

**RESIDENTIAL SOLID WASTE / RECYCLING SERVICES AGREEMENT  
BETWEEN THE CITY OF SHAKOPEE AND DICK’S SANITATION**

THIS RECYCLING AND SOLID WASTE SERVICES AGREEMENT is made and entered into effective the 1st day of January, 2022 (the "Effective Date"), by and between the CITY OF SHAKOPEE, a Minnesota Municipal Corporation organized and existing under the laws of the State of Minnesota (the "City") and DSI, a Minnesota Corporation(s) (the “Contractor”).

**WITNESSETH**

- A. WHEREAS, the City has found and determined that the public health and safety of the City will be promoted and preserved by establishing an arrangement for the collection, transportation, and disposal of solid waste kept and accumulated by residences and businesses within the City as defined in 51.03 of the Code of Ordinances; and
- B. WHEREAS, DSI is engaged in the business of collection and recycling of solid waste and is familiar with the requirements of the City and its solid waste services; and
- C. WHEREAS, the City has determined DSI to be qualified to carry out the terms of this Agreement upon the terms and conditions and for the consideration hereinafter provided: and
- D. WHEREAS, through a competitive process in accordance with State Law DSI has been determined by the City to provide the best value for solid waste services for City residents.

NOW, THEREFORE, in consideration of the foregoing and the covenants, promises, undertakings, and obligations herein created, granted, and assumed, the parties hereto agree as follows:

**1. DEFINITIONS**

- 1.1. For purposes of this Agreement, terms not otherwise defined herein shall have the following meanings:
  - 1.1.1. **Affiliate:** Any entity, directly or indirectly, through one or more intermediaries, controlling, controlled by, or under common control with the relevant party.
  - 1.1.2. **Bulky Wastes:** Stoves, refrigerators, water heaters, washing machines and similar “white goods,” bicycles, lawn mowers, lawn chairs, furniture and other waste material other than construction debris, or hazardous waste with weights or volumes greater than those allowed for bags or carts. Bulky household solid waste does not include electronic waste.
  - 1.1.3. **Collection:** The aggregation of Municipal Solid Waste (MSW), Recyclables, Bulky Wastes, Organics and Yard Wastes from the place at

which they are generated including all activities up to the time they are delivered to a processing facility.

- 1.1.4. **Cart:** The wheeled, lidded container in which Solid Waste, Recyclable materials or Yard Wastes can be stored and placed for curbside collection.
- 1.1.5. **City Administrator:** The Shakopee City Administrator or their designee.
- 1.1.6. **City-Designated Solid Waste Disposal Facility:** The facility designated by the City where DSI is required to deposit Trash and/or recyclables collected under this Contract.
- 1.1.7. **Collection Vehicle:** Any vehicle licensed and inspected as required by the state and county and approved by the City for solid waste collection within the corporate boundaries of the City.
- 1.1.8. **Compostable Bag.** Bags that meet all the specifications in ASTM Standard Specification for Compostable Plastics (D6400) compostable bags. Acceptable bags include either paper (Kraft) and grocery store bags or compostable plastic bags.
- 1.1.9. **Composting Facility:** Facility licensed to process yard waste and/or source separated organics in conformance with state and local regulations.
- 1.1.10. **Confidential/privileged:** Information protected by privilege under applicable law and information which by its nature would reasonably be considered confidential or proprietary.
- 1.1.11. **Contract:** The City of Shakopee service agreement for solid waste and recyclables collection services and as subsequently amended.
- 1.1.12. **County:** Scott County, MN
- 1.1.13. **Dwelling Unit:** A separate living place with a kitchen.
- 1.1.14. **Electronic Waste:** Any discarded consumer electronic device with a circuit board including, but not limited to: televisions, computers, laptops, tablets, computer monitors, peripherals (e.g., keyboard, printer, mouse, etc.), cell phones, PDAs, DVD recorders/players and video cassette recorders/players, fax machines and other items as specifically referenced in Minnesota Statutes Section 115A.1310.
- 1.1.15. **Hazardous Waste:** Has the meaning prescribed in Minnesota Statutes (Minnesota Statutes Section 116.06 Subdivision 1.

*“Hazardous Waste means any refuse, sludge, or other waste material or combinations of refuse, sludge or other waste materials in solid, semisolid, liquid, or contained gaseous form which because of its quantity, concentration, or chemical, physical, or infectious characteristics may (a) cause or significantly contribute to an increase in mortality or an increase in serious irreversible, or incapacitating reversible illness; or (b) pose a substantial present or potential hazard to human health or the environment when improperly treated, stored, transported, or disposed of, or otherwise managed. Categories of Hazardous Waste materials include, but are not limited to: explosives, flammables, oxidizers, poisons, irritants, lethal and*

*corrosives. Hazardous Waste does not include source, special nuclear, or by-product material as defined by the Atomic Energy Act of 1954, as amended.”*

- 1.1.16. **Holidays:** There are six (6) major Holidays observed each year: New Year’s Day, Memorial Day, Fourth of July, Labor Day, Thanksgiving Day, Christmas Day.
- 1.1.17. **Mixed Municipal Solid Waste (MSW):** Has the meaning prescribed in Minnesota Statute (Minnesota Statutes Section 115A.03 Subdivision 21):  
*“garbage, refuse, and other Solid Waste from residential, commercial, industrial, and community activities that the generator of the waste aggregates for collection. Mixed Municipal Solid Waste does not include auto hulks, street sweepings, ash, construction debris, mining waste, sludges, tree and agricultural wastes, tires, lead acid batteries, motor and vehicle fluids and filters, and other materials collected, processed, and disposed of as separate waste streams.”* Also referred to in this contract as “Trash”.
- 1.1.18. **Non-Recyclable Paper.** Non-recyclable paper includes, but is not limited to, paper napkins, towels, and tissues; paper plates and cups; food containers; paper bags and waxed paper (fast food wrappers, parchment paper, etc.); paper milk and juice cartons (remove plastic spouts-NO juice boxes or pouches); cardboard pizza boxes; boxes from refrigerated and frozen food and beverages; coffee filters (and grounds); and tea bags.
- 1.1.19. **Multiple Unit Residential Dwelling:** Any building consisting of more than four (4) Residential Dwelling Units, each with individual kitchens.
- 1.1.20. **Person:** Includes any natural person, corporation, firm or association.
- 1.1.21. **Pick-up (Stop):** A collection of one or more containers from a Residential Single Dwelling. One pick-up may include more than one container or extra bag or bundle.
- 1.1.22. **Premises:** Any dwelling house, dwelling unit, building, and every other place or premises where any person resides, or a business is operated within the City.
- 1.1.23. **Problem Material Waste:** Waste that is too large to fit into a standard Trash cart and require special collection by DSI. Problem material waste includes (but is not limited to): furniture, appliances, mattresses, and bed springs. Problem material waste does include household electronic waste.
- 1.1.24. **Recyclables:** The current list of household recyclables as established through guidelines released under the authority of the City’s Administrator and such other materials as the parties may mutually agree to in writing.
- 1.1.25. **Recyclables Pick-up:** Each instance that recyclables are picked up at a Residential Dwelling Unit (RDU) or a commercial account.

- 1.1.26. **Recyclables Processing Facility.** Facility designed for centralized sorting, processing, and/or grading of collected recyclable materials for marketing. The facility will conform to all applicable rules, regulations and laws of state, local or other jurisdictions.
- 1.1.27. **Residential Dwelling Unit (RDU):** Any eligible, occupied dwelling having a kitchen occupied by a person or group of persons.
- 1.1.28. **Residuals:** Waste materials left after recovery of recyclables and/or the physical, chemical or biological processing of wastes.
- 1.1.29. **Single Stream Recycling/Single Sort Recycling:** The recycling system in which residents set out recyclables in one container without further sorting by residents, and the materials are later processed at a processing facility into their individual marketable commodities.
- 1.1.30. **Solid Waste:** Has the meaning prescribed in Minnesota Statutes (Minnesota Statutes Section 116.06 Subdivision 22) which states:  
*“Solid Waste” means garbage, refuse, sludge from a water supply treatment plant or air contaminant treatment facility, and other discarded waste materials and sludges, in solid, semisolid, liquid, or contained gaseous form, resulting from industrial, commercial, mining, and agricultural operations, and from community activities, but does not include Hazardous Waste; animal waste used as fertilizer; earthen fill, boulders, rock; concrete diamond grinding and saw slurry associated with the construction, improvement, or repair of a road when deposited on the road project site in a manner that is in compliance with best management practices and rules of the agency; sewage sludge; solid or dissolved material in domestic sewage or other common pollutants in water resources, such as silt, dissolved or suspended solids in industrial wastewater effluents or discharges which are point sources subject to permits under section 402 of the Federal Water Pollution Control Act, as amended, dissolved materials in irrigation return flows; or source, special nuclear, or by-product material as defined by the Atomic Energy Act of 1954, as amended.”*
- 1.1.31. **Source Separated Organics (SSO):** (Also referred to as organics.”) Food waste, non-recyclable paper and other compostable household organic materials that are source separated for recovery. The term SSO does not include yard waste for purposes of this contract.
- 1.1.32. **Trash:** See Mixed Municipal Solid Waste.
- 1.1.33. **Volume-based charges:** Charges that vary based on limits of MSW which a premise is permitted to dispose of, often measured by the Trash Cart size.
- 1.1.34. **Yard Waste:** Has the meaning prescribed in Minnesota Statutes (Minnesota Statutes Section 115A.03, Subdivision 36) which states: *“Yard Waste” means garden wastes, leaves, lawn cuttings, weeds, shrub and tree waste, and prunings.”*

## **2. TERM OF AGREEMENT**

- 2.1. This Agreement shall commence on the Effective Date and remain in effect through December 31, 2026.
- 2.2. At the expiration of the initial contract term, the city, at its sole discretion, may extend the contract for one (1) initial five (5) year term, and up to two (2) additional two year terms each under prices as may mutually be negotiated for the option years by delivering written notice of its intent to extend the term to DSI at least six (6) months prior to the expiration of the contract term.
- 2.3. The City reserves the right to terminate this Agreement for material breach or unsatisfactory performance by DSI subject to Section 19. Termination shall not affect the City's right to make a claim against DSI or its Performance Bond for the damages on account for such a breach.
- 2.4. No assignment of any rights or obligations under this Agreement shall be made without written approval of the City Council and by mutual agreement of both parties.

## **3. GENERAL COLLECTION REQUIREMENTS**

- 3.1. DSI is declared to be an Independent Contractor and nothing in this Agreement shall be construed to create the relationship of employer and employee between the City and DSI, its agents or its employees.
- 3.2. DSI shall furnish all labor and equipment as shall be necessary and adequate to insure satisfactory collection, transportation and proper separation and processing of the MSW, Recyclables, Bulky Wastes and Yard Wastes from all residential dwellings and businesses (Premises) in the City. All work to be performed hereunder shall be done so as to protect to the highest extent the public health and safety. DSI shall collect, transport and arrange or provide processing of all MSW, Recyclables, Bulky Wastes and Yard Wastes from all Premises within the corporate limits of the City, as follows:
  - 3.2.1. **Licenses and Permits.** DSI shall ensure at its own expense that all driver and truck licenses and permits are current and in full compliance with local, state and federal laws and regulations. Any Processing Facility used to handle MSW, Recyclables, Bulky Wastes and Yard Wastes from the City must have current permits and licenses and make the same available upon request by the City.
  - 3.2.2. **Compliance with Law.** DSI shall comply with all Federal, State, County and City laws, regulations and local ordinances pertaining to the Collection and processing of Recyclables, Solid Waste and Yard Waste.
  - 3.2.3. **Frequency of Collection.** MSW collection shall be weekly for each Premise. Recyclables collection shall occur once every other week for each Premise. Bulky Waste collection shall occur once every other week for premises requesting the service from the City. Yard Waste collection

shall be weekly during the season beginning on or about April 1 and continuing through November 30, weather permitting. Residents shall place all Carts curbside no later than 7:00 AM on collection day. DSI shall furnish the City and all of its Premises with a written copy of the schedule of collection for each Premise.

- 3.2.4. **Hours of Collection.** Collection shall not start before 7:00 a.m. or continue after 5:00 p.m. on the same day. Exceptions to collection hours shall occur only by prior permission of the City. DSI shall request permission from the City for any exception first via telephone and then in writing (email to the City Administrator or designee is acceptable) with an explanation as to the reason for the exception.
- 3.2.5. **Holidays.** When a Holiday falls on the day that Collection will normally be made, each subsequent Collection day will be delayed one day. It shall be DSI's responsibility to inform residents in a timely manner of any change in the collection schedule as a result of a Holiday.
- 3.2.6. **Delays.** DSI shall make every effort to maintain established scheduled pick-ups even though conditions such as weather may be adverse. In no event shall DSI be required or suffer penalty for failure to perform a scheduled pickup when prevented from doing so as the result of an undue accumulation of snow and/or other catastrophic conditions. The City Administrator shall determine if such conditions exist. In such case, collection shall be made on the next day.
- 3.2.7. **Containers.** DSI shall provide each residence with a Trash Cart, a clearly distinguished Recycling Cart and when requested by a subscribing customer, a Yard Waste Cart. The cost of providing the Cart is built into the rate of the Agreements and DSI may not charge additional fees for carts. DSI shall be responsible for the maintenance of the Carts and except in the case of abuse and/or misuse by a resident, shall replace damaged or broken Carts free of charge. Upon the termination of this Agreement, DSI shall collect all Carts at DSI's expense. Carts shall be handled with reasonable care to avoid damage and are to be replaced in an upright position with the lids closed.
- 3.2.8. **Doorstep/Valet Collection.** Doorstep/Valet Collection rather than curbside or alley collection must be allowed for senior citizens and persons with decreased mobility in accordance with the approved rate schedule.
- 3.2.9. **Missed Collections.** In the case of alleged missed collections, DSI shall investigate, and, if such allegations are verified, DSI shall then arrange for the Collection of the subject materials no later than 4 p.m. the next business day.
- 3.2.10. **Spills or Leaks.** Any contents spilled or fluids leaked from the MSW, Recyclables, Bulky Wastes or the trucks shall be cleaned up immediately in a professional manner. If DSI fails to clean up any scattered or spilled

material or leaked material or fluids within three hours after oral or written notice (email is acceptable) from the City, the City may cause such work to be done and deduct the reasonable cost thereof from any payments due and owing DSI, in addition to any other remedies provided herein.

- 3.2.11. **City Property.** DSI must provide Trash and Recyclables Collection, at no additional cost to the City, for the properties in Attachment A. Sizes of recyclable containers to be serviced by DSI and frequency of service will be determined by the City. The city may add or delete properties to this property list on an as needed basis.
- 3.2.12. **Annual Cleanup Day(s)** On the annual clean-up day(s), as designated by the City, DSI, without fee or other compensation from the City or any other person, shall provide labor for and collections equipment to collect, transport and dispose of refuse, recycling and other items as agreed upon collected at the City's annual clean-up day(s). This condition applies to up to two (2) clean up days per calendar year.
- 3.2.13. **Fees for Special Events.** Cleanup fees and schedules for all special events or other services in the City Parks shall be negotiated between the party arranging the special events and DSI, provided, however, that DSI shall not have exclusive rights to provide service at these events and the parties arranging special events may contract for services with a hauler of their choice. DSI will provide containers, transportation and disposal for refuse and recycling at City sponsored events without compensation.

#### **4. COLLECTION EQUIPMENT AND PERSONNEL**

- 4.1. **Provision of Equipment.** DSI shall provide all equipment necessary for Collection and transportation of collected Trash, Recyclables, Bulky Wastes and Yard Wastes. All trucks shall be maintained so the material being collected and transported will not be seen and will not blow, fall or leak from the vehicle and fluids will not leak from the trucks.
- 4.2. **Maintenance of Equipment.** DSI shall maintain equipment, used in the performance of this Agreement in a clean and sanitary condition and shall at all times operate such equipment in compliance with State law and City ordinances.
- 4.3. **Compliance with Truck Road Weight Restrictions.** It shall be DSI's sole responsibility to comply with all road weight restrictions. DSI shall immediately inform the City of any notices of exceeding such restrictions. The City retains the right to inspect and/or weigh DSI's trucks at any time.
  - 4.3.1. DSI shall be responsible to notify customers receiving service in alleyways that their service will be provided curbside when road weight restrictions are in effect.
- 4.4. **Personnel.** DSI shall retain sufficient personnel and equipment to fulfill the requirements and specifications of this Agreement. DSI's personnel shall be

trained both in program operations and in customer service, and DSI shall insure that all personnel maintain a positive attitude with the public, and shall:

- 4.4.1. Conduct themselves at all times in a courteous manner and use no abusive or foul language.
- 4.4.2. Make a concerted effort to have at all times a presentable appearance and attitude.
- 4.4.3. Wear a uniform and employee identification badge or name tag.
- 4.4.4. Drive in a safe and considerate manner.
- 4.4.5. Manage Carts in a careful manner so as to avoid spillage and littering or damage to the Cart. Carts shall not be replaced in the street and shall be replaced in an upright position.
- 4.4.6. Monitor for any spillage or vehicle leaks and be responsible for cleaning up any litter, breakage or leaks.
- 4.4.7. Avoid damage to personal or City property.
- 4.4.8. Not perform their duties or operate vehicles while consuming alcohol or illegally using controlled substances or while under the influence of alcohol and/or such substances.

## **5. INSURANCE; INDEMNIFICATION**

- 5.1. **General Liability.** DSI shall maintain Commercial General Liability insurance in a minimum amount of \$5,000,000 per occurrence; \$5,000,000 annual aggregate. The policy shall cover liability arising from premises, operations, products-completed operations, personal injury, advertising injury, and contractually assumed liability. The City, including its elected and appointed officials, employees, and agents, shall be endorsed as additional insured.
- 5.2. **Automobile Liability.** DSI shall maintain Business Automobile Liability insurance, including owned, hired, and non-owned automobiles, with a minimum combined single liability limit of \$5,000,000.
- 5.3. **Workers' Compensation.** DSI shall maintain Workers' Compensation insurance for all its employees in accordance with statutory requirements of the State of Minnesota. DSI shall also carry Employers' Liability Coverage with minimum limits as follows:
  - \$1,000,000 – Bodily Injury by Disease per employee
  - \$1,000,000 – Bodily Injury by Disease aggregate
  - \$1,000,000- Bodily Injury by Accident
- 5.4. **Pollution Liability Insurance.** DSI shall maintain Pollution Liability insurance in a minimum amount of \$1,000,000 per occurrence: \$2,000,000 annual aggregate, for claims arising from the discharge, dispersal, release or escape of any irritant of contaminant into or upon land, any structure, the atmosphere,



watercourse or body of water, including groundwater. This shall include on and off-site clean up and emergency response costs.

- 5.5. **Certificate of Insurance.** DSI shall, prior to commencing any services, deliver to the City a Certificate of Insurance as evidence that the above coverages are in full force and effect. The insurance requirements may be met through any combination or primary and umbrella/excess insurance. DSI's policies shall be primary insurance and non-contributory to any other valid and collectible insurance available to the City with respect to any claim arising out of DSI's performance under this Agreement. DSI's policies and Certificate of Insurance shall contain a provision that coverage afforded under the policies shall not be cancelled without at least thirty (30) day's advanced written notice to the City, or ten (10) days' written notice for non-payment of premium.
- 5.6. **Performance Bond.** DSI shall obtain a Performance Bond in the amount of \$750,000 payable to the City for the use of said City. The Performance Bond shall be signed by DSI with a City-approved Surety Company as surety. The Performance Bond shall at all times be kept in full force and effect. The bond shall be filed with the City Administrator/Clerk or the designee.
- 5.7. **Payments.** DSI shall pay all bills or claims for wages, salaries and supplies, incurred in the operation of the collection service. The City has no obligation or responsibility for bills or debts incurred by DSI.
- 5.8. **Indemnification.** DSI shall defend, indemnify and save harmless the City from any and all claims and causes of action which may be asserted against the City to the extent caused by act or omission, or any misfeasance or malfeasance of DSI or its affiliates, employees or agents in connection with its performance under this Agreement. DSI shall defend, indemnify, keep and save harmless the City and its respective officers, agents and employees against any or all suits or claims that may be based upon any injury or damage to persons or property that may occur, or that may be alleged to have occurred, to the extent caused by DSI or its affiliates, employees, or agents in the course of the performance of this Agreement, and also any claims to the extent caused by DSI or its affiliates, employees, or agents in connection with:
  - 5.8.1. the Minnesota Environmental Response and Liability Act ("MERLA") enacted in 1983:
  - 5.8.2. its federal counterpart, the Comprehensive Environmental Response Compensation and Liability Act of 1980 as amended by the Superfund Amendments and Reauthorization Act ("SARA" of 1986 (together known as CERCLA):
  - 5.8.3. any administrative rule or statute of Minnesota or any other State:
  - 5.8.4. any common law theory of and other State or the United States: or
  - 5.8.5. claims based upon the clean-up of abandoned or existing sites contaminated or allegedly contaminated with hazardous substances, if any claims described in (a) through (e) are based upon solid waste transported from the City by DSI or his/her subcontractors or his/her or their agents or in connection with any claim based on lawful demands of

subcontractor, work person, suppliers; and whether or not the persons injured or whose property was damaged were third parties, employees or DSI or employees of an authorized subcontractor; and DSI shall at his/her own expense defend the City in all litigation, pay all attorneys' fees and all costs and other expenses arising out of the litigation or claim or incurred in connection therewith; and shall, at his/her own expense, satisfy and cause to be discharged such judgments as may be obtained against the City, or any of its officers, agents or employees.

## **6. MSW (TRASH) COLLECTION**

- 6.1. **Waste Removal.** DSI shall provide for the removal of Trash from all Premises in the City. DSI shall offer its services to all residential dwellings and all businesses in the City, without exception, by written notice, describing service schedules and rates and Cart options. Such notice shall be delivered at least annually in a form and content approved by the City.
- 6.2. **Refusal Notice.** If any subscribing person places any items out for pickup and the item is not taken by DSI, DSI shall provide notification to the resident of reason(s) for refusal to pick up the item.
- 6.3. **Carts.** DSI shall make carts available to each Premise for Trash Collection.
- 6.4. **Required Disposal.** Pursuant to MN 115A.46 and 115A.471 all waste collected by DSI in the City shall be delivered to a transfer station, landfill or waste to energy facility as approved by the City.

## **7. RECYCLABLES COLLECTION**

- 7.1. **Single Sort Recycling:** DSI shall not require separation of Recyclables by type but shall permit City residents to aggregate all of their Recyclable Materials into the same Cart for collection by DSI.
- 7.2. **Recyclables to be Collected:** DSI shall collect at a minimum the List of Standard Recyclables determined by the City in addition to those Recyclables for which it has found or developed markets. DSI shall update the list of Recyclables it Collects to remain current with the City's List of Standard Recyclables. The current list of Recyclables, as of the date of Contract execution, includes at a minimum (Example):
  - ◆ PAPER
    - ▶ Boxboard including corrugated cardboard (OCC)
    - ▶ Magazines and catalogs
    - ▶ Mail (window and metal clasps acceptable), office and school papers
    - ▶ Newspaper and inserts, Phone books
    - ▶ Shredded paper in closed paper bag
  - ◆ CARTONS
    - ▶ Milk and broth cartons
    - ▶ Juice boxes

- ◆ METAL
  - ▶ Food and beverage aluminum/tin/bimetal cans
- ◆ GLASS
  - ▶ Food and beverage bottles and jars
- ◆ PLASTICS
  - ▶ PET (#1)
    - water, soda and juice bottles
    - ketchup and salad dressing bottles
  - ▶ HDPE (#2)
    - Milk and juice jugs
    - Dish soap bottle and detergent jugs
    - Shampoo, soap and lotion bottles
  - ▶ PP (#5)
    - Yogurt, pudding and fruit cups
    - Margarine, cottage cheese and other tubs

- 7.3. **Additional Recyclable Materials.** After maximizing the use of their recycling Cart, residents who have a large amount of Cardboard or other Recyclables may bundle this material up and leave it beside the Recycling Cart for pickup and DSI shall pick up such additional Recyclables at its regular Collection time at no additional charge. Customers may request a second Recycling Cart at a cost not to exceed the approved rate schedule.
- 7.4. **Ownership of Recyclables.** All recyclables placed for Collection by residents shall remain the responsibility and ownership of the residents until picked up by DSI. The City requires that all collected Recyclables must be delivered to the Recycling Processing Facility; there shall be no scavenging of materials set out by residents.
- 7.5. **Changes to Collection System.** DSI shall not make changes to the Single Stream Collection or processing system without written direction of the city.
- 7.6. **Education.** DSI shall provide two (2) education /outreach actions per year, which may include direct-mail pieces, Shakopee specific recycling education advertising in the City of Shakopee Newspaper of Record, literature drops at Premises, or other City-approved options. The method of distribution and content of materials shall be approved by the City in writing prior to distribution. Additional agreed upon education actions may be implemented, such as targeting new residents or recycling incentives programs.
- 7.7. **Processing of Recyclables.** DSI shall haul all collected Recyclables to a Recyclables Processing Facility or end market for sale or reuse, or to an intermediate collection center for later delivery to a Recyclables Processing Facility or end market. A weight ticket shall be received by DSI showing the tonnage of Recyclables collected within the City. Such invoice must be in a form sufficient to qualify the recyclables as having been properly processed for purposes of this Agreement. DSI may not transport the Recyclables to a mixed municipal solid waste disposal facility. DSI or its subcontractors shall not landfill, incinerate, compost or make fuel pellets out of the Recyclable Materials. All costs

of transporting and depositing the Recyclables with the Recyclables Processing Facility or the end market shall be at the sole expense of DSI.

- 7.8. **Recycling Revenue Sharing.** DSI agrees to take all reasonable measures to maximize revenue from the sale of recyclable materials. If revenue from the sale of recyclables exceeds the cost to process recyclable materials DSI will refund 50% of the net proceeds to the City.

## **8. YARD WASTE COLLECTION**

- 8.1. DSI shall provide separate yard waste collection as an additional service during the months of April through November, weather permitting. DSI shall be responsible for notifying customers of the beginning and end of yard waste season.
- 8.2. Yard waste shall be prepared as specified by DSI and shall be collected at curbside on the same day as Trash collection.
- 8.3. Yard Waste may not be placed or collected in plastic bags, to comply with Minnesota Statute (M.S. 115A.931, Subd. (c) and M.S. 325E.046).
- 8.4. Yard waste service shall be made available on an annual subscription basis or on an on-call by the bag basis. DSI shall provide Yard Waste carts to subscription customers. Charges for yard waste services shall be in accordance with the approved rate schedule.

## **9. BULKY WASTE AND ELECTRONIC WASTE COLLECTIONS**

- 9.1. DSI shall Collect Bulky Waste or Electronic Waste from Premises at the resident's request. Collection shall be made within one (1) calendar week of the request.
- 9.2. DSI shall provide Collection, processing and marketing or disposal services related to these bulky items and electronic waste.
- 9.3. DSI shall set their own price schedule for bulky item collection.
- 9.4. The City's ordinance, nor this agreement shall be interpreted to preclude customers from obtaining service from other haulers for bulky waste.

## **10. SOURCE SEPARATED ORGANICS (SSO) COLLECTIONS**

- 10.1. DSI and the City agree to work together to develop an SSO pilot program. This program may be for curbside collection, or placement of a centralized drop off container.
- 10.2. Contractor shall furnish all labor, materials, equipment, and perform all work for the collection and disposal of SSO for customers who voluntarily sign-up for the SSO program.

10.3. Customers will place organic waste into Compostable Bags, which will then be placed into SSO Carts. DSI shall haul all collected SSO to a SSO Processing Facility to be processed for sale or use.

10.4. At a minimum, the following materials must be collected:

- ◆ All food scraps
- ◆ All non-recyclable paper products
- ◆ Biodegradable Products Institute (BPI) -certified compostable plastic utensils, cups & containers

Other compostable items such as may be included:

- ◆ Paper vacuum bags, dryer lint, human & pet hair
- ◆ Wooden toothpicks, ice cream & corn dog sticks, chop sticks
- ◆ Cotton balls and tissues
- ◆ House plants and floral trimmings

Contractor may propose additional materials be added to the list.

## **11. COLLECTION REPORTS**

11.1. Weight Records. DSI will keep accurate records of the weights and types of recyclables collected in the City. Collected recyclables will be weighed after completion of a route or at the end of the day, whichever occurs first, on a certified scale. All recyclables and MSW collected in the City shall be weighed separately from recyclables and MSW collected in other geographic subdivisions. A copy of each weight ticket for separated recyclables and for MSW shall be kept on file, as shall records of facilities that the recyclables are taken to and the recyclable markets used for recyclables generated in the City and/or amount of City recyclables stored by those facilities.

11.2. DSI shall participate with the City in tests such as waste sorts to confirm the methodology and accuracy of the above data for weights of MSW and recyclables or to identify opportunities to increase recycling.

11.3. Quarterly Reports. Upon request, DSI will submit quarterly reports to the City. Reports shall be due to the City by the fifteenth (15th) day of April, July, October and January. DSI is encouraged to include in its reports recommendations for continuous improvement in the City's recycling program (e.g., public education, business recycling, etc.). DSI agrees to make one annual report at a City Council meeting.

At a minimum, DSI shall include the following information in these reports:

- A. Total tons of recyclables and MSW collected. "Total tons" is defined as the combined number of tons recorded from the total actual recyclable and MSW pick-ups (stops) recorded for each of the three (3) months of the reporting quarter.
- B. Method used to collect and report total quantities of recyclables and MSW collected.

- C. Available pick-ups (stops). “Available pick-ups” is defined as the number of residential accounts billed for each of the three (3) months of the reporting quarter.
  - D. Total number of MSW pick-ups (stops), “defined as the combined number of actual MSW pick-ups recorded for each of the three (3) months of the reporting quarter.
  - E. Total number of Recycling Pick-ups (stops) made, defined as the combined number of actual Recycling pick-ups recorded for each of the three (3) months of the reporting quarter.
  - F. Total number of Bulky Waste Pick-ups made, and Total number of Electronics Waste Pick-ups made, defined as the combined number of actual pick-ups recorded for each of the three (3) months of the reporting quarter.
  - G. Total number of Yard Waste Pick-ups made, defined as the combined number of actual Recycling pick-ups recorded for each of the three (3) months of the reporting quarter.
  - H. Log of all complaints, including the nature of the complaints, to include the following:
    - 1. Names, addresses, and contact numbers of the complainants;
    - 2. The date and time received;
    - 3. DSI’s response; and the date and time of the response.
    - 4. Log of addresses of premises that did not put out recyclables containers that month.
  - I. Education materials provided to City residents that quarter.
  - J. Suggestions for improvements to the City’s recycling program.
- 11.4. Monthly Reports. Upon request, DSI shall also submit a report monthly in compliance with Section 14.3, Customer Service.
- 11.5. Access to Records. DSI shall provide to the City during normal business hours, access to non-confidential/non-privileged records to include books, documentation, papers, weigh tickets and other records that are directly pertinent to the required reports. DSI shall document and retain dated market weight receipts of recyclable materials sold for the last three years, which upon request will be made available to the City for review.
- 11.6. The City may request and DSI must provide in electronic format; the name, address, phone number, email and service level(s) for each premises in the City.

## **12. BILLING**

- 12.1. **Billing.** DSI shall collect all charges from each Premise for its Collection services.
- 12.2. **Contracts for Additional Collections.** DSI may, independently of this Agreement, contract with any premise to collect Trash or Solid Waste excluded

from the mandatory Collection by the Agreement. DSI 's charge for the services shall be listed in Attached Exhibit A, subject to change with the written approval of the City. If the Collection is not listed, the price shall be negotiated between DSI and the customer.

- 12.3. **Accounts in Arrears.** DSI may not discontinue services for unpaid accounts.
  - 12.1.1 DSI agrees to make reasonable efforts to collect past due accounts.
  - 12.1.2 Accounts with balances greater than \$25.00 that are uncollectable (greater than 60 days past due) may be certified to the City in September of each year. Amounts certified must not be more than the cost of service per the approved rate schedule plus three (3) months late fees.
  - 12.1.3 The City will remit payment to DSI for the total uncollectable amount.
  - 12.1.4 The City will make reasonable efforts to collect delinquent accounts, and if unsuccessful, certify delinquent accounts and assess the amount to the Premises property tax.
  - 12.1.5 The City will retain all funds collected by the City.
- 12.4. **Extended Vacation.** A Premise can obtain, up to six (6) times per year, a vacation credit for a minimum of one (1) week, with notification to DSI prior to the vacation of the dates that service is not needed. Exceptions to the six (6)-time maximum may be granted at DSI's discretion.
- 12.5. **Collection Fees.** Volume/weight-based Trash fees must be offered to each Premise (MN§115A.93 subd.3). The rate that DSI shall charge will be in accordance with the approved rate schedule.
- 12.6. **Rate increase.** During the term of the agreement no increase in rates shall be granted to DSI unless requested by September 15 of any given year for the following calendar year. Rate increases may not take effect during a billing cycle for any customer. Rate increases must take effect on the next billing cycle after the rate increase is approved.
- 12.7. **Late fees.** DSI will charge no more than \$10.00 per month in late fees, with the maximum amount of late fees due and owing at any given time capped at \$30.00. DSI agrees to make good faith efforts to reduce or eliminate late fees by utilizing payment plans, grace periods, etc.... DSI agrees not to charge late fees for amounts past due less than \$25.00.

### **13. INDEPENDENT CONTRACTOR**

- 13.1. Nothing contained in this Agreement is intended to, or shall be construed in any manner, as creating or establishing the relationship of employer/employee between the parties. DSI shall at all times remain an independent contractor with respect to the services to be performed under this Agreement. Any and all employees of DSI or other persons engaged in the performance of any work or services required by DSI under this Agreement shall be considered employees or

subcontractors of DSI only and not of the City; and any and all claims that might arise, including worker's compensation claims under the Worker's Compensation Act of the State of Minnesota or any other state, on behalf of said employees or other persons while so engaged in any of the work or services provided to be rendered herein, shall be the sole obligation and responsibility of DSI .

## **14. CUSTOMER SERVICE REQUIREMENTS**

- 14.1. **Complaints.** DSI shall provide staffing of a telephone equipped office to receive missed Collection complaints and other complaints between the hours of 7:30 a.m. until 5:00 p.m. Monday through Friday. DSI shall have an answering machine or voice mail system activated to receive phone calls after hours. The address and telephone number of the office shall be given to the City in writing, with ten (10) days prior notice of a change therein. DSI shall also allow complaints to be made electronically (by e-mail).
- 14.2. **Immediate Complaint Response.** Complaints on service will be taken and collected by the City and DSI. The City shall promptly relay any complaints it receives from its residents regarding DSI's performance to DSI. DSI is responsible for corrective actions. DSI shall answer all complaints courteously and promptly. DSI shall, within three business days thereafter, inform the City how it responded to such complaints.
- 14.3. **Monthly Customer Service Report to City.** Upon request, each month DSI shall provide the City with a report of all customer complaints, the nature of these complaints and a description of how each complaint was resolved. The names of the complainants and contact numbers or e-mail addresses must also be included.
- 14.4. **Failure to Perform.** In the event DSI fails to collect the MSW, Recyclables, Bulky Wastes, SSO and Yard Waste as required by this Agreement, the City may, at its option, hire such labor and equipment as may be necessary to collect and dispose of such MSW, Recyclables and Yard Waste after DSI is given five (5) business days to remedy the situation. The City may, at the City's sole option, terminate this Agreement in accordance with Article Eighteen (18). In the event remedy does not occur, DSI shall reimburse the City for all reasonable collection expenses the City incurs above and beyond the amounts the City is obligated to pay for such collection under this Agreement or the City shall utilize the Performance Bond for such expenses.
- 14.5. **Location of Customer Service Center.** DSI agrees to ensure their customer service center is co-located with their primary operations center (the operations location primarily service Shakopee) for the duration of this contract.

## **15. SPECIAL CONDITIONS**

- 15.1 **Cardboard Dumpster at City Facilities.** DSI agrees to maintain dumpsters for cardboard recycling for public use at a location to be determined by the City, at no cost to the City. The size, number and frequency of collection for this dumpster



shall be determined by the City and may be dependent upon seasonal needs (i.e. holiday season may require additional collection or containers).

- 15.2 **Routing and Collection Schedules.** The City must approve all routing and collection schedules. DSI may propose routing and collection changes from time to time as becomes necessary or apparent for efficient collection. DSI is required to communicate routing and collection changes to customers.
- 15.3 **Refuse and Recycling Cart Ownership.** DSI agrees to purchase from the City all refuse and recycling carts owned by the city and City shall provide a bill of sale documenting such purchase no later than December 31, 2021. DSI agrees to a monthly payment to the City in the amount of \$7,500 per month for the first 60 months of this contract, with payments due to the City no later than the last day of each month starting no later than January 31, 2022. Notwithstanding the foregoing, if City early terminates this Agreement prior to expiration of the term then City agrees to buy-back such carts for a purchase price of \$10.00 and DSI shall provide a bill of sale for such buy-back no later than thirty days following such termination, and shall have no further obligations to make payments to the City.
- 15.4 **Christmas Tree Collection.** DSI agrees to provide Christmas tree collection for bare Christmas Trees (lights, ornaments, tinsel, etc.... removed) during the first two weeks of each year. Fees for Christmas tree collection will be in accordance with the approved rate schedule. Customers with subscription yard waste service shall receive Christmas tree collection included in the cost of subscription yard waste.
- 15.5 **Shakopee Specific Webpage and Social Media.** DSI agrees to maintain a webpage on their website with information specific to Shakopee residents. DSI also agrees to, upon request, establish Shakopee specific social media page(s) to distribute information to Shakopee residents.
- 15.6 **Contact information.** DSI agrees to provide contact information to the City of Shakopee for the following: at least one employee of DSI authorized to manage operational issues that arise, at least one employee of DSI authorized to manage customer service issues as they arise, at least one employee of DSI authorized to resolve contract related issues as they arise.
- 15.7 **Park Recycling.** DSI and the city agree that DSI will provide for the necessary labor, equipment and processing at no charge to the city for recycling in the city's parks. This section extends to any city park land the city deems to be eligible for recycling services. Recycling in parks is expected to be a joint effort between the city and DSI to ensure that usage is sufficient to merit recycling in a given park, that the recyclable loads collected in parks are "clean" and that recycling receptacles are accessible to DSI on a curbside basis.

## **16. ASSIGNMENT AND SUBCONTRACTING**

- 16.1. DSI shall not assign or subcontract except to affiliates of the Contractor this Agreement or any interest therein or any privilege or right granted therein without

the prior written consent of the City. Consent to one assignment or subcontract shall not be deemed to be consent to any subsequent assignment or subcontract.

## **17. MISCELLANEOUS**

- 17.1. **Liquidated Damages.** DSI agrees, in addition to any other remedies available to the City, that the City may withhold payment from DSI in the amounts specified below as liquidated damages for failure of DSI fulfilling its obligations:
- 17.1.1. Failure to respond to legitimate service complaints within 24 hours in a reasonable and professional manner - fifty dollars (\$50) per incident.
  - 17.1.2. Failure to collect properly notified missed collections - two hundred and fifty dollars (\$250) per incident.
  - 17.1.3. Failure to provide monthly and/or annual reports or requested data - one hundred dollars (\$100) per incident.
  - 17.1.4. Failure to complete the collections within the specified timeframes without proper notice to the City - one hundred dollars (\$100) per incident.
  - 17.1.5. Failure to clean up spills during collection operations - two hundred fifty dollars (\$250) per incident.
  - 17.1.6. Failure to report on changes in location of Recyclables Processing operations two hundred fifty dollars (\$250) per incident.
  - 17.1.7. Failure to collect Shakopee's List of Standard Recyclables within one month of notification of a change to the List one hundred dollars (\$100) per week of non-collection.
  - 17.1.8. Failure to maintain current County licenses to haul MSW, Recyclables, Organics, Bulky Wastes or Yard Waste five hundred dollars (\$500) per day.
- 17.2. **Waiver.** The waiver by the City of any breach or violation of any term covenant, or condition of this Contract shall not be a waiver of any subsequent breach or violation of the same or any other term, covenant, or condition hereof.
- 17.3. **Binding Effect.** The terms, covenants, and conditions of this contract shall apply to, and shall bind and inure to the benefit of the parties, their successors, and assigns.
- 17.4. **Data Practices.** DSI agrees to comply with the Minnesota Government Data Practices Act and all other applicable state and federal laws relating to data privacy or confidentiality. DSI must immediately report to the City any requests for third parties for information relating to this Agreement. The City agrees to promptly respond to inquiries from DSI concerning data requests. DSI agrees to hold the City, its officers, and employees harmless from any claims resulting from DSI's unlawful disclosure or use of data protected under state and federal laws.

- 17.5. **Force Majeure:** Whenever a period of time is provided for in the Contract for either the City or DSI to so 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, unavoidable casualty or damage to personnel, materials or equipment, fire, flood, storm, earthquake, tornado or any act of God, but not strike or lockout. The time period for the performance in question shall be extended for only the actual amount of time said party is so delayed.
- 17.6 **Excluded Waste:** Notwithstanding anything herein to the contrary: (a) Contractor shall have no obligation to collect any material which is or contains, or which Contractor reasonably believes to be or contain, radioactive, volatile, corrosive, highly flammable, explosive, biomedical, infectious, biohazardous, toxic or hazardous material as defined by applicable federal, state or local laws or regulations (“Excluded Waste”); (b) if Contractor finds what reasonably appears to be discarded Excluded Waste, Contractor shall promptly notify the City and the producer of the Excluded Waste, if the producer can be readily identified; and (c) title to and liability for any Excluded Waste shall remain with the producer of the Excluded Waste, even if Contractor inadvertently collects or disposes of such Excluded Waste.
- 17.7 Bulky Wastes, Electronic Waste, Mixed Municipal Solid Waste, Problem Material Waste, Recyclables, Source Separated Organics, Solid Waste, and Trash all exclude Excluded Waste.
- 17.8 The City and residents must comply with any description of and/or procedures with respect to removal of contaminants or preparation of recyclable materials and organic materials as reasonably provided by Contractor. If the City fails to do so, they shall not be considered Recyclables or Source Separated Organics, as applicable, and Contractor may decline to collect such materials without being in breach of the contract. Contractor shall not be responsible for and has not made any representation regarding the ultimate recycling of Recyclables by any third party facilities.
- 17.9 The rights granted to Contractor under the contract shall be exclusive. The City may, in its sole discretion, enforce the exclusivity provisions of the contract against third-party violators, taking into account the cost of doing so and other factors. Contractor may independently enforce the exclusivity provisions of the contract against third-party violators, including, but not limited to, seeking injunctive relief and/or damages, and the City shall use good-faith efforts to cooperate in such enforcement actions brought by Contractor. The City shall use its best efforts to adopt ordinances, rules or regulations that have the effect of requiring third parties, including, without limitation, customers, to comply with the provisions of the contract, including, without limitation, the exclusive service rights granted to Contractor pursuant to the agreement.
- 17.10 Notwithstanding anything herein to the contrary, to the extent supplied by Contractor, in the event that a waste container becomes lost, unsightly, unsanitary, broken, or unserviceable because of the acts or omissions of the City or a resident

(excluding normal wear and tear), the City or relevant customer will be charged for the resulting repairs or replacement and such amounts will be paid to Contractor upon demand.

17.11 Any equipment furnished hereunder by Contractor shall remain the property of Contractor; however, the residents and the City (as applicable) shall have care, custody and control of the equipment while at the service locations. Residents shall not alter the equipment and shall use the equipment only for its proper and intended purpose. Residents and the City must provide unobstructed access to the equipment on the scheduled collection day. The word "equipment" as used herein shall mean all containers used for the storage of non-hazardous solid waste.

17.12 Notwithstanding anything herein to the contrary, Contractor may pass through and the customers shall pay to Contractor any documented increases in disposal fees, increases in Contractor's costs due to changes in local, state or federal rules, ordinances or regulations applicable to Contractor's operations or the services provided hereunder, and any increases in and newly imposed taxes, fees or other governmental charges assessed against or passed through to Contractor (other than income or real property taxes).

## **18. PERFORMANCE REVIEW**

Upon receipt of Contractor's annual report, the City shall schedule an annual meeting with Contractor. The objectives of this annual meeting will include (but not be limited to):

- 18.1. Review DSI's annual program and material report.
- 18.2. Review efforts DSI has made to expand participation in the waste diversion programs (Recycling, SSO, Yard Waste).
- 18.3. Review DSI's performance based on feedback from customers to City staff.
- 18.4. Review Contractor's recommendations for improvements to the City's program, including enhanced public education and other opportunities.
- 18.5. Review staff recommendations for improving DSI's service.
- 18.6. Discuss other opportunities for improvement in the remaining years of the current Agreement.

## **19. TERMINATION**

The City may terminate this Agreement if DSI fails to fulfill its obligations under the Agreement in a proper and timely manner, or otherwise violates the terms of the Agreement if the default has not been cured after thirty (30) days written notice has been provided. The City may also terminate this Agreement immediately if DSI fails to maintain County permits required to collect and transport MSW, Recyclables, Source Separated Organics or Yard Waste. The City shall pay DSI all compensation earned prior to the date of termination minus any damages and costs incurred by the City as a result of the breach. If the Agreement is cancelled or terminated, all finished or unfinished documents, data, studies, surveys, maps, photographs, reports or other

materials prepared by DSI under this Agreement shall, at the option of the City, become the property of the City, and DSI shall be entitled to receive just and equitable compensation for any satisfactory work completed on such documents or materials prior to the termination.

**IN WITNESS WHEREOF**, the parties have hereunto executed this Agreement, by their officers, as of the day and year first above written.

CITY OF \_\_\_\_\_

CONTRACTOR: \_\_\_\_\_

By: \_\_\_\_\_

By: \_\_\_\_\_

By: \_\_\_\_\_  
City Administrator

STATE OF MINNESOTA            )  
  )ss.

COUNTY OF \_\_\_\_\_ )

Subscribed and sworn to before me by \_\_\_\_\_ and \_\_\_\_\_, respectively, the Mayor and City Administrator of the City of \_\_\_\_\_, a Minnesota municipal corporation this \_\_\_\_\_ Day of \_\_\_\_\_, 20\_\_\_\_

\_\_\_\_\_  
Notary Public

STATE OF MINNESOTA            )  
  )ss.

COUNTY OF \_\_\_\_\_ )

Subscribed and sworn to before me on behalf of DSI by \_\_\_\_\_, the

\_\_\_\_\_ of DSI , a Minnesota corporation  
(Title)

this \_\_\_\_\_ Day of \_\_\_\_\_, 20\_\_

\_\_\_\_\_  
Notary Public

## Attachment A City Facilities

This list is provided for reference. The city and DSI both recognize that there will be changes at the discretion of the city in service locations, service size and frequency depending on need and use of facilities.

Seasonal collections shall be April – November each year, as determined by weather and use.

Facility and Location	Type of Service	Estimated Service Level
Fire Station 1 2700 Vierling Drive E	Trash Recycling	1-2yd dumpster weekly 2-90 gal cart weekly
Fire Station 2 1001 Vierling Drive W	Trash Recycling	1-2 yd weekly 1-90 gal weekly
Sand Venture 1101 Adams	Seasonal Trash Seasonal Recycling	1-4yd dumpster 3x weekly 2-90 gal 3x weekly
Shakopee City Hall/Police Department 485 Gorman	Trash Recycling	2-6yd dumpster weekly 1-6yd dumpster weekly
Shakopee Community Center and Ice Arena	Trash Recycling	1-6yd dumpster 1x week 1-6yd dumpster 1x week
Shakopee Public Library 235 Lewis Street	Trash Recycling	3-90 gal carts weekly 2-90 gal carts weekly
Shakopee Public Works 500 Gorman Street	Trash Trash Cardboard dumpster	4-6 yd dumpsters 3x weekly 1-3yd dumpster weekly 2-8yd dumpsters 2x weekly (more seasonally)
Shakopee Public Works 400 Gorman Street	Trash Cardboard dumpster Recycling	1-3yd dumpster, 3x weekly 1-2yd dumpster, 2x weekly 1-90 gal cart weekly
Shakopee Youth Building 1099 Adams Street	Trash Recycling	3-90 gal carts weekly 1-90 gal cart weekly
Tapah Park 1490 Adams Street South	Seasonal Trash Recycling	2-6yd dumpsters 2x weekly 10-90 gal carts weekly