RESIDENTIAL SOLID WASTE, YARD WASTE AND BULKY WASTE COLLECTION AGREEMENT

This Contract is made and entered into this 14TH day of NOV., 2017, by and between the City of Saint Paul, a municipal corporation ("City") and St. Paul Haulers, LLC, a Minnesota Limited Liability Company ("Consortium").

RECITALS

WHEREAS, Saint Paul Legislative Code chapter 34.11 requires that Mixed Municipal Solid Waste shall be collected by a licensed refuse hauler; and

WHEREAS, prior to the Effective Date of this Contract, the City has had an "open" system for trash collection where residents are required to negotiate individually with licensed haulers to obtain trash collection and disposal service; and

WHEREAS, on July 26, 2017, the Saint Paul City Council passed Resolution RES 17-203 to implement an organized solid waste collection program for its residents pursuant to MN Statute 115A.94 in order to ensure that all residents have consistency of service and pricing, to reduce truck traffic, and to reduce pollution; and

WHEREAS, pursuant to Resolution RES 17-203, the City is authorized to enter into this Contract and in doing so is validly exercising the power of the City; and

WHEREAS, City wants to ensure that City residents receive high quality and reliable trash services; and

WHEREAS, as part of the City's implementation of organized collection, the City required that all licensed haulers within the City create one legal entity (a consortium) for the sole purpose of ensuring consistent, reliable, and high quality service for the residents of St. Paul, prior to entering into this Contract with the City; and

WHEREAS, the Consortium is a limited liability company, comprised of Consortium Members which are residential solid waste collectors licensed to do business in the City, as identified on Exhibit 1, and have contracted with the Consortium to provide the Services under this Contract on behalf of the Consortium; and

WHEREAS, the Consortium is responsible to ensure that the Services under this Contract are provided in compliance with the terms of this Contract; and

WHEREAS, it is the intent of the City and the Consortium that the Consortium be responsible for the Services under the Contract, but that the Consortium as an entity not be liable for the acts or omissions of individual Consortium Members; and

WHEREAS, the Consortium will enter into subcontracts with the individual Consortium Members under which the Consortium Members are individually liable for their own acts and omissions; and the City, Consortium, and other Consortium Members are not liable for the acts or omissions of the Consortium, other Consortium Members or any other parties; and

WHEREAS, the City and the Consortium are desirous of entering into this Contract, under the terms of which Consortium Members shall have an exclusive Agreement for a specified period of time for the collection of residential solid waste as provided herein; and

WHEREAS, the City has determined and recognizes that the Consortium and the Consortium Members have expended substantial resources in connection with this Contract and to fulfil their respective responsibilities in providing high quality waste collection and disposal services to City residents, all of which should greatly benefit the City; and

WHEREAS, the City and the Consortium have agreed to the conditions, terms, rates, provisions and considerations under which Consortium shall perform such solid waste collection and disposal services as herein set out, and for the compensation as hereinafter provided, and the City has deemed it to be in the best interest of the City and the residents of the City to enter into this Contract upon such terms and conditions set forth herein;

NOW, THEREFORE the City and the Consortium agree as follows:

Definitions and Abbreviations

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

Additional Service Options

The following collection services which are in excess of or in addition to the Base Level Services:

- Overflow Trash Bags beyond the contents of the first Trash Cart.
- Yard Waste Subscription.
- Compostable Bags of Yard Waste without Subscription.
- Bulky Waste in addition to Bulky Base Service per calendar year.
- Walk-up Service for non-eligible (Residential Dwelling Unit) RDU pursuant to Section 2.11.7, including extra fee for over 100 foot walk-up.
- Return Fee or Off Day Service Pickup.
- Cart Size Change Fee (2nd or more per calendar year, per owner).
- Extra Cart.

Additional Service Options can be provided to residents at an additional cost as provided in Exhibits 4a and 4b.

Additional Service Option Costs

The cost for Additional Service Options charged to RDUs by Consortium as indicated in Exhibits 4a and 4b.

Base Level Services

The following trash and disposal services common to all Residential Dwelling Units (RDUs) provided by Consortium Members pursuant to this Contract:

- Trash Collection and disposal at service level selected by RDU.
- Bulky Base Service.
- Walk-up Service pursuant to Section 2.11.6.
- Regular billing of individual RDU's for Services provided by Consortium Members pursuant to this Contract.

Base Level Price — The monthly cost to each RDU by the Consortium Member for providing Base Level Services:

- Trash Collection Costs, which is further divided into the fuel portion and non-fuel portion.
- Bulky Base Costs.
- Billing Costs.
- Disposal Costs.

Billing Costs — The cost per RDU for the Consortium to perform billing services including customer service related to billing.

Bulky Base Costs — The cost of Bulky Base Services per month per RDU.

Bulky Base Service — The annual Collection of (a) two or three (as designated in Exhibit 4a) Bulky Waste items and (b) one Holiday Tree no more than six feet in length. In the event that the Trash Disposal Facility initiates a fee for disposal of Holiday Trees, Holiday Tree collection shall no longer be included in Bulky Base Services but may be offered at an additional cost as a pass through to be negotiated by the parties.

Bulky Waste — Large items from RDUs that may not be put into Carts because they are too large or heavy including but not limited to those items listed as bulky items within Exhibit 4b. Bulky Waste does not include Unacceptable Materials as that term is defined below and is subject to further limitations as set forth on Exhibit 4a and 4b.

Carts — The wheeled and lidded 30-38 gallon, 60-68 gallon, or 90-98 gallon Trash containers provided by the City and Yard Waste containers provided by the Consortium in which Trash and Yard Waste can be stored and collected on the designated collection day.

City	The City of Saint Paul, a home rule charter city organized under the laws of the State of Minnesota.
Collection	The collection of all Trash, Yard Waste, Bulky Waste, and other Additional Service Options.
Collection Hours	The time period during which Residential Collection Services is authorized by the City which shall be 6:00 a.m. to 8:00 p.m., Monday through Friday, or Monday through Saturday during weeks that contain a Holiday.
Collection Location	Placement of the Carts, Bulky Waste and Yard Waste at the closest accessible location along a public street or alley or along a private roadway subject to the requirements of Section 2.1.12 in order for Collection Vehicles to provide safe and efficient Residential Collection Services but no more than four (4) feet from the curb or alley-line. Collection Location shall not include locations along private roadways which do not meet the requirements of Section 2.1.12.
Collection Vehicle	Any vehicle licensed and inspected as required by the state and county and utilized by a Consortium Member to provide Residential Collection Services.
Collection Zone	Consortium-designated area within a collection day that is serviced by each Consortium Member.
Composting Facility	Facility licensed to process Yard Waste and/or source separated compostable materials in conformance with state and local regulations.
Compostable Bags	Paper Kraft bags or compostable plastic bags that meet ASTM Standard Certification for Compostable Plastics (D6400) within a composting operation as required by Minnesota Statute (Minnesota Statutes Section 115A.931, Subd. (c) and Minnesota Statutes 325E.046) for collection of any Yard Waste that is not contained in a Yard Waste Cart.
Consortium	St. Paul Haulers, LLC, is an independent legal entity acting in its individual capacity for the collective benefit of its members whose members consist of residential waste collectors licensed to do business in the City, and listed on Exhibit 1.
Consortium Member	A member of the Consortium licensed by the City to provide Residential Collection Services in the City. Listed on Exhibit 1.

Consortium Contract Officer	The individual who is the single point of contact identified by the Consortium for communication with the City regarding issues of contract management, interpretation or amendment.
Consortium Customer Service Point of Contact	The individual (and one backup individual) who is the single point of contact identified by the Consortium for communication with the City regarding customer service issues or complaints received by the City related to the Services.
Consumer Price Index (CPI-U)	The Midwest Consumer Price Index for all Urban Customers for the Midwest Region – All items less energy https://www.bls.gov/regions/midwest/cpi-summary/ro5xg01a.htm
Contract	This Contract between the City of Saint Paul and the Consortium covering the performance of the Services, plus any exhibits hereto.
Coordinated Collection	The organized solid waste collection program for City residents pursuant to MN Statute 115A.94 that ensures all residents have consistency of service and pricing, and is intended to reduce truck traffic and pollution.
Disposal Costs	The cost charged to each RDU for disposing of Trash at the Trash Disposal Facility.
Educational Tag	A written document attached to a Cart by a Consortium Member to inform an RDU of a specific policy or protocol related to the Services.
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, and fax machines as specifically referenced in Minnesota Statutes Section 115A.1310.
Escrow Account	The Account held by each Consortium Member in which each Consortium Member deposits a fixed amount of money with an escrow agent who will deliver funds owed by the Consortium Member to the City under the terms of this Contract.
Fuel Surcharge	An increase in the Fuel portion of Trash Collection Costs based on the average price of fuel per gallon based on the Midwest PADD 2 Diesel (On-highway) Ultra Low (15ppm and under) Sulfur fuel price, referenced on http://www.eia.gov/dnav/pet/pet_pri_gnd_dcus_r20_a.htm.

Hazardous Waste

Any hazardous, biohazardous, infectious, radioactive, flammable, explosive, biomedical, or toxic waste as defined by applicable laws or regulations, including, without limitation, any hazardous waste regulated under the Resource Conservation & Recovery Act, 42 U.S.C. §§6901 *et seq*, and associated regulations, 40 C.F.R. Part 261; or the Toxic Substance Control Act, 15 U.S.C. §§2601 *et seq*, and associated regulations, 40 C.F.R. Part 761; or the following materials as described in Minnesota Statutes §116.06, subdivision 11:

> *"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, 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."*

Holiday(s)

The following six (6) major Holidays observed each year: New Year's Day, Memorial Day, Independence Day, Labor Day, Thanksgiving Day, and Christmas Day.

Holiday Tree

A tree no larger than six (6) feet in length, twenty (20) pounds in weight which is set at the Collection Location for Collection between January 1st and January 15th of each year.

Letter of Credit

A letter issued by a bank on behalf of the Consortium Member to serve as a guarantee to deliver funds owed by such Consortium Member to the City under the terms of this Contract.

Missed Collection

The failure of the Consortium to provide Residential Collection Service to an RDU within the City during collection hours on the scheduled day of collection provided that the Cart is set out

	properly by the RDU and Residential Collection Services have not been otherwise excused.
Mixed Municipal Solid Waste	Has the meaning prescribed in Minn. Stat. 115A.03, subd. 21, which states: (a) "Mixed Municipal Solid Waste" means garbage, refuse, and other Solid Waste from residential, commercial, industrial, and community activities that the generator of the waste aggregates for collection; except as provided in paragraph (b). (b) 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.
Opt-In	An option for attached dwelling units with more than four units that have carted service to participate in Services under the Contract. Once an association has chosen to participate, that association may not withdraw.
Organics Waste	Food waste, fish and animal waste, plant materials, non-recyclable paper products, yard waste, and other materials that readily degrade.
Overflow Trash Bags	Extra bags of Trash that do not fit into the Trash Cart which are set out by RDU's at the Collection Location next to the Trash Cart. Overflow Trash must be placed in a bag by the RDU no larger than 35 gallons, less than 40 pounds, and must be securely closed by the RDU.
Overflow Yard Waste Bags	Extra Compostable Bags of Yard Waste that do not fit into the Yard Waste Cart which are set out by RDU's at the Collection Location next to the Yard Waste Cart. Overflow Yard Waste must be placed in a Compostable Bag which is no larger than 35 gallons, less than 40 pounds, and must be securely closed.
R & E Center	The Ramsey/Washington Recycling and Energy Center which is currently designated as the Trash Disposal Facility by Ramsey County, and is a waste processing center located in Newport, MN.
Residential Dwelling Unit (RDU)	Any dwelling unit in any one-, two-, three-, or four-unit building within the City, and other dwellings expressly agreed upon in writing by the City and the Consortium which are located within

	the City that are eligible for Services under this Contract. RDU does not include four-unit dwellings owned by the Saint Paul Public Housing Authority, unless the Saint Paul Public Housing Authority chooses to opt-in for such units. This includes attached dwelling units, regardless of the number of units, using carted service (i.e. no dumpster) that Opt-In. Services to RDUs shall be billed on an individual basis pursuant to this Contract and not as part of a homeowners' association.
Residential Collection Services	The regular collection of Trash, Yard Waste, and Bulky Waste as provided in this Contract from RDUs which normally results from the operation of a household.
Services	Residential Collection Services including the collection, billing, reporting, and other administrative responsibilities of the Consortium to Residential Collection Services.
Special Waste	Waste that requires special management or treatment, including, but not limited to, auto hulks, street sweepings, ash, construction debris, mining waste, sludges, tree and agricultural wastes, lead acid batteries, motor and vehicle fluids and filters, asbestos containing materials, and other materials that require special handling or disposal.
Source-Separated Recyclable Materials	Recyclable materials, including commingled recyclable materials that are separated by the generator and separately placed for collection by the City's designated recyclable materials collection contractor.
Suspended Collection	Stopping of Services by the Consortium as a result of an extended leave.
Trash	Garbage, refuse, and other discarded waste materials in solid form resulting from residential activities as generated by RDU's in the normal and ordinary course, specifically excluding Unacceptable Materials, Bulky Waste, Yard Waste, Source-Separated Recyclable Materials
Trash Disposal Facility	The facility(s) where Trash collected under this Contract is deposited.
Trash Collection	Taking of Trash by the Consortium placed at the Collection Location by an RDU at the RDU chosen service level.
Trash Collection Costs	Cost for Base Level Services not including Bulky Base Costs, Billing Costs, Disposal Costs, or taxes.

Trash Collection Day Designated collection day of the week for Trash.

Unacceptable Materials Items which a RDU is prohibited from placing for collection pursuant to this Contract from any of the specific waste streams (e.g. Trash, Yard Waste, Bulky Waste) as set forth below and any other items that are not allowed because they may contaminate the specific waste stream, cause an unsafe handling/management situation, requires special handling, management or disposal or otherwise may harm the environment. Examples include, but are not limited to:

- Prohibited Trash: biomedical waste such as hypodermic needles, Hazardous Wastes, Special Waste, Source-Separated Recyclable Materials, Electronic Waste, etc.
- Prohibited Yard Waste: Prohibited Trash items referenced above and any items not specifically identified in the definition of Yard Waste.
- Prohibited Bulky Waste: Prohibited Trash items referenced above (except Electronic Waste) and any items not specifically identified as being accepted.
- Hazardous Materials.

Walk-up Service The collection of Trash Carts from a location other than the Collection Location for the convenience of the RDU. Walk-up Services specifically exclude Bulk Waste, Yard Waste and any other waste stream not explicitly permitted in a Trash Cart under this Contract.

Vacant RDU An RDU that has been identified as vacant by the City and notice has been provided to the Consortium of that vacancy.

Yard Waste The materials prescribed in Minnesota Statutes (Minnesota Statutes 115A.03, Subdivision 36) generated by RDU's in the normal and ordinary course:

> *"Yard Waste" means garden wastes, leaves, lawn cuttings, weeds, shrub and tree waste, and prunings."*

Yard Waste does not include dirt, rocks, tree stumps, or any woody items more than three (3) inches in diameter or three (3) feet in length.

Yard Waste Bundle	Yard Waste that is fastened together which shall not exceed forty (40) pounds or two (2) feet in diameter and three (3) feet in length.
Yard Waste Cart	A 60-68 gallon Cart provided by Consortium or a Consortium Member to RDU's who purchase a Yard Waste Subscription.
Yard Waste Collection	The pick-up, transportation and delivery to an appropriate processing facility of Yard Waste discarded in a 60-68 gallon Yard Waste Cart, and/or in a Compostable Bag or Yard Waste Bundle not in excess of forty (40) pounds.

1 Term of Contract

The Effective Date of this Contract is the date the City and the Consortium have executed this Contract. The Commencement Date of this Contract shall be the date that the Consortium commences providing Services pursuant to this Contract which shall begin either between October 1, 2018 and October 31, 2018 or April 1, 2019 and April 30, 2019. The Term of this Contract shall be five years from the Commencement Date and may be renewed thereafter for one additional two-year term upon the parties' mutual agreement and consistent with the terms of this Contract.

2 Scope of Services

In consideration of the mutual obligations as set forth in this Contract, the Consortium agrees to provide the Services as set forth below.

2.1 Residential Collection Services

2.1.1 Subject to the terms of this Contract, Consortium shall provide all Services to all RDUs. Consortium will provide all materials, equipment, labor, supervision, and other activities necessary to perform such Services provided however that the City shall be responsible for and shall deliver to each RDU prior to the Commencement Date a designated Trash Cart. Services shall be provided to all RDUs within the City unless expressly excluded under this Contract.

2.1.2 Each party shall comply with all federal, state and local laws related to its performance under this Contract.

2.1.3 The Consortium and the Consortium Members shall comply with all road weight and bridge restrictions, and shall immediately inform the City of any notices or citations for exceeding such restrictions. The City retains the right to inspect and/or weigh Collection Vehicles at any time to confirm compliance with these obligations.

2.1.4 RESERVED.

2.1.5 The City reserves the right to improve any street or alley, which may prevent the Consortium from using its accustomed route or routes for collection. No compensation will be made by the City for this interference. When construction work is being performed on the roadway or alley where Consortium provides Residential Collection Services the RDU shall place Trash Carts, Yard Waste Carts, Yard Waste Bundles, Compostable Bags and Bulky Waste as close as practical to the nearest point of collection which is accessible to Collection Vehicles.

2.1.6 In providing the Services identified herein, the Consortium and its Members shall be obligated to protect all public and private utilities whether occupying public or private property or not. If such utilities are damaged by reason of the operations of the Consortium Member, the Consortium Member will be responsible to repair or replace same or, failing to do so promptly, the City shall cause repairs or replacements to be made and the costs incurred by the City will be deducted from the responsible Consortium Member's Letter of Credit or Escrow Account in accordance with the provisions of this Contract. If the City cannot identify the responsible Consortium Member, the Consortium shall identify the responsible Consortium Member assigned to the area where the incident occurred and report that information to the City.

2.1.7 The Services provided by the Consortium pursuant to this Contract are for the collection of Trash, Yard Waste and Bulky Waste generated in the normal and ordinary course. In the event of any increased volume of Trash, Bulky Waste or Yard Waste resulting from a tornado, flood, ice storm, snowstorm, disaster, act of God or other Force Majeure Event, the Consortium and the City may negotiate a separate Contract to provide such services. If such contract is not negotiated between the Consortium and City, the Consortium's sole responsibility shall be to reestablish regular routes and schedules for the Services as soon after the event as possible. The Consortium shall resume performance of Services as soon as commercially practical after a Force Majeure Event. The Collection of Excess Trash, Bulky Waste and Yard Waste generated in connection with a Force Majeure Event shall not be the responsibility of the Consortium pursuant to this Contract.

2.1.8 Consortium will not be responsible for failure to perform a scheduled pickup, when prevented from doing so as the result of an undue accumulation of snow and/or other dangerous condition and/or other catastrophic conditions and Force Majeure Events, including but not limited to imposition of laws or governmental orders, fires, and acts of God. In such circumstances, Consortium shall notify the City by the end of the service day via email of the Consortium's inability to provide scheduled collection and the estimated time to reestablish regular routes and schedules for the Services as soon after the event as possible. Consortium shall communicate by the end of the service day of the reason for non-collection to the RDU (whether by educational tag, email, or telephone, unless such methods are impractical, in which case notification by website or otherwise is acceptable.)

2.1.9 The Consortium shall provide in its governing documents that existing contracts between Consortium Members and RDUs to collect Trash, Bulky Waste and Yard

Waste from RDUs shall be terminated as of the Commencement Date, provided that the Consortium Member is not owed unpaid balances under the existing contract, and that any amounts paid to Consortium Members for services that have not been provided under a contract that is terminated under this provision shall be refunded by the applicable Consortium Member who provided service prior to the Commencement Date. Residents may pay their current hauler on a pro-rated basis for service up through the Commencement Date of this Contract. Each RDU shall only pay for services received prior to the Commencement Date and will be reimbursed for payments made for services which will not be rendered after the Commencement Date. All unpaid balances for existing account shall be the responsibility of the RDU.

2.1.10 RDUs from townhomes meeting the criteria of this Contract may Opt-In to receive Residential Collection Services under this Contract.

2.1.11 The Consortium and City agree that the Consortium and its Consortium Members are permitted to co-collect, commingle and transport materials generated from locations or customers outside of the City limits or from non-eligible RDUs or businesses within the City with materials (e.g., Solid Waste, Yard Waste) collected under this Contract. The Consortium will be responsible for providing a tabulation of tonnages collected under this Contract, and this will be provided/noted in reports required under Section 4.

2.1.12 The Consortium shall be required to provide the collection services herein to all RDUs located on public roadways or private roadways meeting the requirements of this Section 2.1.12 and which are accessible to standard solid waste Collection Vehicles. The City shall maintain all City owned roadways and RDUs shall maintain all public alleys and private roadways in a condition that affords safe access by Consortium's Collection Vehicles. The City shall require RDUs to place Trash, Yard Waste and Bulky Waste at the Collection Location for collection in accordance with the terms and conditions of this Contract. Consortium shall not be required to collect from private roadways unless the RDU and all owners of the private roadway have signed and delivered to the Consortium Member a release in the form attached as Exhibit 10. Until the required release is provided by the RDU and roadway owner(s), the RDU's Collection Location shall be the closest accessible location along a public street or public alley.

2.1.13 If Trash, Yard Waste or Bulky Waste to be collected is not accessible after making reasonable attempts to collect, after contacting the RDU and getting RDU approval for an additional pick-up, Consortium shall have the right to charge the RDU for an additional pick-up, provided that the Consortium shall communicate the reason for non-collection to the RDU (whether by educational tag, email, telephone or otherwise). The Consortium shall not be deemed to be in breach of this Contract for the failure to collect any Trash, Yard Waste, or Bulky Waste in the event the Consortium Member did not have or was denied access to the materials as provided herein and complied with the notice requirements of this

Section. Consortium is not obligated to provide an additional pick-up if a RDU does not approve additional charges.

2.1.14 The Consortium shall provide collection of Yard Waste Collection and Bulky Waste Collection as ordered by the RDU. Collection of Overflow Yard Waste Bags and Bulky Waste in excess of Bulky Base Services shall be provided in addition to the Base Level Services upon request by RDU, on their next Collection Day provided that the RDU has complied with its obligations related to placement of materials. RDU's request must be made to the responsible Consortium Member a minimum of forty-eight (48) hours prior to their scheduled Collection day and Consortium shall pick-up such items within seven (7) business days of any such order by a RDU.

2.2 Information Required for Implementation

2.2.1 Consortium will provide the City with a breakdown by number of RDUs to be serviced by each individual hauler in the Consortium.

2.2.2 Within thirty (30) days after the Effective Date, the City shall provide the Consortium with a complete list of all RDUs located within the City and known to the City, to be serviced by Consortium pursuant to this Contract. Such list shall contain, at a minimum, the following information and shall be provided in Excel form: name, service address, billing address (if different from service address). The Consortium will provide the City with a final list of all RDUs who will be eligible for Services that are currently serviced by the Consortium Members within sixty (60) days of the Effective Date. The list shall be provided in an electronic Microsoft Excel format with the following information:

- Name
- Service Address
- Billing Address (if different than service address)
- Trash Cart Size (small, medium, or large)
- Frequency of pick-up (weekly or every other week)
- Extra Trash Cart (if applicable)
- Yard Waste subscription (if applicable)
- Any additional services currently provided (e.g. walk-up service)

2.2.3 The Consortium will propose a draft Collection Zone map for review and comment by the City within ninety (90) days following the Effective Date of this Contract. The Collection Zone map shall be finalized no less than ninety (90) days prior to the Commencement Date. The zone creation process will insure a fair and equitable distribution of accounts that meet the market share requirements of Minn. Stat. § 115A.94, subd. 2d. The City will confirm that the Collection Zones meet the market share requirements of Minn. Stat. § 115A.94, subd. 2d.

2.2.4 Consortium will participate and collaborate with City on communication, education, and outreach to RDUs to facilitate a smooth transition to Coordinated Collection as agreed in accordance with Section 2.19.2, but the City shall be

solely responsible for all costs to produce materials associated with the communication, education and outreach. The City will provide the Consortium with all public education and information materials as camera-ready copy, including information to be included in packages to be distributed by the City to RDUs prior to the Commencement Date.

2.3 Collection Equipment and Other Assets

2.3.1 When collecting residential Trash, the Consortium shall ensure that its Members use leak-proof industry-standard packer trucks. The packer truck shall then transport the residential Trash to the Trash Disposal Facility.

2.3.2 All Collection Vehicles must be capable of Trash, Bulky Waste or Yard Waste collection in the City in all seasons of the year, and in all applicable streets and alleys without damage (beyond ordinary wear and tear) to existing structures or public utility appurtenances.

2.3.3 The Consortium shall ensure that the number of Collection Vehicles furnished by the applicable individual Consortium Member must be sufficient for the collection of all residential Trash, Yard Waste, and Bulky Wastes within the Consortium Member's Collection Zone on the designated days and times for Residential Collection Services.

2.3.4 All collection equipment shall be kept in a clean and sanitary condition and between April 1 and October 1 of each year, all Collection Vehicles shall be cleaned with pressurized hot water at least once a month, or more often as needed to maintain the appearance of the vehicle, eliminate or control insect infestation, and control odor.

2.3.5 The Collection Vehicles shall be painted and numbered, and shall have the Consortium Member's name and telephone number displayed in letters of a contrasting color, at least four (4) inches high or easily readable under normal conditions.

2.3.6 The Collection Vehicles shall be maintained in good working order and shall be equipped to meet all federal, state and municipal laws and regulations concerning vehicles used on City streets and alleys and maintained to meet these standards.

2.3.7 Consortium shall ensure the Consortium Members use truck equipment that is compatible with Carts. The City shall consult with Consortium prior to Cart purchase and shall select and purchase universal Carts that are compatible with truck equipment currently utilized by the Consortium Members.

2.4 Consortium and Individual Consortium Member Employees

2.4.1 The Consortium shall ensure that all employees hired by the Consortium or a Consortium Member, and which provide any portion of the Services, shall be competent, skilled, and as applicable licensed in the performance of the work to which they may be assigned. To the knowledge of the Consortium and the

applicable Consortium Member, no employees shall pose a threat to the safety of the citizens of the City.

2.4.2 The employees shall not use loud or profane language or vulgar or derogatory hand signals, and shall be courteous to all persons at all times and perform their work as quietly and quickly as reasonable under the circumstances.

2.4.3 No scavenging of Trash, Yard Waste or Bulky Waste of any type or form will be permitted by Consortium Member employees.

2.4.4 The Collection Vehicles will remain on public access streets and alleys and shall not drive over private property unless requested by the property owner with mutual agreement of the Consortium.

2.5 Hours and Days of Operation

Residential Collection Services shall not start before 6:00 a.m. or continue after 8:00 p.m., Monday through Friday or a Saturday immediately following an observed Holiday.

2.6 City-Established Collection Days

The Consortium shall use the Collection Day map (as it exists on the Effective Date) from the City's recycling program as a guide for scheduling Trash Collection days and shall have the same collection day for a majority (51%) of RDU's. Where the same collection day as the City's recycling program is not used, the Consortium shall create contiguous Collection Days. The Consortium shall be responsible for determining Consortium Member Collection Zones, in consultation with the City, and each Consortium Member shall be responsible for establishing their respective Collection routes. Within 90 days of the Effective Date, the Consortium will propose a draft Collection Day map for approval by the City. The City shall review the Consortium's proposed Collection Day map and respond to the Consortium within 30 days after its receipt. The Collection Day map shall be finalized and approved no less than ninety (90) days prior to the Commencement Date. The Consortium shall provide ninety (90) days' written notice of any proposed Collection Day changes for City approval, which shall not be unreasonably withheld or delayed, by the City's Director of Public Works. Such Collection Day changes shall only be approved if they are for the purpose of providing improved Services to RDU's. The Consortium shall be responsible for the costs of education to notify RDU's of a changed Collection Day, which shall be at a minimum written notice sent via U.S. Mail. There shall be no return fee charged for failure to set out materials the first week following a Collection Day change.

2.7 Holidays

When a Collection day falls on a Holiday, Services will be delayed by one (1) day. For example if Christmas Day is on a Monday, the Monday's regular Collection services will be Tuesday. Tuesday's Collection services will be delayed until Wednesday, and so on and so forth. Friday Collection services will occur on Saturday unless a Holiday falls on a Saturday or Sunday in which case Services will not be delayed. The City shall be

responsible for properly publicizing any changes in Collection schedules due to the observance of Holidays, including any expenses for educational materials.

2.8 Suspended Collections Due To Extended Leave

Consortium shall suspend Services for extended absence of at least four (4) consecutive weeks from a RDU related to:

- Vacation or other traveling;
- Temporary employment relocation;
- Temporary education relocation;
- Extended absence from home due to health reasons
- Other similar temporary absence.

It is not a legitimate absence for an RDU to apply for a Suspended Collection as a means to avoid required Trash Collection service under this Contract. An RDU must give the Consortium, or applicable Consortium Member, a minimum of two (2) weeks advance notice that the RDU will not require Services for at least four (4) consecutive weeks, but no more than twenty-six (26) consecutive weeks because of an extended leave. The RDU must provide notice of the date on which Services should be suspended and the date on which Services should re-start. An RDU may suspend Services no more than twice per calendar year and the total suspension time in any calendar year shall not exceed twenty-six (26) weeks. The RDU will be credited any payment for Residential Collection Services not provided during the period in which the RDU provided notices of suspended collection. Any credit due for Suspended Collection will be calculated using a pro-rata weekly cost based on the total monthly Trash Collection Costs, plus all disposal fees, taxes, and any Additional Service Option Costs, as outlined per the Contract. Such credit shall be reflected on the next invoice when Service is re-started. If the RDU changes ownership and the RDU has paid for Services in excess of two (2) weeks, provided the Consortium has verified such payment, the former owner shall be sent a refund within thirty (30) days of notifying Consortium to cancel services, subject to any offset for amounts owed to Consortium. RDUs with Suspended Collection shall be directed by the Consortium to store their Cart in a secure, indoor location.

An RDU may not suspend collections under this provision in order to share Services with another RDU. If Consortium denies a request for Suspended Collections, the Consortium shall cooperate with the City's investigation of any RDU's complaint regarding such denial.

2.9 Cart Ownership, Management, Handling, Care and Specifications

2.9.1 Trash Carts will be owned, assembled and initially distributed by the City to RDUs, provided that the City shall not intentionally distribute Trash Carts to Vacant RDUs. Consortium is responsible for ongoing Cart Maintenance, reasonable wear and tear excepted, and management as provided in Exhibit 3, and shall not charge a fee to RDUs for Cart maintenance except as otherwise provided herein. Notwithstanding the forgoing, the City is responsible for provision of, payment for, and initial condition of all new and replacement Carts required to

facilitate the Services. The City shall provide to Consortium who shall store an adequate inventory of Carts and parts to allow for replacements as needed and to equip Carts with lids, wheels and axles as required by Section 2.11.3.

2.9.2 Consortium shall have no liability and it shall not be a breach of this Contract if Consortium fails to provide any Services as a result of an RDU's failure to properly set out its Cart at the Collection Location. Consortium shall notify an RDU of improper Cart placement or materials improperly set out for Collection, by placing an Educational Tag on the Cart or otherwise notifying the RDU.

2.9.3 Base Level Services shall include one Trash Cart size change per owner per calendar year per RDU. RDUs shall pay a fee for the second or any additional Cart change or replacement per RDU per owner per year as provided in Exhibit 4a. A Trash Cart replacement or repair due to damage or loss is considered a Cart change.

2.9.4 RDU may request a Trash Cart change by contacting its designated Consortium Member. The applicable Consortium Member shall replace the Trash Cart within seven (7) days of the request; provided that the City has purchased and provided the requisite Cart to the Consortium. Any fee due for the cart change may be included on the next invoice, provided that the RDU has been notified of the fee and approves the cart change in advance.

2.9.5 The Cart Management: Procedures & Guidelines is incorporated as part of this Contract as Exhibit 3.

2.9.6 Yard Waste Carts will be owned by the Consortium or an applicable individual Consortium Member. All Yard Waste Carts must be washed and reasonably clean of all debris and odor prior to delivery to a RDU and shall be in sound, working order.

2.9.7 City shall be responsible for supplying Trash Carts for initial distribution and inventory of replacement Carts, and spare parts for repairs. Consortium is responsible for repairing or delivering a replacement for any damaged or stolen Cart. The Consortium will report damage to a Cart that required replacement to the City on a form provided by the City (which will include photographs, description of damage, and date of replacement). If the City is not able to provide initial Carts prior to the Commencement Date, the Consortium may use their own Carts and the parties shall negotiate a rental price. If the City is not able to provide replacement Carts that are necessary for the Consortium to provide Services within ninety (90) days of notice from the Consortium that such replacement Carts are necessary, the Consortium may use their own Carts and the parties shall negotiate a rental price.

2.9.8 It shall be the responsibility of the RDU to properly use and safeguard the Carts. Each RDU has the care, custody and control of any Cart furnished by the City or the Consortium and the RDU shall be liable for any loss and damage, normal wear and tear excepted, to such Cart and for the cleanliness and safekeeping of such Carts.

2.9.9 In the event that a Cart is damaged and repair on-site is not practical, Consortium shall replace the damaged cart. This replacement shall be considered a Cart change.

2.9.10 The Consortium shall report the following to the City for the City's use to evaluate whether an RDU is responsible for damage to carts:

- abuse or misuse (e.g. fires, ashes) or neglect;
- Total destruction of cart (e.g. hit by car);
- Stolen or lost Cart.

RDU's shall not be responsible for damage caused by "normal wear and tear" such as:

- Cracks due to normal handling or weather conditions;
- Part malfunctions;
- Graffiti;
- Squirrel damage.

Prior to any Cart replacement, Consortium shall notify the RDU of need or recommendation for replacement and any applicable cost.

2.10 Spills

The Consortium shall immediately clean up any material scattered or spilled during Collection, unless such material was spilled or scattered as a result of the RDU's failure to properly prepare or set out such materials in accordance with this Contract, in which case the RDU shall be responsible for such cleanup. The Consortium shall also immediately notify the City of any such material spills caused by the Consortium Member. If the Consortium fails to clean up any material scattered or spilled by the Consortium during the pickup process by 12:00 p.m. one business day after its receipt of written or oral notification by the City (email is acceptable), the City may arrange such work to be done and deduct the costs from the responsible Consortium Member's Escrow Account. This deduction is instead of imposition of any liquidated damages that may be imposed. If the City cannot identify the responsible Consortium Member, the Consortium shall identify the Consortium Member assigned to the area where the incident occurred and report that information to the City.

The Consortium shall immediately clean up any oil/fluid spills. The Consortium shall notify the City of any such material spills. The Consortium shall require that Consortium Member's comply with applicable local, state and federal laws and regulations regarding oil/fluid spills. Subject to such laws and regulations, if the Consortium vehicles leak any automotive or hydraulic oils or fluids, the Consortium must clean up the oil/fluid spill by 12:00 p.m. one business day after its receipt of written or oral notification by the City (email is acceptable), and if it fails to do so the City may arrange for such work to be done and deduct the costs from the responsible Consortium Member's Letter of Credit or Escrow Account in accordance with the terms of this Contract. This deduction is instead of imposition of any liquidated damages that may be imposed. If the City cannot identify the responsible Consortium Member, the Consortium shall identify the Consortium

Member assigned to the area where the incident occurred and report that information to the City.

2.11 Trash Collection Services

2.11.1 Residential Trash shall be collected from all RDUs, except Vacant RDUs and suspended RDU accounts under Section 2.8, within the City during the term of the Contract. Consortium will notify the City of any RDUs that it suspects may be vacant. The Consortium shall discontinue Services to any Registered Vacant RDU if the Consortium is directed to do so in writing (email is acceptable) by the City. Upon such notification, Consortium shall remove the Trash Cart from the RDU within seven (7) days at no charge. Upon further written notification by the Owner to the Consortium the Consortium shall resume the Services contemplated by this Contract on the next regularly scheduled Collection day provided that at least five (5) business days' notice is given to the Consortium.

2.11.2 All RDUs receiving Services must be provided the Base Level Services. Additional Service Options may be ordered by the RDU and will be provided at an additional cost.

2.11.3 The Consortium shall offer four levels of Residential Trash Collection Services (see Exhibit 4a):

(a) "Small" Trash Cart, every other week service (30-38 gallons);

(b) "Small" Trash Cart, weekly service (30-38gallons);

(c) "Medium" Trash Cart (60-68 gallons); or

(d) "Large" Trash Cart (90-98 gallons).

Carts at RDUs electing every other week service shall be equipped with lids of a distinctive color to identify RDUs electing such service and to distinguish them from RDUs electing weekly service

2.11.4 The City will publish guidelines for RDUs with instructions on how to store and set out Trash. Residents will be advised that Trash Carts should have the lid fully closed. Any Trash bags that do not fit into the Trash Cart with the lid fully closed or open six (6) inches or less will be considered Overflow Trash for which the RDU will be billed for one or more Overflow Trash Bags, as applicable, on the next invoice. Consortium Member shall not bill for an Overflow Trash Bag based upon an open lid if the Trash Cart is open by six (6) inches or less. Items set outside the Trash Cart which are not placed in an Overflow Bag will be considered Bulky Waste for which the RDU shall be invoiced accordingly. Consortium Member may bill for an Overflow Trash Bag if the cart is open more than 6 inches or if items or Trash Bag(s) are adjacent to the Cart.

2.11.5 RDUs will be required to set out Trash at the Collection Location no later than 6:00 a.m. on the day of Collection to ensure collection on the proper day. RDUs that do not have Trash set out timely or properly and request a later pickup may be charged a return fee as outlined in Exhibit 4a, provided that the RDU has been notified of the fee and approves the return fee in advance.

2.11.6 Walk-up Collection of Trash Carts only without additional charge shall be allowed for RDUs eligible for such Service under this Section 2.11.6. An RDU must submit an application to the Consortium Member for Walk-up Collection for no additional charge. The application shall certify that all occupants residing at the RDU are physically unable to place Trash at the Collection Location as contemplated by this Contract. Consortium shall approve or deny the application and, if approved, shall notify the applicant and begin Walk-Up service within seven (7) days of the request. No request shall be denied due in whole or in part to the length of the driveway. If Consortium denies a request for Walk-up Collection without an additional charge, the Consortium shall cooperate with the City's investigation of any RDU's complaint regarding such denial.

The number of RDUs receiving Walk-up Collection service at no charge should not exceed two percent (2%) of the total RDUs serviced by Consortium. If the number of RDUs receiving Walk-up Collection service nears the 2% maximum then the City and the Consortium shall meet to discuss the criteria for eligibility to verify that all RDUs receiving this service are eligible.

2.11.7 Subject to this Section 2.11.7, Walk-up Collection of Trash Carts only can be purchased by RDUs who are not eligible for such Services under Section 2.11.6 as an Additional Service Option. The Consortium shall begin service within seven (7) days of the RDU request. RDUs shall be billed the additional fee for Walk-up Service on the next invoice, which fee shall be calculated using a pro-rata weekly cost based on the fee in Exhibit 4a. After initiation, the Consortium may charge for Walk-up Service collection together with Base Level Services.

2.11.8 Consortium shall not be required to provide Walk-up Service pursuant to Section 2.11.7 where the RDU is located more than 100 feet from the public roadway. RDU may choose to order such service for an additional fee reflected in Exhibit 4a. In the event Walk-up Service is provided, the RDU shall use the Trash Cart for storage of Trash but must place the Trash in bags designated to accommodate the storage of Trash, each bag not to exceed forty (40) pounds in weight. Walk-up Service, whether pursuant to Section 2.11.6 or 2.11.7 is not available for the collection of Yard Waste or Bulky Waste. RDU shall provide a clearly accessible walking path from the nearest Collection Point to the Trash Cart.

2.11.9 All RDUs in the City that set out Trash shall be required to use the City's Trash Carts, and, if needed, Overflow Trash Bags. Consortium shall have no liability and it shall not be a breach of this Contract if Consortium fails to provide any Services as a result of an RDU's failure to comply with this Section.

2.11.10 RDUs may set out additional Overflow Trash Bags for an extra fee if they do not fit into the RDU's Trash Cart with the lid open no more than six (6) inches.

2.11.11 Disposal of Trash shall take place at the Trash Disposal Facility. The Consortium shall ensure that the disposal costs are paid by the applicable Consortium Members and are included in the Base Level Price paid by the RDU to the applicable individual Consortium Member, as separately identified on Exhibit 4a, and are calculated based on Section 3.1.5 of this Contract.

2.11.12 All reasonable precautions shall be taken to prevent the spilling or scattering of Trash while loading or in transit.

2.11.13 RDU's shall be instructed by the City as to the types of materials that are eligible for Collection Services and that no Unacceptable Materials may be placed at the Collection Location on the day of Collection. The Consortium shall not knowingly collect any Hazardous Waste from RDUs, and shall refuse to pick up such Hazardous Waste if requested to do so. The Consortium shall notify the RDU via written or verbal notification of improper materials if through visual inspection the material is obviously Unacceptable Material. Notwithstanding anything in this Contract to the contrary, title to and liability for Unacceptable Material shall remain with the RDU at all times regardless of whether the Unacceptable Material is loaded in the Collection Vehicle. Nothing herein shall impose any obligation upon the Consortium to search the contents of any Cart, or other item(s) being collected, to determine if there is any Unacceptable Waste contained therein.

2.11.14 All Trash collected under this Contract shall be deposited at the defined Trash Disposal Facility. Trash collected under this Contract shall be weighed on certified truck scales at the Trash Disposal Facility, subject to notations for tonnages that are estimated due to combining as referenced in Section 4.1.1. The Consortium agrees to provide the City with a monthly total of Trash collected under this Contract as set forth in Article 4. The Consortium shall retain truck scale weight tickets for City inspection upon request for a period of at least three (3) years.

2.12 Organics.

The City and Consortium shall meet within 12 months (one year) of the Commencement Date to discuss an organics program. And, if operationally feasible at that time, specifications and a price will be negotiated in good faith between the City and the Consortium within 24 months (two years) of the Commencement Date. In the event Ramsey County requires the City to implement an organics program, nothing in this section shall prohibit the City from seeking proposals, entering into negotiations, or entering into a contract with entities other than the Consortium to provide Organics services.

2.13 Yard Waste Collection and Composting

2.13.1 The Consortium shall provide separate weekly Yard Waste Collection from April 15th through November 30th, weather permitting, for RDUs that subscribe. Yard Waste Collection is in addition to the Base Level Solid Waste Services and shall be provided for a fee as provided in Exhibit 4a. When first initiated, RDU shall be billed the additional fee for Yard Waste Collection on the next invoice, which fee shall be calculated using a pro-rata quarterly cost based on the fee in Exhibit 4a. After initiation, RDU shall pay for Yard Waste Collection together with Base Services.

2.13.2 RDUs that wish to subscribe to Yard Waste Collection shall contact the Consortium through the applicable Consortium Member. The Consortium shall

begin service within seven (7) days of its receipt of an order for Yard Waste Subscription by a RDU. The Consortium Member shall notify the RDU the collection day of the week for Yard Waste.

2.13.3 RDUs that subscribe to Yard Waste Collection must use Compostable Bags for Yard Waste, Carts, or both. The Consortium shall provide subscribing RDUs one (1) 60-68 gallon Yard Waste Cart. Subscribing RDU can fill the Yard Waste Cart and up to eight (8) Compostable Bags for Yard Waste each week.

2.13.4 The Consortium shall collect Compostable Bags for Yard Waste or Yard Waste Bundles from non-subscribing RDUs for a per-bag fee and/or per-bundle as provided in Exhibit 4a. Fees for Compostable Bags for Yard Waste or Yard Waste Bundles shall be included on the invoice following collection.

2.13.5 Any Yard Waste Bags or Bundles shall not exceed forty (40) pounds or two (2) feet in diameter and three (3) feet in length, and tree stumps, dirt or rocks will not be allowed. One Yard Waste Bundle will be equal to one (1) Compostable Yard Waste Bag.

2.13.6 Yard Waste collected from the City shall be disposed of at a yard waste transfer or composting facility(s) that, to the Consortium's knowledge, is in conformance with all local and state regulations. The Consortium shall notify the City of the disposal location(s).

2.13.7 Yard Waste Carts shall be owned by the individual applicable Consortium Member.

2.13.8 RDU's will be required to set out Yard Waste Carts, Compostable Bags and Yard Waste Bundles at the Collection Location no later than 6:00 a.m. on the day of Yard Waste Collection to ensure Collection on the proper day. RDUs that do not have Yard Waste set out and request a later pick-up may be charged an additional trip service charge as outlined in Exhibit 4a, provided that the RDU has been notified of the fee and approves the return fee in advance.

2.14 Bulky Waste Collections

2.14.1 Bulky Base Services shall be included as part of the Base Level Services as limited by the service level selected by the RDU. Bulky Waste Collection services in addition to Bulky Base Services shall be provided to RDUs as an Additional Service Option. The Consortium shall provide all collection and disposal services related to these Bulky Waste items. RDUs must order such service a minimum of forty-eight (48) hours prior to Collection Day.

2.14.2 Consortium shall collect Bulky Waste no later than seven (7) days after receiving notice for pickup of Bulky Waste from an RDU. If the RDU has already received its annual Bulky Base Services, then the Consortium shall impose a fee as provided in Exhibit 4a for the Bulky Waste. Such charge shall be placed on the next invoice.

2.14.3 The City will publicize and/or distribute the Bulky Waste collection price schedules to RDUs.

2.14.4 In 2018, Bulky Base Services shall include one (1) Bulky Waste item and one (1) holiday tree. Thereafter, RDUs shall be entitled to two (2) or three (3) Bulky Waste items per calendar year, depending on the selected service level. If an RDU changes service levels during a calendar year, the number of bulky items included shall also adjust accordingly.

2.14.5 Bulky Waste collection service from eligible RDUs shall not be exclusive to the Consortium. The City retains the right to license and contract with additional contractors to provide Bulky Waste collection services.

2.14.6 It is the responsibility of the RDU to ensure that, prior to Collection, all Bulky Waste is empty of all foods and liquids. Consortium shall not be required to collect Bulky Waste that does not meet these standards, but is required to leave an Education Tag or otherwise communicate to explain the reason why the item wasn't collected.

2.14.7 RDU's shall be required to set out Bulky Waste at the Collection Location no later than 6:00 a.m. on the day of scheduled Collection to ensure Collection on the proper day. RDUs that do not have Bulky Waste properly set out at the time of Collection may be charged an additional trip service charge as outlined in Exhibit 4a, provided that the RDU had been notified of the fee and approves the cart change in advance.

2.14.8 Bulky Waste collection may be, but is not required to, take place on the same day as Trash Collection.

2.15 Billing, Collection, Fees, and Method of Payment. Consortium shall ensure that Consortium Members abide by the following procedure:

2.15.1 Consortium Members are responsible for invoicing, collecting payments, and performing administrative functions related to billing each RDU for Services. Consortium Members shall bill each RDU on a quarterly basis for all services including Base Level Services and any requested Additional Service Options. At a minimum, Consortium Members shall accept payments by check, money order, automatic payments, online website payment and or debit/credit over the phone. Consortium Members may charge RDUs a $30.00 fee for payments rejected due to non-sufficient funds.

2.15.2 From the Commencement Date until January 1, 2020, the cost to each RDU shall be the prices listed in Exhibit 4a - Price Worksheet for Services rendered to the RDUs, except as adjusted prior thereto pursuant to Section 3.1.4.1 of this Contract. Each year, no later than August 1, beginning in 2019, the parties shall meet to discuss adjustment of rates to RDUs for the following year as provided in Section 3.1. Such prices must be set no later than September 1 or when the Trash Disposal Facility releases its tipping fee, whichever is later. If the parties cannot agree on how to apply disposal costs for each service level, the costs shall be distributed between service levels consistently with the prior year's disposal costs. Such price changes, if any, shall take effect and apply to services rendered after January 1 of the following year.

2.15.3 Other than what is expressly stated in Exhibit 4a, 4b or in this Contract, Consortium shall not impose any additional fees, taxes or surcharges of any kind or impose any other increase in the prices and rates for Services within the explicit scope of this Contract. Provided, however, that nothing contained herein shall prevent any Consortium Member from providing other waste services to RDUs which are not otherwise explicitly provided for under this Contract and may do so at a rate to be individually negotiated between the RDU and the Consortium Member, and for which services the Consortium Member shall separately invoice the RDU.

2.15.4 Consortium Members shall use billing invoices that are itemized and include the following but not limited to: cart size, service level, Additional Service Options Costs, Fuel Surcharge, dates of service, service address, billing address, credits, taxes and payments received.

2.15.5 The Consortium Members shall invoice RDUs by mail or email based on the preference of the RDU on the 20th day of the month prior to the first day of Services for such quarterly period (quarterly periods to start on the first of January, April, July and October). RDUs shall remit payment in full within ten (10) business days of the date of the invoice. Such invoice shall include any unpaid charges for Additional Service Options provided during the preceding quarter. Consortium Members shall inform RDU's who shall dispute any charges within thirty (30) days of the due date of the invoice. Consortium Members are not required to refund any charges for an RDU who failed to dispute a charge within thirty (30) days. An RDU shall have conclusively agreed to any invoiced amounts upon failure to deliver a written objection within thirty (30) days after the due date of the invoice.

2.15.6 Invoices not paid by the due date are subject to a 5% monthly late fee which shall be imposed on the Original Notice of Non-Payment, which shall be sent when payment has not been received by the end of the first month of service for the period being billed (for example, an invoice dated September 20 not paid by October 4 would incur its first late fee on October 31). The Consortium Member shall send Periodic Notice of Non-Payment to the RDU every 30 days for the remainder of the first quarter of nonpayment. The 5% monthly late fees are limited to the first three months of nonpayment.

2.15.7 After ninety (90) days of non-payment, each Consortium Member shall cease collection efforts, notify the City of nonpayment and bill the City for non-paid services. The Hauler Notice of Non-Payment to the City shall include the Original Notice of Non-Payment, the Period Notices of Non-Payment, the Documentation of Collection Attempts and the Delinquent List as noted in section 2.15.10. The Consortium Member shall immediately notify the City of any payments received after the Hauler Notice of Non-Payment to the City. At such time the City sends a City Notice of Non-Payment to the RDU, it will send a copy to the applicable Consortium Member.

2.15.8 If the Consortium Member follows the billing and collection process described in this section 2.15 and the City has verified that the Consortium Member has

satisfied the collection attempt requirements, the City shall pay the Consortium Member amounts due, semiannually, on March 1 or September 1, as displayed in the Exhibit 9, the **Billing Timeline Exhibit**.

2.15.9 The City shall not withhold or delay payment to any Consortium Member due to another Consortium Member's failure to perform its obligations under this section or any other section of this Agreement.

2.15.10 The City and Consortium will work to develop the following standardized communication tools as described in this Section 2.15:

- Original Notice of Non-Payment
- Periodic Notice of Non-Payment
- Documentation of Collection Attempts
- City Notice of Non-Payment to RDU
- Hauler Notice of Non-Payment to the City
- Delinquent List

2.15.11 The obligations of this section shall survive termination of this Contract.

2.15.12 Notwithstanding any provisions of Section 2.15, the Consortium may discontinue all attempts to collect outstanding balances from RDUs if continuing collections would be contrary to law, including but not limited to 11 U.S.C. § 362. In such event, the City shall pay outstanding balances regarding such RDUs in accordance with Section 2.15 regardless of whether the collection attempt requirements have been met.

2.16 RESERVED

2.17 Other Special Event Collections

Collection of Trash, Yard Waste and Bulky Waste for other special events held on City property or sponsored in whole or in part by the City shall not be a part of this Contract and the City shall procure such services by separate contract.

2.18 Collections from City Buildings and Parks

Collection of Trash, Yard Waste, and Bulky Waste at the City owned and operated buildings and parks shall not be part of this Contract and the City shall procure or provide such services internally or by separate contract.

2.19 Public Education. The Consortium will participate and collaborate with the City on communication, education, and outreach to RDUs to facilitate a smooth transition to coordinated collection but the City shall be solely responsible for all materials and costs associated with the communication, education, and outreach. Unless otherwise noted in this Contract, the City will be responsible for all formal public education programs and outreach related to the Services. The City will provide all public and information materials to the Consortium as camera-ready copy, including information to be included

in packages to be distributed by the City with the Trash Carts. Public education responsibilities will be shared between the City and the Consortium as specified below.

2.19.1 The City will provide the following public education services:

- Notify RDUs annually of rates, regulations and complaint procedures.
- Educate RDUs on the general rules and requirements for Trash, Yard Waste, and Bulky Waste disposal, winter shoveling protocol and set out times and locations.
- Use of all available social media tools to communicate information on the Services provided pursuant to this Contract and on an RDU's obligations with respect to Trash, Yard Waste, and Bulky Waste collection.
- The City shall create and maintain on its website a page dedicated to Trash, Yard Waste, and Bulky Waste Collection Services with a link to each Consortium Members' websites.
- The City shall be responsible for printing all education pieces with the exceptions of the items specifically produced by the Consortium pursuant to Section 2.19.2 of this Contract.
- The City shall develop (with the consultation of the Consortium) and the City shall print educational tags used by the Consortium to notify the RDU of items incorrectly prepared or placed for collection, inclusion of household hazardous waste or other Unacceptable Materials, continued overflow or excess materials for current service level, or other issues as they arise.
- The City may develop informational or educational messages which Consortium Members shall include on invoices to the extent it is technically feasible to do so. Haulers may limit the number of characters in messages to meet technical requirements.
- The City shall develop and print initial materials used at the time of the new program implementation.
- The City shall provide translation assistance via phone and for City-produced printed materials, provided that Consortium refers all individuals with limited English proficiency to the City or provides the City with contact information for such individuals.
- The City and Consortium shall jointly approve education materials or content prior to sending or posting by the City, Consortium or Consortium Members.

2.19.2 The Consortium will provide the following public education services:

- Distribute (attach to Cart) Educational Tags that include information related to trash collection rules, including but not limited to: improper Cart placement or improper disposal of materials as necessary.
- Deliver informational materials with the delivery of Trash Carts to all new owners of RDUs.

- Ensure that each Consortium Member has a website and maintains a link to the City of Saint Paul Solid Waste Collection Services Website on their Saint Paul specific webpage.
- The Consortium shall provide selected public education services as agreed upon by both parties.

2.20 Customer Service and Communication

2.20.1 The Consortium will accept and respond to all service related complaints submitted by RDU.

2.20.2 The Consortium will respond courteously to all RDU, resident, and City Staff inquiries. The City shall educate RDU's that the first point of contact with respect to any Service inquiry by an RDU shall be the responsible Consortium Member.

2.20.3 The Consortium shall maintain throughout the duration of this Contract a Consortium Customer Service Point of Contact who will ensure that service issues are resolved within a reasonable time period after being officially notified by City staff. A backup Consortium Customer Service Point of Contact shall also be designated by the Consortium for times when the primary Consortium Customer Service Point of Contact is not available.

2.20.4 The City requires reasonably responsive, friendly customer service at all times, including interactions with RDUs and residents by drivers / crews on the collection route, interactions on the phone, emails, web sites, and in all other forms of communication. Consortium and Consortium Members shall refer individuals with limited English Proficiency to the City or provide contact information to the City for individuals with limited English Proficiency in order for the City to provide translation services.

2.20.5 Consortium shall ensure that each Consortium Member establishes and maintains a customer service office for accepting or responding to complaints and customer telephone calls. The office shall be in service during the hours of 8:00 a.m. until 4:30 p.m. Central Time on all days except Saturday, Sunday, and Holidays. The Consortium shall ensure that each Consortium Member's Customer Service Office has adequate staffing capacity during normal business hours so callers do not experience extensive hold times (defined as five (5) minutes or more) or "menus" and all voice mail messages left by RDUs are returned within one business day. Notice of service requests shall be deemed received by the Consortium at the time a voice mail is left by the requesting RDU.

2.20.6 In the case of alleged Missed Collections, the Consortium shall investigate, and, if such allegations are verified, the Consortium shall then arrange for the collection of the subject materials no later than 4 p.m. the next business day after being notified of the missed collection. The Consortium shall, or shall require each Consortium Member to, keep a log of all missed collections, with details of its resolution and provide it to the City on a monthly basis, listed by the responsible Consortium Member.

2.20.7 Consortium shall identify a Consortium Contract Officer and a Consortium Customer Service Point of Contact who will be regularly available to the City during all Customer Service Hours.

2.20.8 To the extent possible, the Consortium and Consortium Members shall attempt to resolve customer service issues directly between the Consortium Member servicing them and the RDU. If an RDU makes an application under Sections 2.8 or 2.11.6, and that request is denied, the Consortium shall ensure that Consortium Members cooperate with the City's investigation of the denial.

2.21 Escrow Accounts and Letters of Credit.

2.21.1 Prior to the Commencement Date, Consortium shall ensure that individual Consortium Members fund an Escrow Account or provide a Letter of Credit (at each Consortium Member's discretion) for the benefit of the City in the aggregate amount of $250,000.00, to be divided into shares for each Consortium Member that reflect that Consortium Member's market share. However, an individual Consortium Member's amount may not be less than five-thousand dollars ($5,000.00) with the remaining requirement divided pro-rata based on the individual Consortium Member's market share. To satisfy this obligation, the Consortium shall require that each Consortium Member deposit with the City a Letter of Credit or fund an Escrow Account with a single reputable financial institution that meets the share requirement.

2.21.2 Except as provided herein, the City must be able to draw upon the Letter of Credit or Escrow Account if it has followed the procedures described below, even if there is a dispute as to whether there has been an act or omission that would entitle the City to call upon the Letter of Credit or Escrow Account. The form and content of such Letter of Credit or Escrow Agreement shall be in a form approved by the parties. The Letter of Credit and Escrow Account shall be used only to enforce the provisions of Sections 2.1.6, 4.3, or 12.1.

2.21.3 Whenever the City shall receive payment of any amount drawn against a Letter of Credit or Escrow Account pursuant to Section 2.21, and the payment is not disputed, the Consortium shall ensure that the Consortium Member shall pay to or deposit with the financial institution with whom it maintains said Letter of Credit or Escrow Account an amount sufficient to replenish the Letter of Credit or Escrow Account to its full original value within ten (10) business days after the Consortium has been tendered delivery by certified mail, return receipt requested, of the request for payment. The Director of the Office of Financial Services shall be furnished with written proof of replenishment not later than forty-eight (48) hours after it is accomplished. If the payment against the Letter of Credit or Escrow Account is disputed, there shall be no requirement to replenish the Letter of Credit or Escrow Account until the dispute is resolved.

2.21.4 If the Consortium or Consortium Member fails to pay to the City after ten (10) business days' notice of imposition of liquidated damages, or fails to repay the City within ten (10) business days any damages, costs or expenses which the City incurs under Sections 2.1.6 or 4.3, the City may, subject to Section 2.21.7, immediately request and receive payment of the amount thereof from the financial

institution holding the Letter of Credit or Escrow Account. Upon such request for payment, the City shall notify the Consortium of the amount and date thereof.

2.21.5 The rights reserved to the City with respect to the Letter of Credit and Escrow Account are in addition to all other rights of the City, and no action, proceeding or exercise of a right with respect to such Letter of Credit or Escrow Account shall affect any other right the City may have. Draws from a Letter of Credit or an Escrow Account shall not alter the City's burden of proof to establish a breach of the Contract in a civil action regarding a dispute regardless of which party initiates the action.

2.21.6 The Letter of Credit shall contain an endorsement substantially similar to the following endorsement:

"It is a condition of this letter of credit that it is deemed to be automatically extended without amendment for a one-year period from the current expiry date hereof unless at least thirty (30) days prior to any expiration date, we notify you by certified mail or overnight courier that we elect not to consider this letter of credit extended for any such additional period."

2.21.7 The City shall not draw on the Letter of Credit or Escrow Account until the following procedures have been completed:

2.21.7.1 For damages caused by a Consortium Member that are repaired by the City under Section 2.1.6 (utilities), 2.10 (spills), and 4.3.2 (private property), the City shall not draw on any Letter of Credit or Escrow Account until the Consortium Member has failed to reimburse the City for cost incurred within ten (10) business days receipt by the Consortium and the affected Consortium Member of written notice from the City of the City's costs.

2.21.7.2 For liquidated damages under Section 12.1, the City shall not draw on any Letter of Credit or Escrow Account until the completion of the procedures provided for in Section 12.

2.21.8 If the City draws on a Letter of Credit or Escrow Account in error, such as the City failing to meet its burden of proof regarding an alleged breach of Contract, the City shall reimburse the amount of the draw to the Letter of Credit, Escrow Account, or directly to the Consortium Member, as directed by the Consortium Member. If, through negotiation, mediation, court action or other resolution of the dispute, it is determined that all or a portion of the draw should be refunded, the City shall refund such amount within ten (10) business days.

3 Annual Price Adjustments

3.1 Beginning on January 1, 2020, the Trash Collection Costs and Disposal Costs charged each RDU as reflected on Exhibit 4a shall be approved by the Council and adjusted annually. Failure by the Council to approve any required price adjustment shall be a breach.

3.1.1 Trash Collection Costs: The initial Fuel Portion of the Trash Collection Costs shall make up 10% of the total Collection Costs. The initial Non-Fuel Portion of the Trash Collection Costs shall make up 90% of the Trash Collection Costs. This allocation shall be adjusted on an annual basis to reflect any changes in the ratio of fuel costs to non-fuel costs as the Base Level Prices are adjusted.

3.1.2 Fuel Surcharge: The Fuel Portion of the Trash Collection Costs shall be adjusted on an annual basis based on increases in the price of fuel above the Base Fuel Price of $3.50. The Fuel Surcharge shall be 0% if the average fuel price for the previous 12 months is at or below the Base Fuel Price. If the average price for fuel for the year prior is above the Base Fuel Price, a fuel surcharge shall be assessed which shall be equal to the percentage change from the Base Fuel Price compared to the average fuel price over the prior 12 months. The fuel surcharge shall be added to the Fuel Portion of the Trash Collection Costs. If the price per gallon of fuel exceeds $5.00 per gallon or goes below $1.00 per gallon, the City and Consortium agree to negotiate in good faith to reassess the Fuel surcharge for Trash Collection Costs. In the circumstance where the average price per gallon exceeds $5.00 per gallon or goes below $1.00 per gallon, and the fuel adjustment is delayed because the parties cannot agree to a fuel adjustment, then the fuel adjustment formula shall be adjusted to account for any delay in implementation of the fuel adjustment.

3.1.3 Consumer Price Index Adjustment: The Non-Fuel Portion of the Trash Collection Costs shall be subject to an increase (but not a decrease) equal to the increase, if any, during the prior twelve month period in the Consumer Price Index. The annual increase, if any, shall be an amount equal to the percentage increase for the previous twelve-month period in the referenced CPI-U index with the amount of the increase based on the most current information available from the U.S. Department of Labor. The increase, if any, shall be calculated by multiplying the current Non-Fuel Portion of the Trash Collection Costs by the percentage change in the CPI-U. The maximum annual increase in the Non-Fuel Portion of the Trash Collection Costs shall be 3%.

3.1.4 Adjustment due to Change in Law:

3.1.4.1 If there is any new or additional governmental fee or tax imposed after the Effective Date that is based on the costs of Residential Collection Services or is expressly intended to be passed through to RDU's, the fee or tax shall not be part of the Base Level Price, but the actual cost of such fee or tax shall be passed through to the RDU's and included as "taxes" on the invoice at the time the fee or tax is imposed. The Consortium shall provide to the City documentation demonstrating such increased fees and taxes and the City will evaluate the Consortium's calculation to verify that such fees and taxes have been property calculated. The Consortium shall not impose such additional fee or tax without City approval of such calculation, which approval shall not be unreasonably withheld or delayed. Any governmental fee or tax that is reduced or repealed shall not continue be included on any invoice.

3.1.4.2 Trash Collection Costs reflected in the rates charged under this Contract may otherwise be adjusted based on permanent increases in operational costs or expenses incurred by Consortium and/or all Consortium Members in performing the Services that are not adequately reflected in the CPI-U, fuel surcharge, disposal costs, taxes or other charges already passed through to RDUs. It is the City's intent that costs for Consortium and Consortium Members to provide Services are not directly impacted due to a Change in Law. The City will evaluate the Consortium's calculation to verify that increased costs as described above are passed on to RDUs. The City shall allow Consortium to present arguments in favor of the request for a price adjustment directly to the City Council for final determination.

(a) Change in Law is defined as any amendment to, or promulgation of any federal, state, city or local statute, regulation, or ordinance after the Effective Date that imposes, changes, modifies and/or alters requirements upon:

1. Performing the Services;

2. Disposal of Trash, Yard Waste, or Bulky Waste, or which statue regulation or ordinance requires Consortium to seek either an amendment or modification to or reissuance of any required permits, licenses, approval or authorization issued by any governmental body entitling the Consortium or any Consortium Member to perform the Services; or

(b) Fees and taxes means any federal, state, local, or other taxes assessments, fees, hosts charges, surcharges, or similar charges directly related to the Services which are imposed on the Consortium or a Consortium Member by law, ordinance or regulation and/or agreement with a governmental body.

3.1.5 Disposal Costs: The disposal portion of the Trash Collection Costs for all service levels shall be negotiated by the parties and adjusted annually based on: 1) changes to the hauler "Net Contracted Rate" (rate minus any discount or rebate) for disposal costs at the Trash Disposal Facility; and 2) the actual average tonnages collected per gallon per household in the prior 12 months. Consortium Members shall complete standard forms and provide those forms to the City. The Consortium shall forward reports it has timely received from Consortium Members at one time. Consortium shall provide to the City a quarterly report in Excel format or other suitable electronic format agreeable by both parties. The quarterly report shall include all tonnages and flag any ticket that includes an estimate due to combining trash in one load from another community or non-eligible (e.g. commercial accounts, 5 units and above) Saint Paul accounts with trash collected under the Contract. Actual weight tickets will be retained for a period of three (3) years and provided electronically to the City upon request.

4 Consortium's Reporting Requirements

4.1 Reporting Requirements.

The Consortium shall obtain the following reports from each Consortium Member and shall submit the following reports to the City. All information shall be provided within thirty (30) days of the end of the reporting period. Any and all reporting requirements including frequency may be adjusted upon mutual agreement of both parties.

4.1.1 Monthly Reporting. These items shall be reported monthly from the Commencement Date until December 2019 and thereafter shall be reported on a quarterly basis.

The monthly report shall contain total tonnages collected by Collection Day and Collection Zone under this Contract for the following:

- Trash, including notation for tonnages that are an estimate due to combining trash in one load with trash from another community or non-eligible units from Saint Paul; the notation shall include estimates of tonnages for both Contract trash and non-Contract trash.
- Bulky Waste unit counts and whether RDU paid an additional charge.
- Electronic Waste unit counts.

The monthly report shall also contain the following information:

- Number of RDUs that received a Cart change.
- Number of RDUs with Additional Service Options with counts by specific Additional Service Option.

4.1.2 Quarterly Reporting. These items shall be calculated and documented monthly by Collection Day and Collection Zone reported on a quarterly basis. Consortium Member's shall complete standard forms and provide those forms to the Consortium. The Consortium shall forward reports it has timely received from Consortium Members at one time to the City.

4.1.2.1 The Consortium shall ensure that the Consortium Members track the following information monthly for reporting on a quarterly basis, in a format that is agreed upon by the parties, the following information and any other information as agreed to by the parties.

- Upon request, Consortium shall provide service level, Additional Service Options, and other customer service notation information for any RDU.
- Additional Service Options provided (including number of "Walk-Up" accounts).
- Trash Cart management update to include the number of carts in supply by size, number of switch-outs, repairs done and total handled through the warranty process.
- Number of RDUs that applied for Walk-up Service and Suspended Service, including a count of all such applications that were denied.
- Yard Waste may be reported by tons or volume in terms of cubic yards. Consortium shall ensure that Consortium Members retain weight tickets (or volume-based dump receipts if no scale) for City inspection upon request, made

not more frequently than once in any six (6) month period, for a period of three (3) years.

4.1.3 Annual Meeting: The Consortium and City shall meet in person in February of each year. Topics shall include, but not be limited to:

- Annual progress discussion with plans for the next year.
- Certification that the route maps as specified in this Contract are up to date.
- Any other industry relevant information or updates.
- Recommendations to improve Coordinated Collection operations, education and other service issues.
- Summary of tons collected by Consortium Members by route/collection zone.
- Summary of Bulky Waste collected by Consortium Members by route/collection zone.
- Summary of Cart inventory including switches, repairs, and warranty claims.

4.1.4 Collection Zones and Route Maps.

Within 90 days of the Effective Date, the Consortium will propose a draft Collection Day map for review and comment by the City. The City shall review the Consortium's proposed Collection Zone map and provide comments to the Consortium within 30 days after its receipt. The Collection Zone map shall be finalized and approved no less than ninety (90) days prior to the Commencement Date. Final Collection Zone route maps must show the proposed details for each truck route including: start point (i.e., first collection for the day), and stop point. Once reviewed by the City, the Consortium shall make reasonable efforts to minimize changes in routing patterns. The Consortium is responsible for incorporating standard industry safety practices such as optimizing right hand turns, limiting truck traffic on residential streets and alleys, and reducing backing of the Collection Vehicle.

These routes, once reviewed by the City, shall be followed by the Consortium. Once the initial route maps have been reviewed by the City, the Consortium shall submit any permanent changes in Collection Day for City approval at least ninety (90) days prior to implementing any change(s) except in the case of an emergency or a Force Majeure Event.

4.2 Consortium's Safety Plans Including Accident Reporting

4.2.1 The Consortium shall comply with the safety provisions of all applicable laws and regulations, including, without limitation, the installation and maintenance of safeguards on machinery and equipment, the minimization of hazards, and worker safety training.

4.2.2 The City reserves the right to request reasonable additional documentation of the Consortium Members regarding its safety plans, accident reports and compliance

records solely with respect to the Consortium or Consortium Member's performance of its obligations under this Contract.

4.2.3 The Consortium shall require all Consortium Members to exercise precautions at all times to protect the safety of such Consortium Member's employees as well as RDUs and their property.

4.2.4 The Consortium shall immediately notify the City of any accident, of any kind, involving a Consortium Member and the general public, as well as any property damage accident involving private, public, or individual Consortium Member's property.

4.2.5 The Consortium shall immediately notify the City of any release of vehicle fluids (e.g., fuel, coolant, hydraulic fluid, brake fluid, etc.) or load contents onto City streets or otherwise into the environment.

4.2.6 The Consortium shall provide the City with a written report the next business day including the details of any such release of vehicle fluids and identify the measures used to remedy the accident or clean up any spill.

4.2.7 The Consortium shall follow all of the safety requirements outlined in Exhibit 5.

4.3 Damage to Property

4.3.1 The Consortium shall take all reasonably necessary precautions to protect public and private property during the performance of this Contract.

4.3.2 The Consortium shall repair or replace any private or public property, including, but not limited to sod, mailboxes, or Carts, which are damaged by the Consortium. The repair or replacement must be of the same or equivalent value at the time of the damage. The Consortium shall communicate with the RDU within two (2) business days and arrange for the performance of such repairs or replacements within seven (7) business days of its receipt of written or oral notification by the City (email is acceptable) of such damage. If damage occurs during months when repairs cannot be made (e.g., winter for landscape repairs), the Consortium shall communicate with the RDU within two (2) business days and shall make arrangements with the property owner within seven (7) business days as to when such repair will be made. If the Consortium fails to arrange repair in this time or fails to complete repairs in this time, the City may arrange such work to be done and deduct the costs from the responsible Consortium Member's Letter of Credit or Escrow Account in accordance with the terms of this Contract. This deduction is instead of imposition of any liquidated damages that may be imposed. If the City cannot identify the responsible Consortium Member, the Consortium shall identify the Consortium Member assigned to the area where the incident occurred and report that information to the City.

5 Taxes, Licenses and Permits

5.1 The Consortium shall ensure that the Consortium and all Consortium Members shall pay all sales, use, property, income, and other taxes and service charges that are lawfully assessed against the City or Consortium or Consortium Members in connection with the Consortium's facilities and the work included in a Contract and shall obtain, maintain and pay for all licenses, permits, certificates of authority, and inspections required for the work during the term of the Contract.

5.2 During the Term of this Contract, the Consortium shall have the sole and exclusive right to provide Services. All such rights shall be exclusive to the Consortium and no other person or entity except the Consortium and its Consortium Members may offer or provide the Services as contemplated hereby. The City further agrees that it will not enter into any agreement or understanding with any other person or entity for the performance of the Services contemplated hereby during the term of this Contract including any renewals hereof. Notwithstanding the foregoing, the City shall not be restricted in any way from seeking proposals, entering into negotiations, or entering into a contract, agreement or understanding during the term of this Contract regarding Services to be provided after the expiration of this Contract. The City shall not arbitrarily revoke or decline to renew any Consortium Member's license to operate in the City during the term of this Contract; nor shall the City levy any new taxes or assess any fees on waste collection licensees without allowing such costs to be passed on to RDU's in the form of rate increases. During the term of this Contract the City shall not, through ordinance changes related to licenses or trash collection, impose any undue obligations or restrictions on waste collection licenses which would effectively increase the burden on the Consortium and the Consortium's Members performance under this Contract.

5.3 In the event of any termination or non-renewal by the City of an individual Consortium Member's license, the Consortium's Collection Zones previously serviced by that Consortium Member, as depicted in Exhibit 2, shall be re-allocated among the remaining Consortium Members as determined by the Consortium.

6 Independent Contractors

6.1 It is agreed that nothing herein contained is intended or should be construed in any manner as creating or establishing the relationship of co-partners between the City and the Consortium or its Members or as constituting the Consortium or any Consortium Member, as agents, representatives or employees of the City for any purpose or in any manner whatsoever. The Consortium and the Consortium Members are to be and shall remain independent contractors with respect to all Services performed under this Contract. The Consortium shall ensure that any and all personnel of the Consortium Members, or other persons while so engaged, and any and all claims whatsoever on behalf of any such person(s) or personnel arising out of employment or alleged employment including, without limitation, claims of discrimination against the Consortium or Consortium Members, officers, agents, contractors or employees shall in no way be the responsibility of the City.

The Consortium shall require that each Consortium Member has or will secure at their own expense, all personnel required to perform the Services identified in this Contract.

Such personnel or other persons shall not require nor be entitled to any compensation, rights or benefits of any kind whatsoever from the City, including, without limitation, tenure rights, medical and hospital care, sick and safe and vacation leave, workers' compensation, unemployment compensation, disability, severance pay and Public Employees Retirement Association.

The City acknowledges and agrees that the Consortium shall in no way be responsible for or liable for the acts or omissions of the Consortium Members in connection with this Contract. The City shall look solely to the individual Consortium Members for any liability associated with this Contract (other than performance of the Services), nor shall there be any joint and several liability amongst the Consortium Members.

7 Title to Solid Waste

Title to all Trash, Yard Waste, and Bulky Waste and all incidents of ownership thereto shall pass to the applicable individual Consortium Member when such materials are placed into the Collection Vehicle with the exception of Unacceptable Materials. Ownership and liability of Unacceptable Materials shall remain with the individual RDU.

8 Subcontracting and Assignment

8.1 The Consortium agrees that Consortium Members shall not to enter into any agreements with entities that are not Consortium Members for the provision of Services without obtaining prior written approval of subcontract from the City. The Consortium must submit a proposed contract with a non-Consortium Member to the City and the City shall have fourteen days to approve or deny such contract, such approval shall not be unreasonably withheld or delayed. If the City fails to respond by the close of the fourteenth day the contract shall be deemed approved.

8.2 If such approval is granted, Consortium agrees to ensure that Consortium Members promptly pay any entity doing work or furnishing skills, tools, machinery, materials, equipment or supplies to or on behalf of any Consortium Member and all just claims for such work, material, equipment, insurance and supplies in the performance of this Contract.

8.3 Notwithstanding section 8.1, Consortium shall ensure that the contract with a non-Consortium Member must provide the insurance requirements set forth in Section 11 of this Contract, and the requirements in Section 13.

8.4 Neither the City nor the Consortium may assign this Contract or any of its interest arising therein, without the written consent of the other party which consent shall not be unreasonably withheld or delayed. Any permitted successors or assigns of the City and the Consortium shall be bound, with respect to all covenants of this Contract.

8.5 Subject to the limitations contained in Section 12.2.3, the Consortium shall be as fully responsible and accountable to the City for the acts and omissions of all subcontractors, and of persons either directly or indirectly employed by the Consortium or Consortium Members, as they are for the acts and omissions of persons directly employed by them. Upon written notice from the City that subcontractor of the Consortium, or Consortium Member, fails to perform its duties in a satisfactory manner, the Consortium will investigate any and all such claims and report back to the City.

8.6 Nothing contained in a subcontract with an entity outside the Consortium shall create any contractual relationship between any non-Consortium subcontractor and the City. The Consortium alone shall be held responsible for the full and faithful performance of Services in accordance with this Contract.

8.7 Notwithstanding the forgoing, the City understands that the Consortium Members will be undertaking various actions in order for the Consortium to fulfill its obligations to provide the Services and any related obligations and agrees that the Consortium does not need the City's approval for such allocation of responsibility to Consortium Members. Consortium agrees to inform the City of any transfer of accounts among Consortium Members thirty (30) days prior to the first collections made by the newly assigned Consortium Member, with limited exceptions for insider trading concerns or when providing such advance notice is prohibited by law or the parties are subject to a confidentiality agreement. Consortium agrees to continue all telephone numbers, email addresses, and other points of contact associated with the transferred account for a minimum of six months following the transfer. Further, the acquiring Consortium Member shall communicate directly with all impacted RDUs about the transfer notifying impacted RDUs of the transfer and how to contact the acquiring Consortium Member. City shall approve such communications. The acquiring Consortium Member shall bear all costs associated with these communications.

8.8 Any Consortium Member seeking to assign their accounts to another party who is not a Consortium Member (the "Proposed Consortium Member") must first obtain the City's prior written consent and such party must obtain a City license, provided, however, that such prior written consent shall not be required if notice and consent is precluded for reasons such as limitations imposed on publicly traded companies, limitations contained in a confidentiality agreement, or similar nature. The City shall grant such consent if the Proposed Consortium Member is of equal or greater financial stability as the Consortium Member assigning such accounts and has at least 10 years of experience providing similar services in a municipality with at least 5,000 customers. In all other cases, the City will not unreasonably withhold, delay or qualify its consent to any requested assignment. Prior to beginning any work, the Consortium shall confirm that the Proposed Consortium Member has obtained all necessary state, county and city licenses. The Proposed Consortium Member must be a member of the Consortium for all legal purposes and shall be responsible as such for the provision of its Services within the area designated in the Collection Zone. Proposed Consortium Member shall become a Consortium Member. Consortium agrees to continue all telephone numbers and email addresses, and other business points of contact associated with the transferred account for a minimum of six months following the transfer. Further the Proposed Consortium Member shall communicate directly with all impacted RDUs about the transfer notifying

impacted RDUs of the transfer and how to contact the Proposed Consortium Member. The Proposed Consortium Member Consortium Member shall bear all costs associated with these communication. The city shall approval all communications.

9 Rights of Use

The Consortium agrees that the City will own and have the right to use, reproduce and apply as it desires, any data, RDU addresses, service account information, customer lists, routes, reports, analyses and materials which are collected or developed for the first time solely and exclusively by the Consortium or anyone acting on behalf of the Consortium for the City and as a result of this Contract. Notwithstanding the foregoing, the City agrees that it shall not own or have any right to use, reproduce, or otherwise possess software or other similar intellectual property, whether pre-existing or not, of the Consortium or of any Consortium Member that is used or related to performance of Services under this Agreement, even if the intellectual property stored, used or relied on data ultimately owned by the City.

10 Indemnification

10.1 The Consortium will defend and indemnify the City, its officials, agents, and employees from and against any and all claims, actions, or suits of any character brought for or on account of any claimed or alleged injuries or damages received by any person or property resulting from any negligent act or omission by Consortium or any person employed by Consortium in carrying out the terms of this Contract.

10.2 Consortium shall ensure that each Consortium Member shall defend and indemnify the City, its officials, agents, and employees from and against all claims, actions, or suits of any character brought for or on account of any claimed or alleged injuries or damages received by any person or property resulting from any negligent act or omission by Consortium Member, its officials, agents, employees or subcontractors in carrying out the terms of this Contract. Consortium Members shall not be required to defend and indemnify any person, including the Consortium or the City, against any and all claims, damages, losses, and expenses, including attorney's fees, arising out of or resulting from the acts or omissions of any other Consortium Member. In no event will any individual Consortium Member be liable for the acts or omissions of the Consortium or any other Consortium Member.

10.3 The Consortium shall ensure that Consortium Members are familiar with, observe and comply with all ordinances, laws, and regulations which in any manner affect those engaged or employed in the work, or the materials, facilities or equipment used in the proposed work, or which in any way affect the conduct of the work, and shall protect and indemnify the City and its officers and agents against any claim or liability arising from or based on any violation of same.

10.4 Nothing contained herein shall be deemed a waiver by the City of any governmental immunity defenses, statutory or otherwise. Further, any and all claims brought against the City, or its officers or employees, shall be subject to the maximum liability limits provided in Minnesota Statutes § 466.04 if the claim is within the scope of sections 466.01 to 466.15.

11 Insurance Requirements

The Consortium shall require Consortium Members, identified on Exhibit 1, responsible for providing Services, to obtain and maintain insurance coverage in the amounts shown below during the entire term of the Contract. The Consortium Member and any non-Consortium subcontractor hired by either, may combine the identified underlying coverage with umbrella coverage to meet the minimum limits identified below. The City shall be named as an additional insured on each Consortium Member's commercial general liability, auto, and umbrella policies. Certificates of said insurance evidencing all of the coverages listed below evidencing that the City has been named as an additional insured on the policies, shall be provided to the City by each Consortium Member one (1) month before the Commencement Date. Consortium shall not allow Consortium Member or subcontractor to commence Residential Collection Services until all requisite insurance has been obtained and evidence thereof have been provided to the City. The Consortium shall be responsible to assure that each Consortium Member shall maintain a valid certificate of insurance referencing the limits included below on file with the City. Consortium shall ensure that Consortium Member shall notify the City in the event insurance is cancelled or terminated for any reason.

11.1 General or Business Liability Insurance

$1,500,000 per occurrence

$2,000,000 aggregate per project

$2,000,000 products/completed operations total limit

$1,500,000 personal injury and advertising

11.2 Automobile Insurance

$1,000,000 Combined Single Limit

Coverage shall include: hired, non-owned and owned autos

11.3 Worker's Compensation and Employer's Liability

Worker's Compensation per Minnesota Statutes

Employer's Liability shall have minimum limits of $500,000 per accident; $500,000 per employee; $500,000 per disease policy limit.

Consortium Members or contractors with 10 or fewer employees who do not have Worker's Compensation coverage are required to provide the City with a completed "Certificate of Compliance" (State of Minnesota form MN LIC 04) verifying their number of employees and the reason for their exemption.

11.4 General Insurance Requirements

11.4.1 All policies shall be written on an occurrence basis or as acceptable to the City. Certificate of insurance must indicate if the policy is issued on a claims-made or occurrence basis.

11.4.2 The Consortium may not commence any work until Certificates of Insurance covering all of the insurance required for this project is approved. Insurance must remain in place for the duration of the original contract and any extension periods.

12 Events of Default and Remedies

12.1 Liquidated Damages.

If any Consortium Member fails to perform in accordance with this Contract, then, within 180 days of discovery of such failure to perform, the City shall notify the Consortium Contract Officer and Consortium Member in writing that the City intends to initiate Liquidated Damage(s) if such failure to perform, if able to be cured, is not cured within the applicable time period. The City may not initiate or impose Liquidated Damage(s) more than 180 days after it becomes aware of the act or omission giving rise to the Liquidated Damage(s). The Consortium Member will have five (5) business days to respond with any information to dispute the allegation. The City will review the new information to determine whether Liquidated Damages are appropriate. The City will respond within five (5) business days to the disputed allegation. In the event that the City still wishes to impose Liquidated Damages, the City and the Consortium Member shall meet to discuss the incident. The City shall notify the Consortium Member of its final decision regarding the imposition of liquidated damages within five (5) business days of the meeting. After the above-stated process has been followed, and provided that the Liquidated Damages imposed on the Consortium Member would exceed $1,000 in twelve (12) months, if the City has decided to pursue liquidated damages, the Consortium Member may notify the City that the Consortium Member would like to mediate the imposition of liquidated damages. Such notice must be provided within one hundred eighty (180) days of notice of receipt of the City's final decision to impose liquidated damages. If Consortium Member fails to submit the matter to mediation within 180 days, the Consortium Member shall be deemed to have accepted the last position of the City and the Consortium Member shall be obligated to pay liquidated damages. In the event that, following mediation, the Consortium Member still disputes the imposition of liquidated damages, the Consortium Member may initiate a civil action to resolve the dispute in which the City shall have the burden of proof to establish that liquidated damages are warranted. If the Consortium Member fails to initiate a civil action within 180 days, the Consortium Member shall be deemed to have accepted the last position of the City and the Consortium Member shall be obligated to pay liquidated damages. For purposes of Sections 2.21.3 and 2.21.7.2, such a dispute is not resolved until one of the following has occurred: 1) the parties so agree (at mediation or otherwise); 2) the Consortium Member fails to submit the matter for mediation or initiate a civil action within the timelines provided above; or 3) a court resolves the dispute.

If a Consortium Member's performance is not remedied in the time provided in this section 12.1 or otherwise disputed by Consortium or its Member within the time provided above, then the affected Consortium Member shall pay to the City, upon demand the amount designated below for the applicable violation. If the City does not receive such payment within ten (10) business days as provided in Section 2.21.4, City may, as its sole and exclusive remedy, draw from the Letter of Credit or the Escrow Account the amounts designated below for the applicable violation as Liquidated Damages.

If the City cannot identify the responsible Consortium Member, Consortium shall identify the Consortium Member who is assigned to the area where the incident occurred. Notwithstanding the foregoing, the Consortium and the Consortium Members shall not be

liable in any manner and shall not be considered in default or assessed any Liquidated Damages, for any failure to perform its obligations if such failure to perform is due to an event of Force Majeure or for any breach by the City or failure of an RDU, including failure to properly and timely set out materials.

12.1.1 Failure to collect legitimately missed RDUs by the end of the following business day after given notice: $10 each RDU, capped at $500.00. Liquidated Damages shall not be imposed for violation of this section and violation of sections 12.1.6 or 12.1.9 for a single incident.

12.1.2 Failure to clean up any spills caused by Consortium Member in the course of its collection by the end of the following business day after given notice: $50 each instance.

12.1.3 Failure of Consortium Member to respond to complaints and/or customer service issues within one (1) business day: $50 each instance.

12.1.4 In the case the City needs to intervene and communicate directly with an individual Consortium Member related to no response or resolution within one business days after receiving notice from the City to a customer complaint or service issue: $100 each instance.

12.1.5 Causing hydraulic spills or leaks and other fluids having potential to damage or stain asphalt, concrete or other roadway surfaces and failure to clean up the same within 24 hours, or failure to notify the City of such a spill: $100 each instance.

12.1.6 Unexcused failure to substantially complete a route (10% or more of route) on the regular pick up day, however no Liquidated Damages may be imposed if the Consortium Member notifies the City of the failure to complete the route the same day and completes the route the following day: $1000 each route. Liquidated Damages shall not be imposed for a violation of this section and a violation of sections 12.1.1 or 12.1.9 for a single incident.

12.1.7 Failure of Consortium Member to provide reports to the Consortium as required under Section 19 of the Contract in a timely and accurate manner after given two business days written notice: $250 each instance.

12.1.8 Failure to notify the City within 24 hours of any interruption in a significant portion (50% or more of the Collection Zone) of collection service: $250 per instance.

12.1.9 Unexcused failure to complete a significant portion (50% or more of Collection Zone) of pickups within the Collection Zone on the scheduled collection day, however no Liquidated Damages may be imposed if the Consortium Member notifies the City of the failure to complete the Collection Zone the same day and completes the Collection Zone the following day: $2500.00 each instance. Liquidated Damages shall not be imposed for a violation of this section and a violation of sections 12.1.1 or 12.1.6 for a single incident.

12.1.10 Failure to comply with the terms of the Service Quality and Service Disruption Avoidance Program (Exhibit 5) within 15 days of notification from the City shall result in liquidated damages of $5,000 for every 30 days of noncompliance;

provided, however, that this basis for Liquidated Damages shall only apply to violations that are capable of being cured (e.g., not for failure to maintain a Driver Qualification File).

12.2 Events of Default. Subject to applicable cure periods, the following shall be additional Events of Default under this Contract which are not subject to Liquidated Damages as set forth above:

12.2.1 Consortium Events of Default: the following shall be Consortium Events of Default:

(a) The dissolution of the Consortium.

(b) The Contract or a portion of the Contract is assigned, subcontracted, or transferred by Consortium without the written consent of the City.

(c) The Consortium fails to ensure that all Consortium Members providing Services comply with the insurance coverage requirements of Article 11.

(d) The Consortium fails to have an operating agreement or subcontract indicating that requires Consortium Members to meet the obligations of Section 10.2.

(e) Any voluntary or involuntary petition or similar pleading under any chapter, section or sections of the Bankruptcy Code or other insolvency law is filed by or against Consortium, or any voluntary or involuntary proceeding in any court or tribunal, is instituted to declare Consortium insolvent, and the same is not dismissed or discharged within ninety (90) days after the date of initiation of any such proceedings.

(f) Consortium assigns its assets for the benefit of Consortium's creditors without prior written notice and agreement by the City.

(g) A receiver is appointed for the Consortium or any of its property.

(h) Consortium fails to remedy a curable violation of the terms of Exhibit 5 within 90 days of notice by the City.

(i) Consortium fails to perform any material obligation of the Contract within seven (7) days after notice from the City that the performance is delinquent, or such longer period of time as may be reasonably necessary to cure, so long as the Consortium commences to cure such default within seven (7) days and diligently pursues the cure to completion, not to exceed sixty (60) days.

(j) Any of the services or obligations to be performed under this Contract are abandoned by Consortium.

(k) Consortium fails to take action to correct repeated Contract violations by a single Consortium Member where a single Consortium Member has had Liquidated Damages imposed for a violation of section 12.1 for 15 or more separate incidents in six (6) consecutive months; or a single Consortium Member has violated Exhibit 5 five or more times in six (6) consecutive months.

(m) Failure to include an internal process to ensure Consortium Members provide Services in a manner that is consistent with this Contract and failure to take action against underperforming Consortium Members that is consistent with that process.

12.2.2 City Events of Default: The failure of the City to observe or perform any material covenant, representation, warranty, condition, obligation, or agreement on its part to be observed or performed under this Contract, and, in the case of failure to make payment under section 2.15, the continuation of such failure for a period of seven (7) days after written notice of such failure from the Consortium shall be an Event of Default for the City. For all other defaults, the Consortium is only entitled to take action if the City fails to cure its failure within thirty (30) days after notice from the Consortium to the City that the performance is delinquent, or such longer period of time as may be reasonably necessary to cure, and so long as the City fails to commence such action to cure such default within such thirty (30) days and fails to diligently pursue the cure to completion, not to exceed ninety (90) days. Notwithstanding the forgoing, if the default reasonably requires more than seven (7) days, or thirty (30) days as appropriate, to cure such default shall not constitute an Event of Default, provided that the curing of the default is promptly commenced upon receipt by the City of the notice of the default, and with due diligence is thereafter diligently and continuously prosecuted, not to exceed ninety (90) days, and provided that the City keeps Consortium well informed at all times of its progress in curing the default.

12.2.3 City Remedies on Default. If an Event of Default occurs, in addition to any other remedies available at law or in equity, the City may, without barring later election of any other remedy, exercise any one or more of the following remedies at the City's election, in any order or combination; provided, however, that the City is only entitled to take the actions described below if the Consortium fails to perform within thirty (30) days after notice from the City to the Consortium that the performance is delinquent, or such longer period of time as may be reasonably necessary to cure, and so long as the Consortium fails to commence such action to cure such default within such thirty (30) days and fails to diligently pursue the cure to completion, not to exceed ninety (90) days:

(a) Terminate a Consortium Member's right to provide Services to RDUs with or without terminating the Contract, in which event the Consortium's Collection Zones previously serviced by that Consortium Member, as depicted in Exhibit 2, shall be re-allocated among the remaining Consortium Members as determined by the Consortium.

(b) Consortium agrees that Consortium Members shall be liable to the City for all excess costs sustained by the City by reason of the Consortium Member's breach and for which liquidated damages are not imposed provided for under Section 12.2.1. The City shall deduct such costs from the responsible Consortium Member's Letter of Credit or Escrow Account when allowed under Section 2.21 of this Contract. If the City cannot identify the responsible Consortium Member, the Consortium shall

identify the Consortium Member assigned to the area where the incident occurred and report that information to the City.

(c) Withhold payment of outstanding balances for RDUs who are in non-payment status from the Consortium Member responsible for the Default.

(d) The City may cancel and terminate the Contract.

(e) Subject to the limitations set forth in this 12.2.3, the City may take whatever action at law or in equity may appear necessary or desirable to the City to collect any payments due under this Contract or to enforce performance and observance of any obligation, agreement, or covenant of the Consortium under this Contract or to recover damages against the Consortium Member responsible for the default.

The City has entered into this Contract with the full knowledge and understanding that the Consortium has and may never have any assets, cash, revenues, or funds. It is therefore understood and the City agrees that should there be an Event of Default by the Consortium pursuant to this Contract the City's sole remedies against the Consortium shall be for specific performance or termination, provided that the City may elect to recover against and the Consortium Members agree to allow the City to seek damages from and against a Consortium Member directly responsible for violating its obligations to perform Residential Collection Services pursuant to this Contract. Consortium agrees that its operating agreement shall require each Consortium Member to agree to allow the City to seek damages from such a responsible Consortium Member directly.

12.2.4 Consortium Remedies on Default. Whenever any Event of Default occurs by the City, the Consortium may enforce any of its rights and remedies available in law or in equity as it deems necessary or desirable, including, to enforce performance and observance of any obligation, agreement, representation, warranty, or covenant of the City under this Contract. Except in the case of non-payment of amounts due to Consortium, Consortium is only entitled to take such action if the City fails to perform within thirty (30) days after notice from the Consortium to City that the performance is delinquent, or such longer period of time as may be reasonably necessary to cure, and so long as the City fails to commence such action to cure such default within such thirty (30) days and fails to diligently pursue the cure to completion, not to exceed ninety (90) days.

NEITHER PARTY SHALL BE LIABLE FOR, AND THE OTHER PARTY WAIVES ANY CLAIM AGAINST THE FIRST PARTY FOR, ANY INCIDENTAL, INDIRECT, CONSEQUENTIAL, SPECIAL, OR PUNITIVE DAMAGES ARISING OUT OF OR RELATING TO THIS CONTRACT OR ANY SERVICES UNDERTAKEN OR ARISING FROM THIS CONTRACT.

12.3 Mediation

All claims, disputes or other matters in question between the parties to this Contract arising out of or relating to this Contract or breach thereof, including disputes regarding the City's imposition of liquidated damages to the extent allowed in Section 12, shall be referred to non-binding mediation before, and as a condition precedent to, the initiation of

any legal action hereof, or provided for herein. Each party agrees to participate in up to two hours of mediation per dispute. The mediator shall be selected by the parties, or if the parties are unable to agree on a mediator, then any party can request the administrator of the Ramsey County District Court Civil ADR Program and/or similar person, to select a person from its list of qualified neutrals. The mediation shall be attended by employees or agents for each party having authority to settle the dispute. All expenses related to the mediation shall be borne by each party, including without limitation, the costs of any experts or legal counsel. All applicable statutes of limitations and all defenses based on the passage of time are tolled while the mediation procedures are pending, and for a period of thirty (30) days thereafter. This section shall not apply to Section 3.1.4.2 of this Contract.

13 Policy

13.1 Records, Dissemination of Information.

13.1.1 For purposes of this Contract, the following words and phrases shall have the meanings set forth in this section, except where the context clearly indicates that a different meaning is intended.

"Work product" shall mean any report, recommendation, paper, presentation, drawing, demonstration, or other materials, whether in written, electronic, or other format that results solely and exclusively from Consortium's or Consortium Member's services under this Contract.

"Supporting documentation" shall mean any surveys, questionnaires, notes, research, papers, analyses, whether in written, electronic, or in other format and other evidences used to generate any and all work performed and work products generated under this Contract.

"Business records" shall mean any books, documents, papers, account records, route maps, customer lists and other evidences, whether written, electronic, or in other form, belonging to Consortium or Consortium Member and solely and exclusively pertaining to work performed under this Contract.

13.1.2 The Consortium agrees not to release, transmit, or otherwise disseminate information associated with or generated as a result of the work performed under this Contract without prior knowledge and written consent of the City, unless the Consortium is legally required to do so.

13.1.3 In the event of termination, all documents finished or unfinished, and supporting documentation prepared by the Consortium under this Contract, shall be delivered to the City by Consortium by the termination date and there shall be no further obligation of the City to Consortium.

13.1.4 Pursuant to and in compliance with Minn. Stat. § 16C.05, subd. 5, the Consortium and Consortium Members shall maintain all business records in such a manner as will readily conform to the terms of this Contract and to make such materials available at its office at all reasonable times during this Contract period and for six (6) years from the date of termination for audit or inspection by the City, the Auditor of the State of Minnesota, or other duly authorized representative. Any

such audit or inspection shall (a) occur during the Consortium's normal business hours and at Consortium's place of business; (b) not disrupt the operation of Consortium's business; (c) require at least ten (10) business days prior written notice; (d) occur no more than once in any given twelve (12) month period; (e) be at the sole cost and expense of the inspecting or auditing party.

13.1.5 The Consortium agrees to abide strictly by Chapter 13, Minnesota Government Data Practice Act, and in particular Minn. Stat.§§ 13.05, subd. 6 and 11; and 13.37, subd. 1 (b) and Minn. Stat §§ 138.17 and 15.17. All of the data created, collected, received, stored, used, maintained, or disseminated by the Consortium in performing functions under this Contract is subject to the requirements of the Minnesota Government Data Practices Act and Consortium must comply with those requirements as if it were a governmental entity. If any provision of this Contract is in conflict with the Minnesota Government Data Practices Act or other Minnesota state laws, state law shall control.

13.2 ADA

The Consortium shall ensure that Consortium Members comply with the Americans with Disabilities Act and Section 504 of the Rehabilitation Act of 1973 and not discriminate on the basis of disability in the admission or access to, or treatment of employment in its services, programs, or activities. The appropriate Consortium Member agrees to hold harmless and indemnify the City from costs, including but not limited to damages, attorney's fees, and staff time, in any action or proceeding brought alleging a violation of ADA and/or Section 504 caused by the Consortium Member.

13.3 City Requirements

13.3.1 Human Rights/Affirmative Action/Economic Opportunity.

(a) The Consortium shall ensure that Consortium and individual Consortium Members comply with the City of Saint Paul's Human Rights Department's Affirmative Action Requirements in Employment pursuant to Section 183.04 of the Saint Paul Legislative Code, the Rules Governing Affirmative Requirements in Employment as provided in Exhibit 6. The Consortium agrees to comply with all federal, state and local laws, resolutions, ordinances, rules, regulations and executive orders pertaining to unlawful discrimination on account of race, creed, religion, color, sex, sexual or affectional orientation, national origin, ancestry, familial status, age, disability, marital status, or status with regard to public assistance and will take affirmative steps to ensure that applicants are employed and employees are treated during employment without regard to the same.

(b) The Consortium shall ensure that Consortium and Consortium Members and, if the Consortium has employee(s), the Consortium itself, complete and submit to the Department of Human Rights and Equal Economic Opportunity an Affirmative Action Program Registration form along with a $75 registration fee (City of Saint Paul Administrative Code Ordinance 86.06 and City of Saint Paul Legislative Code Ordinance183.04).

13.3.2 Vendor Outreach. The Consortium agrees to comply with and shall cause its non-Consortium subcontractors to comply with the City's Vendor Outreach Program as required by Chapter 84 of the St. Paul Administrative Code. In entering into subcontracts with non-Consortium Members, Consortium and subcontractors shall meet the requirements set forth in Exhibit 7 attached hereto and incorporated herein.

13.3.3 Living Wage. The Consortium agrees to comply with and shall cause Consortium Members and any non-Consortium subcontractors to comply with the requirements of the Saint Paul Living Wage and Responsible Public Spending Ordinance codified as Chapter 98 of Saint Paul Administrative Code ("Living Wage Ordinance") and make payment of a living wage to eligible persons covered by the Living Wage Ordinance in compliance with the requirements of Exhibit 8. Family members of owners of individual Consortium Members are exempt from this requirement.

13.3.4 Compliance Conference. Consortium shall ensure that all Consortium Members and any non-Consortium subcontractors attend a compliance conference prior to the beginning of any Services. The compliance conferences shall be conducted by City staff and are held for the benefit of and to provide information to all participating Consortium Members and any non-Consortium subcontractors. Each area of compliance is reviewed by the appropriate City staff member and forms are distributed for documentation and reporting. City staff will explain the documentation at this time and will provide on-going technical assistance in an effort to keep the report requirements up to date. Any new Consortium member or non-Consortium subcontractor identified after the initial conferences shall arrange to attend a subsequent conference unless such attendance is waived by the City. Failure to attend a compliance conference will not excuse the obligation to be aware of all compliance requirements.

13.3.5 Consortium shall incorporate in all contracts and Non-Consortium subcontracts for Services the requirements of this Section and to cause all Consortium Members and Non-Consortium subcontractors for Services to incorporate the requirements of this Section in all subcontracts for Services.

13.4 Saint Paul Service Disruption and Service Quality Assurance Program

The Consortium agrees to comply with the Saint Paul Service Disruption and Service Quality Assurance Program as set forth in Exhibit 5 attached hereto and incorporated herein.

13.5 Conflict of Interest

Consortium's acceptance of this Contract indicates compliance with Chapter 24.03, City of Saint Paul Administrative Code: "Except as permitted by law, no city official or employee shall be a party to or have a direct financial interest in any sale, lease, or contract with the City." Consortium also affirms that to the best of the Consortium's knowledge, its involvement in this contract does not result in a conflict of interest with any party or entity which may be affected by the terms of this contract. The Consortium agrees that should any conflict or potential conflict of interest become known to the Consortium, it will immediately notify the City of the situation so

that a determination can be made about Consortium's ability to continue performing Services under this Contract.

13.6 Force Majeure

The City, the Consortium and the Consortium Members shall not be held responsible for performance if its performance is prevented by acts or events beyond the party's reasonable control, including, but not limited to: severe weather and storms, earthquake or other natural occurrences, strikes and other labor unrest, power failures, electrical power surges or current fluctuations, nuclear or other civil military emergencies, or legislative, judicial, or executive acts (each of the forgoing, a "Force Majeure Event"). The time period for the performance in question shall be extended for only the actual amount of time said party is so delayed.

14 Reserved

15 Notices

15.1 Address

Any notice or demand required or permitted to be given or made thereunder shall be sufficiently given or made by e-mail, messenger delivery, overnight delivery, or certified mail in a sealed envelope, postage prepaid, addressed as follows:

If to City:

If to Consortium:

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

Notice delivered by messenger, overnight delivery, or e-mail shall be deemed received upon delivery. Notice delivered by mail shall be deemed to have been given as of the date three (3) days after the U.S.P.S. postmark date.

16 Severability

If any of the provisions of the Contract 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 Contract as a whole or of any section, subsection, sentence or clause not adjudged to be invalid so long as the material purposes of this Contract can be determined and effectuated.

If the Consortium shall discover any provision in the specifications or the Contract which is contrary to or inconsistent with any law, ordinance or regulation, the Consortium shall immediately report it to the City in writing.

17 Governing Law and Venue

All matters, whether sounding in tort or in contract, relating to the validity, construction, performance, or enforcement of this Contract shall be controlled by and determined in accordance with the laws of the State of Minnesota, and the Consortium and Consortium Member agrees that all legal actions initiated by the Consortium, Consortium Members, or the City with respect to or arising from any provision contained in this Contract shall be initiated, filed, and venued exclusively either in Ramsey County District Court, Ramsey County, Minnesota or within the U.S. District Court for the District of Minnesota.

18 Right to Require Performance

18.1 The City's failure at any time to require performance by the Consortium of any of the specifications in the Contract shall in no way affect the right of the City thereafter to enforce same. The Consortium's failure at any time to require performance by the City of any of the specifications in the Contract shall in no way affect the right of the Consortium thereafter to enforce same.

18.2 If any agreement contained in this Contract should be breached by either party and thereafter waived by the other party in writing, such waiver shall be limited to the particular breach so waived and shall not be deemed to waive any other concurrent, previous, or subsequent breach hereunder. There shall be no implied waiver of any provision of this Contract. Any waiver must be in writing and signed by the party to be held to the waiver.

19 Option to Change Service; Amendments

19.1City Options

19.1.1 The City shall have the option to request a change in the scope of work performed under the terms of the Contract, including, without limitation, changing the types of material collected, the method of handling, collecting, or disposing of the collected Trash; provided, that any change in scope of work will require a change in compensation terms under this Contract.

19.1.2 The City shall request a change in Services by serving written notice to the Consortium at its designated place of business at least ninety (90) days before the date such change in the scope of work is contemplated to begin.

19.1.3 Immediately after written notice is served, the parties shall enter into good faith negotiations concerning the terms, frequency, and the details of pricing the services being requested.

19.1.4 Any modification or amendments to the Contract shall be in writing and shall be signed by both parties.

20 Electronic Signature

An electronic signature or a signature transmitted by an electronic means is deemed as effective and valid as an original signature.

21 Survival of Obligations

The respective obligations of the Parties under these terms and conditions, which by their nature would continue beyond the term of this Contract, survive termination, cancellation or expiration of this Contract.

22 Entire Contract

This executed Contract supersedes all oral Contracts and negotiations between the parties relating to the subject matter hereof. Any alterations, amendments, deletions, or waivers of the provisions of the executed Contract shall be valid only when expressed in writing and duly signed by the parties, unless otherwise provided herein.

23 Signature Page - City

In witness hereto, the City and the Consortium have executed this document as of the day and year first above written.

CITY OF SAINT PAUL MINNESOTA,

A Minnesota Home Rule Charter city

By: _____ Date: 11.14.17

Christopher B. Coleman

Its: Mayor

By: _____ Date: _____

Todd Hurley

Its: Finance Director

By: _____ Date: 11-14-17

Kathy Lantry

Its: Director of the Department of Public Works

Reviewed and Approved:

_____ Date: 11/14/17

Rachel G. Tierney

Deputy City Attorney

23 Signature Page – Consortium

In witness hereto, the Consortium has executed this document as of the day and year first above written.

By: Ronald Franklin 11/14/17

Its: ORGANIZER