNERSHIP SUPPORT**

27.1 Additional Services. On up to three (3) occasions per year during the Term of this Agreement, and at a total cost to the Contractor of not more than ten thousand dollars (\$10,000) per year, the Contractor shall provide reasonable additional services to the City at no cost to the City at the request of the Director of the Department of Public Works for the following:

27.1.1 Collection of Waste Materials resulting from residential foreclosures where other provision for pick-up has not occurred or has failed;

27.1.2 Collection of fly-dumping; or

27.1.3 Any other purpose mutually agreed upon by the Director of the Department of Public Works and the Contractor.

27.2 Contractor Office Space. During the Term of this Agreement, and subject to the availability of adequate space, the Director of the Department of Public Works shall, at no cost to the Contractor, provide the Contractor with work space for up to two (2) Contractor representatives (e.g. the Route Supervisors) between 7 a.m. and 4 p.m. Monday through Friday at the Naperville Public

Works Service Center located at 180 Fort Hill Drive, Naperville. Additional access to the work space may be provided as approved by the Director of the Department of Public Works.

ARTICLE 28
DEFENSE, INDEMNIFICATION, AND HOLD HARMLESS

28.1 Obligations to Indemnified Parties. The Contractor shall, at its sole cost and expense, defend, indemnify and hold harmless the City of Naperville and its officers, agents, employees, and representatives (hereinafter individually referenced as “Indemnified Party” or cumulatively referenced as “Indemnified Parties”) from and against any and all claims of injury, death, loss, damages, suits, liabilities, judgments, and any and all costs and/or expenses associated therewith, arising out of or in consequence of this Agreement or the performance thereof, or which are caused by the intentional misconduct or negligence or omission of the Contractor, or its agents, employees, or representatives, or any of Contractor’s subcontractors or subsidiaries or their respective employees, agents or representatives. Further, the Contractor shall, at its sole cost and expense, defend, indemnify, and hold harmless the Indemnified Parties from and against any and all liability, including, but not limited to, costs of response, removal, remediation, investigation, property damage, personal injury, damage to natural resources, health assessments, health settlements, reasonable attorneys’ fees, and other related transaction costs arising under the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA) of 1980, 42 U.S.C.A. Sec. 9601, *et seq.*, as amended from time to time, and all other applicable statutes, regulations, ordinances, and under common law, for any release or threatened release of materials collected and disposed of by the Contractor, both before and after their disposal. The Contractor expressly understands and agrees that any insurance or performance bond provided by the Contractor shall in no way limit the Contractor’s responsibilities and obligations hereunder. The provisions in this Section 28.1 shall survive the expiration or termination of this Agreement.

ARTICLE 29
INSURANCE AND PERFORMANCE BOND

29.1 Insurance. At all times during the Term of this Agreement, the Contractor agrees to carry and maintain insurance relating to this Agreement in the amounts and subject to the terms and conditions set forth in **Appendix “C”**.

29.2 Performance Bond. Within thirty (30) days of execution of this Agreement by the Contractor and the City, but not later than the date upon which the Contractor begins to provide services under this Agreement, the Contractor shall furnish the City with a performance bond in the form attached hereto as **Appendix “D”** unless modified by the written agreement of the City Attorney. The bond shall insure the faithful performance of this Agreement and shall indemnify the City against any loss resulting from Contractor’s performance, or failure to perform, under this Agreement. The amount of the bond shall be in a penal sum equal to one-fifth (1/5th) of the estimated amount of the Contractor’s total compensation for the first year of this Agreement, and for each year thereafter shall be in the penal sum of one-fifth (1/5th) of the revenue earned by the Contractor for the preceding year under this Agreement. A performance bond in conformance with the provisions above shall be furnished by the Contractor with the City within thirty (30) days of the anniversary date of the commencement of the initial term of the Agreement each year this Agreement is in effect.

ARTICLE 30

DAMAGE TO PROPERTY

30.1 Contractor Precautions. The Contractor shall take all necessary precautions to protect public and private property during the performance of this Agreement.

30.2 Collection Receptacles. The Contractor shall, at its sole cost, repair or replace collection receptacles that are damaged by the Contractor due to Contractor's negligent or willful misconduct.

30.3 Damage to Other Property. The Contractor shall, at its sole cost, promptly repair or replace any private or public property, including, but not limited to sod and mailboxes, damaged by the Contractor. Notwithstanding the foregoing, the Contractor shall not be responsible for damages to City paving or curbs reasonably necessary for the Contractor to provide the Services hereunder.

30.4 Deduction of Costs Upon Failure to Repair. If the Contractor fails to reimburse, repair, or replace damaged property within ten (10) business days, or such other timeframe as is agreed upon by the Director of the Department of Public Works depending upon the nature and extent of the necessary repair or replacement, the City may repair or replace such damaged property and deduct reasonable costs from the monthly invoice due to the Contractor. Additional time may be granted by the Director of the Department of Public Works depending upon the nature and extend of the repair or replacement.

ARTICLE 31

NON-ASSIGNMENT, SUB-CONTRACTING, AND MERGER

31.1 Non-Assignment. The Contractor shall not assign or subcontract this Agreement or the work hereunder, or any part thereof, to any other person or entity without prior written consent of the City, which shall not be unreasonably withheld, conditioned or delayed. Consent may be withheld if the City reasonably determines that the quality or timeliness of provision of the Services hereunder may be adversely impacted. In the event of any assignment or subcontracting with the written consent of the City, the Contractor and such assignee or subcontractor shall be jointly and severally liable for all obligations hereunder.

31.2 Performance by Subsidiaries. The Contractor may, however, provided the City has received not less than thirty (30) days advance written notification, perform its obligations under this Agreement through its subsidiaries in which case the Contractor and such subsidiaries shall be jointly and severally liable for all obligations hereunder.

31.3 Maintaining Corporate Existence. The Contractor agrees that throughout the term of this Agreement it shall maintain its corporate existence and shall not merge or consolidate with any other entity and shall not transfer or convey all or substantially of its property, assets and licenses, without the prior written consent of the City, which consent shall not be unreasonably withheld, provided however, that the Contractor need not comply with this provision if, in the case of any merger, restructuring or consolidation, the Contractor is the sole surviving legal entity. If the Contractor violates the foregoing provisions, that violation shall be deemed a material breach of this Agreement and the City may terminate this Agreement which termination shall not be effective any sooner than three (3) months after such merger.

ARTICLE 32

DEFAULT AND TERMINATION

32.1 Non-Performance and Default.

32.1.1 All terms and conditions of this Agreement are considered material, and failure on the part of the Contractor to perform any of said terms and conditions shall be considered a breach of this Agreement unless cured as provided in Section 32.1.2 below. Notwithstanding the foregoing, an opportunity to cure shall not be required in the event of Contractor's chronic failure ("Chronic Failure") to perform Services as provided herein, characterized by several written communications to the Contractor detailing such breaches within a twelve-month timeframe, or in the event of one or more serious violations ("Serious Violations") of this Agreement which have impacted, or could have impacted, the public health, safety, or welfare, including but not limited to failure to dispose of Waste Materials in a lawful manner. Further, each of the following shall constitute a breach of the Agreement by the Contractor: (1) the Contractor's being or becoming insolvent or bankrupt or ceasing to pay its debts as they mature, or making an arrangement with or for the benefit of its creditors or consenting to or acquiescing in the appointment of a receiver, trustee or liquidator for a substantial part of its property; (2) a bankruptcy, reorganization, insolvency, or similar proceeding being instituted by the Contractor under the laws of any jurisdiction; (3) a bankruptcy, reorganization, insolvency, arrangement or similar proceeding being instituted against the Contractor under the laws of any jurisdiction, which proceeding has not been dismissed within one hundred twenty (120) days; (4) any action or answer by the contractor approving of, consenting to or acquiescing in any such proceeding, or (5) the levy of any distress, execution or attachment upon the property of the Contractor which shall (or which reasonably might be expected to) substantially interfere with Contractor's performance under this Agreement. (1) through (5) are cumulatively referenced herein as "Bankruptcy Proceedings".

32.1.2 Upon written notice to either or both of the Contractor Liaisons by the Director of the Department of Public Works of a breach of this Agreement, the Contractor shall cure the breach within twenty-four (24) hours of such notice. Notwithstanding the foregoing, if after good faith and diligent efforts the Contractor determines that it is not within its power to cure a breach within twenty-four (24) hours due to circumstances beyond its control, it shall notify the Director of the Department of Public Works to that effect in writing, and shall describe in detail: (i) the efforts it has taken to cure the violation; (ii) the specific circumstances beyond its control which result in its inability to cure the violation within twenty-four (24) hours; and (iii) a detailed description of how it will cure the violation within three (3) working days of delivery of the notice of breach, or within such additional period of time determined to be reasonable by the Director of the Department of Public Works. If the Director of the Department of Public Works determines that the Contractor's explanation as to its inability to cure within twenty-four (24) hours and/or that the Contractor's stated plan for cure are not sufficient or reasonable, the Director may find the Contractor in uncured breach of this Agreement. In the case of breach as a result of labor strikes, the Contractor shall cure any breach within three (3) days of such breach, or within such additional time period determined to be reasonable by the Director of the Department of Public Works. This cure provision shall not apply to Bankruptcy Proceedings or Chronic Failures and may only apply to Serious Violations if agreed to by the Director of the Department of Public Works. Further, this cure provision shall not apply to the breach specified in 31.3 above.

32.1.3 In the event of Contractor Bankruptcy Proceedings, an uncured breach of this Agreement, or a determination by the Director of the Department of the Department of Public Works of Chronic Failures or one or more Serious Violations by the Contractor, the Director of the Department of Public Works may declare the Contractor in default under this Agreement. However, prior to declaring the Contractor in default under this Agreement due to an uncured breach or Chronic Failures, the City shall extend an offer to the Contractor to meet and discuss the issues in question. It shall be within the Director of the Department of Public Works discretion whether to extend such an offer for a Serious Violation. If such a meeting occurs and the parties agree, the Contractor and the Director of the Department of Public Works may enter into a memorandum of understanding which describes the problems that have been encountered and an agreed upon approach to resolve those problems. Violation of said memorandum of understanding itself shall be deemed a material breach of this Agreement. If an agreement is not reached with respect to an acceptable memorandum of understanding, or if the memorandum of understanding is violated, the Director of the Department of Public Works may declare the Contractor to be in default.

32.2 City Remedies. If the Contractor is declared in default under this Agreement, the City may exercise any one or more of the following remedies:

32.2.1 Termination Upon Written Notice. The City may terminate this Agreement upon written notice to the Contractor. Upon any termination of this Agreement, the Contractor shall for a period requested by the City, but not longer than six (6) months, continue to perform the services provided for herein. Compensation during that time shall continue as provided in this Agreement.

32.2.2 Liquidated Damages. The City shall be entitled to liquidated damages in the amount of \$10.00 in addition to deduction of the regular collection rate if a missed collection is not rectified by the Contractor as provided herein.

32.2.3 Payment for Services Actually Provided. If the Contractor fails to provide any Service required under this Agreement, even if such failure is caused by events or occurrences of a nature described as “force majeure” under Section 33.13 of this Agreement, the City shall pay the Contractor only for services actually provided.

32.2.4 Deduction of Expenses for Substitute Service. The City will deduct its cost from the Contractor’s monthly invoice for any expenses incurred by the City to provide substitute services in the event of a failure of the Contractor to perform hereunder.

32.2.5 Recovery of Unpaid Amounts Due City. The City may seek and recover from the Contractor any unpaid amounts due the City, all its substantiated costs for the failure of the Contractor to perform any obligation under this Agreement and all damages, including reasonable attorneys’ fees whether based upon contract, negligence (including tort), warranty, delay or otherwise, arising out of the performance or non-performance by the Contractor of its obligations under this Agreement, and whether incidental, consequential, indirect or punitive, resulting from the breach.

32.2.6 Performance by Surety. The City may call upon the surety to perform its obligations under performance bond or, in the alternative, after releasing the surety from its obligations under the performance bond, take over and perform the required services by its own devices, or may enter into a new contract for the required services, or any portion thereof, or may use such other methods as shall be required in the opinion of the City for the performance of the required services.

32.2.7 No Limitation. The City shall have the right to exercise any right or remedy granted by state or federal law as it deems appropriate, including but not limited to any suit, action or special proceeding in equity or at law for the specific performance of any covenant or agreement contained herein or for the enforcement of any proper legal or equitable remedy as the City shall deem most effectual to protect the rights aforesaid, insofar as such may be authorized by law.

32.2.8 Cumulative Remedies. No remedy by the terms of this Agreement conferred upon, available or reserved to the City is intended to be exclusive of any other remedy, but each and every such remedy shall be cumulative and shall be in addition to any other remedy available to the City. No delay or omission to exercise any right or power accruing upon any default shall impair any such right or power or shall be construed to be a waiver of any such default or acquiescence therein, and every such right and power may be exercised from time to time and as often as may be deemed appropriate. No waiver of any breach or default shall extend to or shall affect any subsequent breach or default or impair any rights or remedies consequent thereto.

32.2.9 Survival. The provisions of this Section 32.2 shall survive the expiration or termination of this Agreement.

ARTICLE 33

GENERAL TERMS AND CONDITIONS

33.1 Compliance with Applicable Laws, Ordinances, and Regulations.

33.1.1 In providing the Services described herein, the Contractor shall be solely responsible for compliance with all Federal, State, County, and municipal laws, ordinances, and regulations, as amended from time to time, governing the collection and disposal of all Waste Material provided for herein. This provision shall survive the expiration or termination of this Agreement.

33.1.2 Upon reasonable notice, and during regular business hours, the City shall have the right to visit and inspect any of the Contractor's facilities used to provide Services pursuant to this Agreement to ensure compliance with all applicable laws.

33.1.3 The Illinois Freedom of Information Act, 5 ILCS 140/1 *et seq.* at 140/7(2), provides that records in the possession of others whom the City has contracted with to perform a governmental function are covered by the Act and subject to disclosure within limited statutory timeframes (5 working days with a possible 5 working day extension, or within such other time frame as agreed upon in writing by the requester). Upon notification from the City that it has received a Freedom of Information Act request that calls for records within the Contractor's control, the Contractor shall promptly provide all requested records to the City so

that the City may comply with the request within the required timeframe. The City and the Contractor shall cooperate to determine what records are subject to such a request and whether or not any exemptions to the disclosure of such records, or part thereof, are applicable.

33.1.3.1 The Contractor may seek to have proprietary information submitted by it to the City withheld from disclosure to third parties to the extent that such information falls within the definition and provisions of Section 7(1)(g) of the Illinois Freedom of Information Act, and so long as such information has been furnished to the City under a proprietary claim as provided in said Act.

33.1.4 Survival. The provisions of this Article 33.1 shall survive the expiration or termination of this Agreement.

33.2 Taxes, Licenses, Permits, and Certificates.

33.2.1 The Contractor shall, at its sole cost, pay all sales, use, property, income, and other taxes that may be lawfully assessed against the City or the Contractor in connection with the Contractor's facilities and the performance of this Agreement. This provision shall survive the expiration or termination of this Agreement.

33.2.2 The City is exempt from paying Federal Excise Tax, State and Local Retailers' Occupation Tax, State and Local Service Occupation Tax, Use Tax, Service Use Tax, and State and Local sales tax. The City will not reimburse, nor assist the Contractor in obtaining reimbursement, for any such taxes paid by the Contractor. The Contractor shall be required to reimburse the City for any such taxes required to be paid by the City in connection with Contractor's Services under this Agreement. These provisions shall survive the expiration or termination of this Agreement.

33.2.3 At its sole cost and expense, the Contractor shall secure all necessary permits, licenses, and certificates of authority required to perform the Services that are the subject of this Agreement, and shall comply with all requirements of such permits, licenses, and certificates of authority.

33.2.4 The Contractor shall, at its sole cost, keep and maintain all such licenses, permits, and certificates of authority in full force and effect throughout the Term of this Agreement.

33.3 Independent Contractor.

33.3.1 No Employee Relationship. The Contractor is, and shall remain for all purposes related to this Agreement, an independent contractor, and its officers, employees, agents, or consultants shall not be deemed employees of the City, nor shall they be entitled to any separate payment of salary, wages, or any employee benefits available to employees of the City

33.3.2 Salaries and Compensation. The Contractor shall be solely responsible for any salaries, wages, benefits, fees or other compensation and worker's compensation which it may obligate itself to pay to any of its employees or consultants.

33.3.3 Survival. The provisions of this Section 33.3 shall survive the expiration or termination of this Agreement.

33.4 Title. Title to all materials picked up under this Agreement, whether or not such materials fall within the definitions for Refuse, Recyclables, Landscape Waste, Large Household Items Household Construction and Demolition Debris and E-waste hereunder, and all other incidents of ownership thereof, shall pass to the Contractor when such materials are placed into the collection vehicle or accepted by the Contractor at the Drop-Off Center. This Section shall survive the expiration or termination of this Agreement.

33.5 Local Improvements. The City may from time to time, construct improvements or permit construction, repairs, or maintenance on any street, which may have the effect of temporarily preventing the Contractor from traveling its accustomed route or routes for collection. The Contractor shall continue to provide the Services hereunder to the same extent as though no interference existed upon such routes.

33.5.1 At the Contractor's request, the City shall use its best efforts to assist the Contractor to resolve any problems due to construction activity.

33.6 Change in Law.

33.6.1 If a Change in Law occurs as defined in Section 33.6.3 below, either the City or the Contractor may request the other party to modify the terms of this Agreement as to the terms of payment hereunder. Upon sufficient demonstration of a Change in Law as defined herein, the parties hereto may agree to a modification of the payment terms of this Agreement, may agree to mediation or arbitration, or either party may elect to terminate this Agreement upon no less than six (6) months written notice to the other party and without further recourse.

33.6.2 In order to claim and substantiate a Change in Law, the claiming party shall submit to the other party a written request detailing the actual and exact cost increases or decreases resulting from the Change in Law along with all necessary and appropriate documentation in support thereof. If it is not possible to determine the actual increase in cost resulting from a Change in Law, an estimated cost may be used by the requesting party along with a detailed basis for the estimate being provided.

Within six (6) months, or such other timeframe as agreed to by the Contractor and the Director of the Department of Public Works, of an agreement to amend this Agreement to modify the payment terms herein due to a Change in Law using an estimated cost, the actual cost resulting from the Change in Law shall be determined and compared to the estimated cost. If there is a difference between the estimated cost and the actual cost such that either party seeks a subsequent amendment of this Agreement to reflect the actual cost, this Agreement shall be so amended unless the parties are not in agreement as to such amendment in which case the parties shall have available to them the remedies set forth in Section 33.6.1 above.

33.6.3 "Change in Law" means: (i) the enactment, adoption, promulgation or modification of any federal, state, or municipal law, rule or regulation of general application to the waste collection and disposal industry; or (ii) the order or judgment of any federal, state or local court, administrative agency or other governmental body impacting the waste collection

and disposal industry in general; provided that such the event described in (i) or (ii) substantially changes the costs of the Contractor in carrying out its obligations under this Agreement and establishes requirements which are substantially more burdensome than or in addition to the applicable requirements in effect on the date this Agreement is executed.

33.7 Transportation Costs. The Contractor shall be solely responsible for Transportation Costs and other costs incurred in relation to or associated with the Services described herein. This Section shall survive the expiration or termination of this Agreement.

33.8 Severability. If any of the provisions of this Agreement are determined by a court of competent jurisdiction to be invalid, such provisions shall be deemed to be stricken, and such adjudication shall not affect the validity of the remainder of the terms of this Agreement as a whole or of any section, subsection, sentence or clause not adjudged to be invalid so long as the material purposes of this Agreement can be determined and effectuated.

33.9 Governing Law and Venue. This Agreement shall be governed by the laws of the State of Illinois. Venue for any action taken by either the City or the Contractor, whether in law or in equity, to enforce the terms of this Agreement shall be proper only in the Circuit Court of the Eighteenth Judicial Circuit, DuPage County, Illinois.

33.10 Number of Copies. This Agreement may be executed in counterparts, each of which shall be deemed to be an original and which together shall constitute one and the same instrument.

33.11 No Waiver. Either party's failure at any time to require performance by the other party shall in no way be taken or held to be a waiver of any succeeding breach of such specifications in this Agreement, nor shall such a waiver of a single breach be taken or held to be a waiver of any specification itself.

33.12 Option to Modify Service; Amendments. Upon agreement of the parties, the Services provided pursuant to this Agreement may be modified, including but not limited to, changing the types of material collected, the types of materials deemed to be Recyclable materials, and the methods of handling, collecting, or disposing of collected waste.

33.12.1 Any modifications that do not increase payment to the Contractor shall not require an amendment of this Agreement; however, such modifications shall be reduced to writing, signed by the Contractor and the City Manager, and attached as an addendum to this Agreement.

33.12.2 Any modification to this Agreement that increases payment to the Contractor shall require an amendment to this Agreement and shall be approved by the Contractor and the Corporate Authorities for the City.

33.13 Force Majeure. Whenever a period of time is provided for in this Agreement for either the City or the Contractor to do or perform any act or obligation, neither party shall be liable for any delays or inability to perform due to causes beyond the control of said party such as war, riot, fire, flood, storm, earthquake, tornado or any act of God, but not strike or lockout. Provided, however, that said time period shall be extended for only the actual amount of time said party is so delayed and

provided that notice of such event is provided to the other party in writing no later than three (3) days from the onset of such event.

33.14 Limited Most Favored Nation Status.

33.14.1 The Contractor shall, within six (6) weeks of the end of the Contract year, provide the City with a list of all contracts under which the Contractor is providing any of the Services described herein to any unit of local government in Cook, DuPage, Kane, Kendall, or Will Counties, Illinois. The City may request, and the Contractor shall, at its sole cost and expense, deliver (or email) to the City certified copies of such requested contracts or agreements, including amendments pertaining to such contract or agreement.

33.14.2 If the City determines that the terms and conditions of any such other contracts, agreements, or amendments of any other community within the counties set forth in Section 33.14.1 above relative to: (a) customer service, education, or outreach; or (b) the use of any computer, software, or other technological devices or services, are more favorable to that community than as provided for herein (hereinafter "Preferential Terms or Services"), the City may elect, by written notice to the Contractor, to incorporate those terms and services into this Agreement in a manner which is at least as beneficial to the City at no additional charge to the City. The Contractor and the City shall take all steps necessary to amend this Agreement to implement said terms and conditions. Notwithstanding the foregoing: (i) the cost to accommodate a request by the City for the Contractor to utilize RFID technology for collection of Waste Materials hereunder shall be mutually agreed upon by the parties; and (ii) if the Preferential Terms or Services are paid for as a separate line-item from the remainder of the costs set forth in the other community's contract or agreement, the City shall be entitled to require the Contractor to provide such Preferential Terms or Services subject to the same payment therefor by the City as set forth in the other community's contract or agreement . Notwithstanding the foregoing, Article 33.14 does not apply to the pricing, costs, or rates set forth in this Agreement as of the EFFECTIVE DATE hereof.

33.15 Notices.

33.15.1 Except as otherwise specifically provided herein, any notice or demand required or permitted to be given or made thereunder shall be sufficiently given or made by facsimile, e-mail, messenger delivery, overnight delivery, or certified mail in a sealed envelope, postage prepaid, addressed as follows:

If to the City:

City of Naperville
City Manager
400 South Eagle Street
Naperville, IL 60540
Fax: 630-305-5355

With a copy to
City of Naperville
Director of Dept. of Public Works
180 Fort Hill Drive
Naperville, IL 60540
Fax: 630-305-5986

If to the Contractor:

Groot Industries Inc.
Attn: District Manager
1565 Aurora Ave. Ln.
Aurora, IL 60505
Fax: 630-966-8847

With a copy to
Waste Connections, Inc.
Attn: Legal Department
3 Waterway Square Place, Suite 110
The Woodlands, TX 77380
Fax: (832) 442-2290

33.15.2 Either party may change the address to which notices may be sent by furnishing written notice of such change to the other party.

33.15.3 Notice delivered by messenger, overnight delivery, facsimile, or e-mail shall be deemed received upon delivery. Notice delivered by mail shall be deemed to have been given as of the date of its receipt.

33.16 Authority. The undersigned warrant and represent that they are authorized to execute this Agreement.

33.17 Ambiguity. If any term of this Agreement is ambiguous, it shall not be construed for or against any party on the basis that the party did or did not write it.

33.18 Captions and Paragraph Headings. Captions and paragraph headings are for convenience only and are not a part of this Agreement and shall not be used in construing it.

33.19 No Franchise Intended. It is the understanding and intention of the parties that this Agreement shall constitute a contract for the services provided for herein; that it is not a franchise, nor shall it be construed as such.

33.20 Recitals Incorporated. The Recitals set forth on page 1 hereof are substantive and are hereby incorporated in this Section 1.1 as though fully set forth herein.

33.21 Appendices Incorporated. Each Appendix referenced in this Agreement shall be deemed attached hereto and made part hereof as though fully set forth herein.

33.22 Extension. This Agreement may be extended on terms mutually agreed to by the parties hereto.

33.23 Binding Effect. This Agreement shall be binding upon and inure to the benefit of the parties and their successors and assigns.

33.24 Entire Agreement. This Agreement contains the entire agreement between the Parties. All negotiations between the Parties are merged in this Agreement, and there are no understandings or agreements, verbal or written, other than those incorporated in this Agreement.

33.25 Order of Precedence. To the extent that RFP 18-041 and the terms of this Agreement can be read together, they shall be; however, if there is a direct conflict between the terms of RFP-041 and the terms of this Agreement, the terms of this Agreement shall control.

33.26 Effective Date. The effective date (herein “Effective Date”) of this Agreement shall be May 1, 2019.

THE PARTIES TO THIS AGREEMENT by their signatures acknowledge they have read and understand this Agreement and intend to be bound by its terms.

/SIGNATURES ON FOLLOWING PAGES/

FOR THE CITY OF NAPERVILLE

By: _____
Douglas A. Krieger
City Manager

Attest
By: _____
Pam Gallahue, Ph.D.
City Clerk

Date _____

FOR THE CONTRACTOR/GROOT INDUSTRIES, INC.

By: _____

Its: _____

Print Name and Title: _____

Attest

By: _____

Its: _____

Print Name and Title: _____

State of Illinois)

)

County of _____)

The foregoing instrument was acknowledged before me by _____, and
_____ this _____ day of _____, 2018.

- seal -

Notary Public

APPENDIX "A"
CITY-OWNED FACILITIES AND SERVICES

Location	Address	Refuse	Service	Recycling	Service
Municipal Center	400 S Eagle St	1 - 6 yard container	1X week	14-65 gallon containers	1X week
Police Department	1350 Aurora Ave	3 - 2 yard containers	2X week	3-2.0 yard FR recycling	1X week
Public Works Service Center	180 Fort Hill Dr	3 - 4 yard containers	3X week	3-2.0 yard FR recycling	1X week
Compost Site		1 -10 yard container, 3 - 2 yard containers	1X week	NA	
Fire Station # 1	964 E Chicago Ave	1 - 2 yard container	1X week	4 - 65 gallon containers	1X week
Fire Station # 2	601 E Bailey	1 - 2 yard container	1X week	4 - 65 gallon containers	1X week
Fire Station # 3	1803 N Washington	1 - 2 yard container	1X week	4 - 65 gallon containers	1X week
Fire Station # 4	1971 BrookDale Rd	2 - 2 yard containers	1X week	4 - 65 gallon containers	1X week
Household Hazardous Waste Facility	156 Fort Hill Dr	8 -2 yard containers	1X week	3 -2 yard containers	1X week
Fire Station # 5	2191 Naper-Plainfield	1 - 2 yard container	1X week	2 - 65 gallon containers	1X week
Fire Station # 6	2808 103 Rd	1 -2 yard container	1X week	1- 65 gallon container	1X week

Fire Station # 7	1392 Aurora Ave	1 -2 yard container	2X week	3- 65 gallon container	1X week
Fire Station # 8	1320 Modaff Rd	1 -2 yard container	1X week	1 -65 gallon container	1X week
Fire Station # 9 (shared w/NOC)	1200 W Ogden Ave	3 -2 yard containers	1X week	1-2.0 yard FR recycling	1X week
Fire Station # 10	3201 95th	1 -2 yard container	1X week	2 - 65 gallon containers	1X week
Electric Service Center-Utilities		1 - 2 yard container, 1-20 yard container	2X week	2-2.0 yard FR recycling	1X week
Water-NOC (shared w/FSNO 9)		See Fire Station # 9	1X week	See Fire Station # 9	1X week
Water-SOC		2 - 2 yard containers	2X month	NA	
Water - Springbrook Reclamation	3712 Naper-Plainfield Rd				
Admin Building		2 - 1.5 yard containers	2X week	2 - 65 gallon containers	1X week
Biosolids Processing		1 - 1.5 yard container	2X week	NA	
Screening Building		4 - 1.5 yard containers	2X week	NA	
Biosolids Storage		1 - 4 yard container w/wet material filter	1X week	NA	
Water-Civil Engineering	3612 Naper-Plainfield Rd	1 - 2 yard container	1X week	2 - 65 gallon containers	1X week
Fifth Ave Train Station	105 E 4th Ave	1 -2 yard container	1X week	2 - 65 gallon containers	1X week

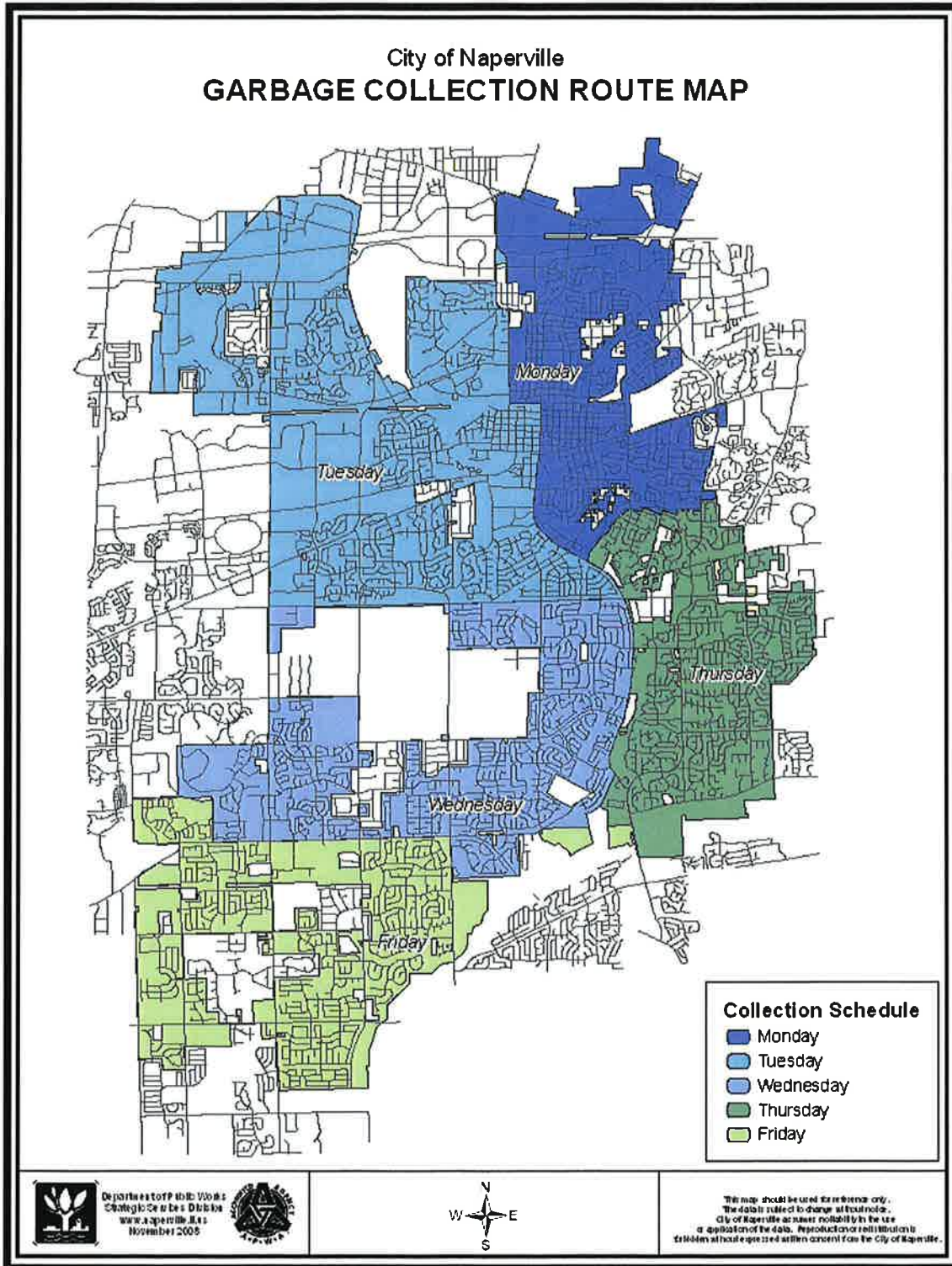
Chicago Avenue Parking Deck		1 - 2 yard container	1X week	NA	
Naperville Safety Town	1320 Aurora Ave			1-65 Gallon cart	1X week
Nichols Library	200 W Jefferson	2 yard containers	1X week	4 yard container	1X week
Naper Blvd Library	2035 S Naper Blvd	2 yard container	1X week	2 yard container	1X week
95th Street Library	3015 Cedar Glade Dr	2 yard containers	1X week	2 yard container	1X week
Naper Settlement	523 S Webster	2 yard container, 20 yard roll-off	varies	2 yard container	varies

***In addition to the containers noted above, the Contractor shall also provide containers requested by the City for the collection of Landscape Waste.**

APPENDIX "B"

ROUTE MAP

Single Family Households Current Collection Days Map



APPENDIX "C"

INSURANCE REQUIREMENTS FOR THE AGREEMENT FOR COLLECTION OF REFUSE, RECYCLING, LANDSCAPE AND OTHER WASTE MATERIALS PER RFP 18-041 ("Agreement")

A. Insurance Provided. At the Contractor's expense, the Contractor shall procure and maintain in effect throughout the entire Term of the Agreement, and any extension thereof, insurance as provided herein against claims for injuries to persons or damages to property which may arise from or in connection with the performance of the work hereunder by the Contractor, and Contractor's agents, representatives, employees, subcontractors, and subsidiaries.

The limits of liability for the insurance required shall provide coverage for not less than the following amounts, or greater where required by law.

<u>Type of Insurance</u>	<u>Required Limits of Liability</u>
1. Workers' Compensation	As required by State law
2. Employers' Liability	\$1,000,000 per accident \$1,000,000 disease (policy limit) \$1,000,000 disease (each employee)
3. Commercial General Liability, including "occurrence" coverage for:	
A. Premises and operations, independent contractors protective, contractual liability, broad form property damage and XCU hazards	\$2,000,000 per occurrence for bodily injury and property damage combined. \$5,000,000 annual aggregate per policy for bodily injury and property damage combined.
B. Products and completed operations (including broad form property damage)	\$2,000,000 per occurrence for bodily injury and property damage combined. \$2,000,000 annual aggregate for bodily injury and property damage combined.
C. Personal injury liability	\$2,000,000 per occurrence \$2,000,000 annual aggregate
4. Business Auto liability (including owned, non-owned and hired vehicles and coverage for environmental liability)	\$10,000,000 per accident for bodily injury and property damage combined.

- | | |
|--|--|
| 5. Contractors Pollution liability (applicable to the work being performed under this agreement) | \$2,000,000 per claim or occurrence and \$2,000,000 aggregate per policy period of one year. |
| 6. Umbrella/Excess liability (to apply as excess over 2, 3 and 4 above) | \$5,000,000 per occurrence
\$5,000,000 annual aggregate |

B. Miscellaneous Provisions

1. Prior to staff recommending the award of the Agreement to City Council, the Contractor shall deliver, or cause to be delivered, to the City Certificates of Insurance, additional insured endorsements (general liability and pollution liability), primary and non-contributory endorsement (general liability), waiver of subrogation endorsement (workers compensation), and other evidence of insurance requested by the City confirming that the Contractor is in compliance with the insurance requirements herein. If requested, the Contractor will give the City a copy of the insurance policies, subject to appropriate redactions. The policies must be delivered (e-mail is sufficient) to the City within two weeks of the request.
2. The Contractor shall deliver, or cause to be delivered, certificates of renewal or replacement policies or coverage (and endorsements) no less than thirty (30) days prior to the effective date of each renewal or replacement policy or coverage (and endorsements).

The Certificate of Liability Insurance shall, in addition to all language required per the attached sample certificate provide that: "No endorsements or additional forms modify or limit the coverage provided to the additional insureds."

3. All insurance companies must be reasonably acceptable to the City and may include self-insurance obtained by the Contractor. Minimum insurance carrier requirements include a current rating from A.M. Best Co., Inc. (or any successor publication of comparable standing within the industry) of "A VIII" and a license to do business in the State of Illinois.
4. All insurance coverage required to be purchased and maintained shall contain a provision or endorsement providing that the coverage afforded will not be cancelled, materially reduced or altered or renewal refused until at least thirty (30) days' prior written notice has been given to the City by certified mail. Should any of the insurance policies be canceled before the expiration date, the issuing company will mail thirty (30) days written notice to the City and the Contractor shall obtain replacement coverage in accord with the provisions set forth herein and provide the City with documentation reflecting such replacement prior to said expiration date of the canceled policies.
5. The Contractor shall require and verify that any sub-contractors and subsidiaries which perform any Services under the Agreement carry and maintain insurance in the same types and amounts set forth herein at all times relevant to this Agreement, which insurance names the City and its officers, officials, employees and volunteers as

additional insureds as provided herein, and which insurance meets all terms and conditions set forth herein.

6. Contractor shall provide the City with documentation reflecting its deductibles or self-insured retention amounts. At the option of the City, either the insurer shall reduce or eliminate such deductibles or self-insured retentions as respects the City, its officers, officials, employees and volunteers; or the Contractor shall provide a financial guarantee satisfactory to the City guaranteeing payment of losses and related investigations, claim administration and defense expenses. If those amounts change during the term of this Agreement, Contractor shall promptly notify the City in writing of the revised self-insurance retention amounts.
7. Contractor may carry the coverage limits identified herein through a combination of underlying coverage and excess umbrella policies.
8. The insurance policies set forth in items A: 3, 4, 5 and 6 above are to contain, or be endorsed to contain, the following provisions:
 - a. The City, its officers, officials, employees and volunteers are to be covered as additional insureds with respect to liability arising out of automobiles owned, leased, hired or borrowed by or on behalf of the Contractor; and with respect to liability arising out of work or operations performed by or on behalf of the Contractor including materials, parts or equipment furnished in connection with such work or operations. General Liability coverage shall be provided in the form of an Additional Insured endorsement to the Contractor's insurance policy, or as a separate owner's policy.
 - b. For any claims related to the performance of the Contractor's work, Contractor's insurance coverage shall be primary insurance as respects the City, its officers, officials, employees and volunteers. Any insurance or self-insurance maintained by the City, its officers, officials, employees or volunteers shall be excess of the Contractor's insurance and shall not contribute with it.
9. The insurance policies set forth in items A: 3, 5 and 6 above shall continue to be maintained for a period of two (2) years following the expiration or termination of this Agreement.
10. If Contractors Pollution Liability is written on a claims-made form:
 - 10.1 The retroactive date must be shown, and must be before the date of the Agreement or the beginning of work covered by the Agreement.
 - 10.2 Insurance must be maintained and evidence of insurance must be provided for at least five (5) years after completion of the work covered by the Agreement.
 - 10.3 If coverage is canceled or non-renewed, and not replaced with another claims-made policy form with a retroactive date prior to the contract effective date, the

Contractor must purchase an extended period coverage for a minimum of five (5) years after completion of contract work.

10.4 The Automobile Liability policy shall be endorsed to include Transportation Pollution Liability insurance, covering materials to be transported by Contractor pursuant to the contract. This coverage may also be provided on the Contractors Pollution Liability policy.

APPENDIX "D"
PERFORMANCE BOND

CONTRACTOR (Name and Address):

SURETY (Name and Address):

BENEFICIARY/OBLIGEE:

City of Naperville ("City")
400 South Eagle Street
Naperville, IL 60540
Attention: Director of Department of Public Works

Agreement: "AGREEMENT FOR COLLECTION OF REFUSE RECYCLING, LANDSCAPE AND OTHER WASTE MATERIALS PER RFP 18-041"

Date:

Amount:

Description (Name and Location):

BOND DATE (Not earlier than In-Service Date):

CONTRACTOR AS PRINCIPAL:

Company:

By: (Signature): _____

Printed Name: _____

Its: (Name and Title): _____

SURETY

Company:

By: (Signature): _____

Printed Name: _____

Its: (Name and Title): _____

(Any additional signatures appear on page ____)

(FOR INFORMATION ONLY--Name, Address and Telephone)

AGENT or BROKER:

1. The Contractor and the Surety, jointly and severally, bind themselves, their heirs, executors, administrators, successors and assigns to the City for the performance of the Agreement, which is incorporated herein and made part hereof by reference.
2. If the Contractor performs the Agreement, the Surety and the Contractor shall have no obligation under this Bond, except to participate in conferences as provided in subsection 3(a).
3. If there is no City Default, the Surety's obligation under this Bond shall arise after:
 - a) The City has notified the Contractor and the Surety at the addresses listed on the signature page below that the City has declared a Contractor Default and terminated the Contractor's right to complete the Agreement. The City shall provide the Surety with a notice of default simultaneously as such notice is provided to the Contractor.
4. Upon notification to the Surety as provided in subsection 3 above, the Surety shall, promptly and at the Surety's expense, take one of the following actions:
 - a) Arrange for the Contractor, with consent of the City, to perform and complete the Agreement; or
 - b) Undertake to perform and complete the Agreement itself, through its agents or through independent contractors if acceptable to the City; or
 - c) Waive its right to perform and complete, arrange for completion, or obtain a new contractor and immediately determine the amount for which it is liable to the City and tender payment to the City within thirty (30) days; or
 - d) Reach an agreement with the City other than the options listed in (a) through (c) above.

In addition to (a) through (d) above, the Surety shall pay to the City those costs documented by the City as necessarily expended by the City as a result of the Contractor's default under the Agreement. Alternatively, the Surety may agree to have the City deduct those amounts from any amounts to be paid by the City to a replacement Contractor provided for by the Surety.

5. If the Surety does not proceed as provided in Subsection 4, the Surety shall be deemed to be in default on this Bond ten (10) days after receipt of an additional written notice from the City to the Surety demanding that the Surety perform its

obligations under this Bond, and the City shall be entitled to enforce any remedy available to the City.

6. After the City has terminated the Contractor's right to complete the Agreement, and if the Surety elects to act under Section 4 above, then the responsibilities of the Surety to the City shall not be greater than those of the Contractor under the Contract, and the responsibilities of the City to the Surety shall not be greater than those of the City under the Agreement. To the limit of the amount of this Bond, but subject to commitment by the City of the Balance of the Contract Price to mitigation of costs and damages on the Contract, the Surety is obligated for:
 - i. The responsibilities of the Contractor for performance of the Agreement;
 - ii. Additional costs resulting from the Contractor's Default, and resulting from the actions or failure to act of the Surety under Section 4;
 - iii. Liquidated damages as provided in the Contract, or if no liquidated damages are provided for in the Agreement for such event, actual damages caused by delayed performance or non-performance of the Contractor.
 - iv) The responsibilities of the Contractor for obtaining the insurance specified in the Contract and for fulfilling the indemnification obligations undertaken by the Contractor in the Agreement.
7. The Surety shall not be liable to the City or others for obligations of the Contractor that are unrelated to the Contract, and the Balance of the Contract Price shall not be reduced or set off on account of any such unrelated obligations. No right of action shall accrue on this Bond to any person or entity other than the City or its heirs, executors, administrators or successors.
8. The Surety hereby waives notice of any addition, alteration, modification or amendments to the Agreement.
9. The Surety further agrees and commits to pay the City six percent (6%) pre-judgment interest and consequential damages, including all of its costs and attorneys' fees reasonably incurred in the enforcement of this Irrevocable Bond if wrongfully dishonored by Surety.
10. The laws of the State of Illinois shall control any dispute or action arising out of this Irrevocable Public Improvement Bond. Any legal action to enforce any right or obligation arising out of the enforcement of this Irrevocable Public Improvement Bond shall be brought in the 18th Judicial Circuit, DuPage County, Illinois.
11. Notice to the Surety, the City or the Contractor shall be mailed or delivered to the addresses shown on the signature page below.
12. Definitions.

- a) The Balance of the Contract Price: The total amount payable by the City to the Contractor under the Contract after all proper adjustments have been made and reduced by all valid and proper payments made to or on behalf of the Contractor under the Contract.
- b) Contractor Default: As defined in the Agreement.

/SIGNATURES ON FOLLOWING PAGES/

CONTRACTOR AS PRINCIPAL

Company: (Corporate Seal)

Signature: _____

Printed Name and Title: _____

Address and Telephone Number: _____

State of Illinois)

County of _____)

The foregoing instrument was acknowledged before me by _____, this _____ day of _____, 2018.

- seal -

Notary Public

SURETY

Company: (Corporate Seal)

Signature: _____

Printed Name and Title: _____

Address and Telephone Number: _____

State of Illinois)

)

County of _____)

The foregoing instrument was acknowledged before me by _____, this _____ day of _____, 2018.

- seal -

Notary Public

RESOLUTION NO. 18 - _____

**A RESOLUTION AUTHORIZING EXECUTION OF AN AGREEMENT FOR
COLLECTION OF REFUSE, RECYCLING, LANDSCAPE WASTE, AND OTHER
WASTE MATERIALS BETWEEN THE CITY OF NAPERVILLE AND
GROOT INDUSTRIES, INC.**

WHEREAS, the City of Naperville (“City”) issued Request for Proposal (“RFP”) #18-041 for the Residential collection of Refuse, Recycling, and Landscape Waste throughout the City, for the collection of Refuse and Recycling from City of Naperville facilities, and for collection of recycling and refuse during Rib Fest and the Last Fling; and

WHEREAS, the RFP also includes a provision for operation of Recycling Drop-off Center at a location provided by the City at the Naperville Public Works Service Center located at 180 Fort Hill Drive and for collection of electronic waste; and

WHEREAS, Groot Industries, Inc. responded to the RFP and is willing to provide the requested services as set forth in the attached “Agreement for Collection of Refuse, Recycling, Landscape Waste, and other Waste Materials between the City of Naperville and Groot Industries, Inc.” (also referenced herein as “Agreement”); and

WHEREAS, the City of Naperville has determined that it is in the best interests of the citizens of the City of Naperville to award RFP #18-041 to Groot Industries, Inc., and to enter into the Agreement attached hereto and made part hereof as Attachment #1.

BE IT RESOLVED BY THE MAYOR AND CITY COUNCIL OF THE CITY OF NAPERVILLE, COUNTIES OF DUPAGE AND WILL, ILLINOIS, in exercise of its home rule authority, as follows:

SECTION 1: The Agreement for Collection of Refuse, Recycling, Landscape Waste, and other Waste Materials between the City of Naperville and Groot Industries, Inc. attached to this Resolution as **Attachment #1** is hereby approved.

SECTION 2: The City Manager and City Clerk are directed to execute the Agreement on behalf of the City.

SECTION 3: This Resolution shall be in full force and effect upon its passage and approval.

ADOPTED this _____ day of _____, 2018.

AYES:

NAYS:

ABSENT:

APPROVED this _____ day of _____, 2018.

Steve Chirico
Mayor

ATTEST:

Pam Gallahue, Ph.D.
City Clerk

[https://cityofnaperville-my.sharepoint.com/personal/lordp_naperville_il_us/Documents/Refuse Negotiations 2018/Resolution approving Refuse, Recycling, Landscape Waste Agreement with Groot Industries, Inc. 11-7-18.docx](https://cityofnaperville-my.sharepoint.com/personal/lordp_naperville_il_us/Documents/Refuse%20Negotiations%202018/Resolution%20approving%20Refuse,%20Recycling,%20Landscape%20Waste%20Agreement%20with%20Groot%20Industries,%20Inc.%2011-7-18.docx)