

**COMMERCIAL, INDUSTRIAL AND
INSTITUTIONAL
SOLID WASTE SERVICES AGREEMENT**

BETWEEN

Village of Niles

AND

Groot Industries, Inc.

DATED: January 1, 2016

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This Solid Waste Services Agreement is made and entered into as of the 8th day of December, 2015 by and between Groot Industries, Inc., (the "Contractor") and the Village of Niles, Illinois (the "Municipality").

PREAMBLE

WHEREAS, the Municipality, in order to protect the public health and welfare of its residents and commercial entities, has deemed it necessary to collect, transport and dispose of Non-SWANCC Waste as defined below; and

WHEREAS, the Municipality is authorized pursuant to the provisions of Section 11-19-1 of the Illinois Municipal Code (65 ILCS 5/11-19-1) to provide for the method or methods of collection, transportation and disposal of municipal waste located within its boundaries and to provide that the method chosen may be the exclusive method to be used within its boundaries; and

WHEREAS, the Municipality has determined to provide municipal waste collection, transportation and disposal services to its multi-family residents and commercial entities and impose on its residents and commercial entities rates and charges relating to such services; and

WHEREAS, the Municipality has determined that it is in the best interests of its commercial entities to contract with a single waste hauler to collect, transport and dispose of (or sell) Non-SWANCC Waste at a facility or facilities mutually agreed upon by the Municipality and the Contractor; and

WHEREAS, the Contractor, pursuant to the terms of this Solid Waste Services Agreement and on behalf of the Municipality, is willing to collect, transport and dispose of (or sell) Non-SWANCC Waste at a facility or facilities mutually agreed upon by the Municipality and the Contractor;

NOW, THEREFORE, in consideration of the mutual promises, covenants and conditions herein contained:

ARTICLE I DEFINITIONS

Section 1.1 Definitions

- a) "Breach" means one of the items described in Sections 9.1 or 9.2.
- b) "Commercial Service" means the service provided by the Contractor, on behalf of the Municipality, pursuant to Section 4.1.
- c) "Contractor" means Groot Industries, Inc., an Illinois corporation, and its successors and assignees.
- d) "Event of Default" has the meaning specified in Sections 9.3 and 9.4.
- e) "Municipality" means the Village of Niles, Illinois.
- f) "Non-SWANCC Waste" means commercial, industrial and institutional refuse, certain commercial and multi-family (excluding condominium recyclables) Recyclable Materials (as described in Article VIII), and any other materials designated by the Municipality for collection, provided that such materials are non-SWANCC Waste.
- g) "Project Use Agreement" means the Project Use Agreement, dated March 25, 1992, between the Solid Waste Agency of Northern Cook County and the Municipality, as amended from time to time.
- h) "Recyclable Materials" means aluminum cans, tin, steel and bi-metal cans, clear, green and brown glass bottles and jars, newspapers, magazines, mixed papers Gunk mail, chipboard, white and colored paper, brown kraft paper bags): corrugated cardboard, #1 PETE plastic containers and #2 HPDE plastic containers, #3-#7 plastic containers and bags, aseptic beverage containers, six-pack rings and twelve-pack bands, and any other material or materials which the Municipality and the Contractor mutually agree to include as a "Recyclable Material" subsequent to the execution of this Agreement.
- i) "State" means the State of Illinois.
- j) "SWANCC" means the Solid Waste Agency of Northern Cook County.
- k) "SWANCC Waste" shall have the meaning ascribed to it in the Municipality's Ordinance No. 1991-14.
- l) "Solid Waste Services Agreement" means this Agreement, dated January 1, 2016, by and between the Municipality and the Contractor, as amended from time to time.
- m) "Temporary Roll-off" means any open top dumpster utilized for the placement of non-SWANCC waste used for both commercial and residential entities.

ARTICLE II SCOPE OF SERVICES

Section 2.1 Commercial Services

The Contractor shall provide, on behalf of the Municipality, complete service for designated collection, transportation and disposal (or sale) of Non-SWANCC Waste at the facility or facilities mutually agreed upon by the Municipality and the Contractor. The Contractor shall be the sole and exclusive agent of the Municipality to provide the above-referenced Commercial Services.

Section 2.2 Private Services

The Contractor shall, on its own behalf (and not on behalf of the Municipality), provide for the collection, transportation and disposal of all Private Service waste in accordance with the provisions of Section 4.2.

Section 2.3 Revenue Collection

The Contractor shall, on behalf of the Municipality, provide revenue collection services in accordance with Article VI for all Commercial Services provided under this Solid Waste Contract. This shall include monthly service billing as well as the administration fee recompensed to the Municipality.

Section 2.4 Excluded Services

Solid Waste collection, transportation and disposal from all single-family, multi-family and townhomes units within the Municipality are not included within this Solid Waste Contract.

Section 2.5 Exempted Services

The following circumstances for Solid Waste collection, transportation and disposal from any commercial, industrial and institutional account within the Municipality are not included within this Solid Waste Services Agreement if the Municipality approves the exemption of the specific services under the terms of the applicable provisions of the Municipality Code.

Section 2.6 Modification of Required Services

The Municipality reserves the right to adjust or expand the scope of Commercial Services required under this Solid Waste Services Agreement, upon thirty (30) days prior written notice to the Contractor, to accommodate changes in the definition of non-SWANCC Waste or changes in the scope of services provided by SWANCC. The Municipality and the Contractor agree to negotiate an equitable adjustment to the Contractor's compensation under this Solid Waste Services Agreement required as a result of any adjustment or expansion of Municipal or Franchised Services.

ARTICLE III TERMS OF SOLID WASTE SERVICES AGREEMENT

Section 3.1 Term of Solid Waste Contract

The initial term of this Solid Waste Services Agreement shall commence on January 1, 2016, and end on December 31, 2025. Upon mutual consent of both parties, this Solid Waste Services Agreement can be extended for periods of up to five (5) additional calendar years.

ARTICLE IV SOLID WASTE COLLECTION AND DISPOSAL

Section 4.1 Commercial Service

Non-SWANCC Waste Materials to be collected by the Contractor as part of the franchise in accordance with the schedule provided in Section 4.3 and transported to a facility meeting the requirements of the State of Illinois and any United States governmental agencies.

- 1) Commercial, industrial and institutional refuse
- 2) Recyclable Materials as provided in Article VIII
- 3) Temporary Construction and Demolition Roll-Off

Section 4.2 Private Service

- a) In addition to the Commercial Services provided by the Contractor on behalf of the Municipality under Section 4.1, the Contractor shall also make available to the commercial entities of the Municipality, Private Service for all types of solid waste not otherwise covered by this Solid Waste Services Agreement.
- b) For services provided pursuant to Section 4.2, the Contractor agrees to keep available tractor loaders, trailers and other necessary equipment. Upon the request of a business proprietor, the Contractor shall furnish an estimate for the cost of removal of any materials named in the immediately preceding paragraph.

Section 4.3 Schedule and Location of Collection

- a) Commercial Service Waste shall be collected in compliance with provisions of Chapter 82 Solid Waste, Section 82-4 Collection and disposal services of the Niles Code of Ordinances.
- b) Private Service Waste. Private Service waste shall be collected in accordance with the provisions of Section 4.2 on a day mutually agreed upon by the business and the Contractor.

Section 4.4 Disposal of Solid Waste

- a) Commercial, industrial, and institutional (Non-SWANCC) Waste. The Contractor shall transport for processing all non-SWANCC Waste collected pursuant to this Solid Waste Services Agreement to a facility meeting the requirements of the State of Illinois and any United States governmental agencies.
- b) Recyclable Materials. Recyclable Materials collected shall be transported for sale (with an intermediate diversion for processing permitted) to sites approved by the Municipality that meet the requirements of the State of Illinois and United States governmental agencies.

Section 4.5 Solid Waste Collection Data

- a) The Contractor shall provide to the Municipality, on a quarterly basis, a report on the quantity of all commercial solid waste collected within the Municipality, recycling diversion data and a breakdown of the number of franchised accounts.
- b) An annual audit of the scope of service matrix will be performed and access to this matrix data base will be provided to the Municipality. The information on this service matrix will include the name of account, the service address, the billing address (if different than the service address), a contact person, a telephone number and fax number where the contact person can be reached, the type of containers on site, the quantities of containers on site, the frequency of collections and an itemization of what day collections are performed, the current service rate of each account and the annual franchise revenue for each account.
- c) Program data and other public information will be provided to each account upon the request of the Municipality to do so.

**ARTICLE V
COMPENSATION**

Section 5.1 Commercial Service

- a) Non-SWANCC Waste. For providing for, on behalf of the Municipality, the collection, transportation and disposal (or sale) of commercial refuse and recyclables at a facility or facilities mutually agreed upon by the Municipality and the Contractor, and for providing revenue collection services, the Contractor shall receive as compensation the rates outlined in the in Exhibit A.
- b) Effective January 1, 2016, All commercial, industrial and institutional entity currently under this agreement will receive a reduction on their monthly invoices of 8.5%. If the entity's rate is currently below the pricing matrix, their monthly rates will be reduced by 8.5% effective January 1, 2016. Rates identified Exhibit A will adjust annually based on the change in the 12 previous months (June through May) Consumer Price Index (CPI-U) for Chicago-Kenosha-Gary - All Items, with a 2.0% minimum adjustment and 3.5% maximum adjustment each January 1 of the contract beginning 2017. Commercial entities below the pricing matrix will follow the same CPI schedule with a 3% minimum and 3.5% maximum until caught up to the current matrix.
- c) The Contractor is responsible for determining if an account is receiving sufficient service in terms of frequency of collection and on-site containers. If, for purposes of code enforcement, the Contractor deems that on-site storage is exceeded regularly, it shall recommend to the Municipality, that an increase in collection frequency or an upgrade of container size is necessary.

**ARTICLE VI
REVENUE COLLECTION**

Section 6.1 Billing of Accounts

Commercial Services provided under Section 4.1 are provided by the Contractor on behalf of the Municipality. The Contractor shall perform on a monthly basis in advance of services provided, on behalf of the Municipality, the billing and collection of all rates and charges imposed on commercial entities by the Municipality relating to such Commercial Services. The Municipality agrees to cooperate and assist the Contractor, when necessary, in the collection of funds owed for services performed. The Contractor is responsible to inform the Municipality on all delinquent accounts where service may ultimately be affected or suspended due to these delinquencies. The Municipality further agrees to cooperate with respect to information, if any, relating to property vacancies or any other information that will assist the Contractor in the execution of this Solid Waste Services Agreement.

The Contractor shall remit to the Municipality an administrative fee of \$150,000 per year in four equal quarterly payments. The administrative fee shall be included in the rates listed in Exhibit A and shall not be separately listed on the monthly bills to the commercial entities. In addition, for each temporary roll-off pull, the Municipality shall receive \$1.50/cubic container yard. These funds shall be remitted quarterly to the Municipality and this rate shall remain fixed for the term of the agreement.

Section 6.2 Commercial Service

The Contractor shall, on a monthly basis, bill each commercial entity, an amount payable for the collection, transportation and disposal (or sale) of Commercial Service waste for the following month. The bill shall be payable by the commercial entity within thirty (30) days. The Contractor shall account separately for all amounts received from commercial entities for the administrative fee and hold such amounts, as determined by the Municipality, for the benefit of the Municipality. These amounts shall be remitted to the Municipality on a quarterly basis along with the submitted service reports.

Section 6.3 Private Service

The Contractor may, but is not required to, include as an item on each commercial entity's bill an amount payable to the Contractor for the collection, transportation, and disposal of Private Service waste. The Contractor shall retain all amounts collected from commercial entity pursuant to this Section 6.3. Alternatively, the Contractor may bill commercial entities separately for Private Service.

**ARTICLE VII
TITLE TO WASTE**

Section 7.1 Title to Waste

The Contractor shall retain title to all Non-SWANCC waste.

**ARTICLE VIII
RECYCLABLE MATERIALS**

Section 8.1 Recyclable Materials Collection Service

- a) Commercial Recycling Service. Materials to be collected by the Contractor in accordance with the schedule referenced in Section 4.3 and transported to the facility or facilities mutually agreed upon by the Municipality and the Contractor that meets the requirements of the State of Illinois and United States governmental agencies shall include all Recyclable Materials as defined in Section 1.1.
- b) Transportation of Recyclable Materials. Recyclable Materials shall be sorted, processed at Contractors facility and transported for sale to sites as determined by the sole discretion of the Contractor. The Contractor shall retain all income (and fully bear all losses) resulting from the disposition of recyclable Materials.
- c) Recyclable Materials Collection Data. The Contractor shall provide to the Municipality, a quarterly report on the weight (in tons), of all Recyclable Materials collected from Commercial Entities under this Solid Waste Services Agreement. The report shall also contain a weight breakdown, by tons, of the types of Recyclable Materials collected..
- d) The Municipality, with mutual written consent of the Contractor, shall have the right to add materials to the list of Recyclable Materials stated in Article I, pending the availability of markets for materials to be added.
- e) The Contractor, as agent for the Municipality, shall have a contractual obligation to ensure that all Recyclable Materials collected are properly processed and marketed. No collected Recyclable Materials shall be landfilled or incinerated, unless advance authorization to do so is given by the corporate authorities of the Municipality.
- f) The Contractor shall sell all Recyclable Materials it collects under this Solid Waste Services Agreement. If changes in the market for the sale of any particular Recyclable Material makes continued collection of such Recyclable Material not economically feasible, the Contractor shall consult with the Municipality regarding the market changes of the affected Recyclable Material. The Municipality may, in its discretion, agree to remove from the list of Recyclable Materials any economically infeasible item upon such market change.
- g) Beginning on January 1, 2016, Contractor will use commercially reasonable efforts to advertise and educate recipients of Commercial Services on the benefit of recycling for the purpose of increasing the Recyclable Materials collected by Contractor. Contractor hereby agrees to pay the Municipality a flat fee of \$4,000 per month in anticipation of such increased volume of Recyclable Materials. Said fee shall be remitted with the quarterly commercial franchise and temporary roll-off fees and shall remain fixed for the term of the agreement.
- h) Each year, the Contractor will provide two document shredding events for the Village. The paper collected from this annual event will be applied towards the Village's recycling total for that month. This event is only for Village documents and not for public use.

**ARTICLE IX BREACH;
EVENTS OF DEFAULT AND REMEDIES**

Section 9.1 Breach by Contractor

Each of the following shall constitute a Breach on the part of the Contractor:

- 1) Failure of the Contractor to pay, within thirty (30) days after notice from the Municipality of such nonpayment, amounts which are undisputed or which are due to the Municipality under this Solid Waste Services Agreement;
- 2) Failure of the Contractor to perform timely any obligation under this Solid Waste Contract not included within subparagraph 1) above, except that such failure shall constitute a Breach only if such failure remains uncured for seven (7) days after notice to the Contractor from the Municipality of such failure; provided however, that this seven (7) day notice with opportunity to cure shall not be required in the event of persistent and repeated failure to perform; or
- 3) (A) The Contractor's being or becoming insolvent or bankrupt or ceasing to pay its debts as they mature or making an arrangement with or for the benefit of its creditors or consenting to or acquiescing in the appointment of a receiver, trustee or liquidator for a substantial part of its property, (B) a bankruptcy, reorganization, insolvency, arrangement or similar proceeding being instituted by the Contractor under the laws of any jurisdiction, (C) a bankruptcy, reorganization, insolvency, arrangement or similar proceeding being instituted against the Contractor under the laws of any jurisdiction, which proceeding has not been dismissed within one hundred twenty (120) days, (D) any action or answer by the Contractor approving of, consenting to or acquiescing in any such proceeding, or (E) the levy of any distress, execution or attachment upon the property of the Contractor which shall (or which reasonably might be expected to) substantially interfere with its performance under this Solid Waste Services Agreement.
- 4) If the Contractor misses a scheduled collection(s) under this Agreement, the missed scheduled solid waste collection(s) must be corrected within 24 hours of being reported to the Contractor. If the scheduled collection(s) is not corrected by the Contractor within 24 hours, a charge of \$10.00 per missed scheduled collection(s) will be charged to the Contractor by the Municipality. This provision will not be enforced if the missed scheduled collection(s) is due to a labor dispute of the Contractor's labor force, however, if the missed scheduled solid waste collection(s) is not corrected within seven (7) calendar days, the \$10 charge as stated above will become retroactive to the first day and collectable by the Municipality.
- 5) If the Contractor violates an Ordinance of the Municipality, for the first offense in a contract year a written warning will be issued by the Municipality, for each offense after the first offense a \$100 per offense charge will be levied against the Contractor.
- 6) All charges levied against the Contractor under sections 9.1 (4) and (5) will be remitted to the Municipality within 30 days of a written charge.

Section 9.2 Breach by Municipality

Each of the following shall constitute a Breach on the part of the Municipality:

- 1) The Municipality's being or becoming insolvent or bankrupt or ceasing to pay its debts as they mature or making an arrangement with or for the benefit of its creditors or consenting to or acquiescing in the appointment of a receiver, trustee or liquidator for a substantial part of its property,
- 2) A bankruptcy, reorganization, insolvency, arrangement or similar proceeding being instituted by the Municipality under the laws of any jurisdiction,
- 3) A bankruptcy, reorganization, insolvency, arrangement or similar proceeding being instituted against the Municipality under the laws of any jurisdiction, which proceeding has not been dismissed within one hundred twenty (120) days,
- 4) Any action or answer by the Municipality approving of, consenting to or acquiescing in any such proceeding, or
- 5) The levy of any distress, execution or attachment upon the property of the Municipality which shall (or which reasonably might be expected to) substantially interfere with the Municipality's performance hereunder.

Section 9.3 Events of Default and Remedies of Municipality

- a) If a Breach occurs under Section 9.1, the Municipality may exercise any one or more of the following remedies:
 - 1) The Municipality may declare an Event of Default and may then terminate this Solid Waste Services Agreement immediately, upon notice to the Contractor and, subject to the provisions of sub-paragraph 5) below, upon such termination the Contractor shall cease providing services under this Solid Waste Services Agreement;
 - 2) The Municipality may seek and recover from the Contractor any unpaid amounts due the Municipality, all its substantiated costs for the failure of the Contractor to perform any obligation under this Solid Waste Services Agreement and all damages, whether based upon contract, work stoppage, strike, Contractor negligence (including tort), warranty, delay or otherwise, arising out of the performance or non-performance by the Contractor of its obligations under this Solid Waste Services Agreement, and whether incidental, consequential, indirect or punitive, resulting from the Breach;
 - 3) The Municipality may (A) call upon the sureties to perform their obligations under the performance bond or (B) in the alternative, after releasing the sureties from their obligations under the performance bond, take over and perform the required services by its own devices, or may enter into a new contract for the required services, or any portion thereof, or may use such other methods as shall be required in the opinion of the Municipality for the performance of the required services;
 - 4) The Municipality shall have the power to proceed with any right or remedy granted by federal laws and laws of the State as it may deem best, including any suit, action or special proceeding in equity or at law for the specific performance of any covenant or agreement contained herein or for the enforcement of any proper legal or equitable remedy as the Municipality shall deem most effectual to protect the rights aforesaid, insofar as such may be authorized by law;

- 5) Upon any such termination of this Solid Waste Services Agreement, the Contractor shall for a period requested by the Municipality, but not longer than six (6) months, continue to perform the contractual services during which period the businesses shall pay the Contractor its scheduled compensation;
 - 6) No remedy by the terms of this Solid Waste Services Agreement conferred upon or reserved to the Municipality is intended to be exclusive of any other remedy, but each and every such remedy shall be cumulative and shall be in addition to any other remedy given to the Municipality. No delay or omission to exercise any right or power accruing upon any Event of Default shall impair any such right or power or shall be construed to be a waiver of any such Event of Default or acquiescence therein, and every such right and power may be exercised from time to time and as often as may be deemed expedient. No waiver of any Event of Default shall extend to or shall affect any subsequent default or Event of Default or shall impair any rights or remedies consequent thereto.
- b) This Section 9.3 shall survive the termination of this Solid Waste Services Agreement.

Section 9.4 Events of Default and Remedies of Contractor

- a) If a Breach occurs under Section 9.2, the Contractor may declare an Event of Default and terminate this Solid Waste Services Agreement immediately, upon notice to the Municipality. In such event, the Contractor's sole remedy shall be to seek and recover from the Municipality any unpaid amounts due the Contractor and any damages, whether incidental, consequential, indirect, or punitive, resulting from the Breach. The Contractor shall not be entitled to specific performance or any other equitable remedies.
- b) This Section 9.4 shall survive termination of this Solid Waste Services Agreement.

ARTICLE X INSURANCE AND INDEMNIFICATION

Section 10.1 Insurance

- a) The Contractor shall maintain for the duration of this contract and any extensions thereof, insurance issued by a company or companies qualified to do business in the State of Illinois and that meet the requirements set forth in Exhibit B. The Contractor shall provide the Municipality with a certificate of insurance indicating that such insurance coverage meets the requirements contained in Exhibit B.
- b) The Contractor agrees to include the Municipality as an additional named insured on both general and auto liability insurance policies, and the umbrella policy.
- c) Insurance premiums shall be paid by the Contractor and shall be without cost to the Municipality.

Section 10.2 Indemnification

- a) The Contractor agrees to indemnify, defend and hold harmless the Municipality, its officials, employees, agents, representatives and attorneys, in both their official and individual capacities, from and against any and all injuries, deaths, claims, losses, damages, suits, demands, actions and causes of actions, expenses, fees, including attorneys' fees, and costs which may accrue against the Municipality in consequence of entering into this Solid Waste Services Agreement or which may result from or arise out of any action or omission of

the Contractor, its officers, employees, agents or subcontractors.

- b) The Contractor shall provide landfill indemnification as outlined in Exhibit "C" of this Solid Waste Services Agreement.

ARTICLE XI MISCELLANEOUS

Section 11.1 Non-Assignability

The Contractor shall not assign this Solid Waste Services Agreement or any part thereof without the prior written consent of the Municipality, whose approval shall not be unreasonably withheld. Approval, if any, for such assignment shall be made by the corporate authorities of the Municipality. The Contractor shall not assign or subcontract this Solid Waste Services Agreement or the work hereunder, or any part thereof, to any other person, firm, or corporation without prior written consent of the Municipality, but the Contractor may perform its obligations hereunder through its subsidiaries or divisions. Such assignment shall not relieve the Contractor from its obligations or change the terms of this Solid Waste Services Agreement.

Section 11.2 Equal Employment Opportunity

- a) In the event of the Contractor's noncompliance with the provisions of this Section 11.2, the Illinois Human Rights Act or the Illinois Department of Human Rights Rules and Regulations, the Contractor may be declared ineligible for future contracts or subcontracts with the State or any of its political subdivisions or municipal corporations, and this Solid Waste Services Agreement may be canceled or voided in whole or in part, and such other sanctions or penalties may be imposed or remedies invoked as provided by statute or regulation.
- b) During the performance of this Solid Waste Services Agreement, the Contractor agrees as follows:
 - 1) That it will not discriminate against any employee or applicant for employment because of race, color, religion, sex, marital status, national origin or ancestry, age, physical or mental handicap unrelated to ability, or an unfavorable discharge from military service; and further, that it will examine all job classifications to determine if minority persons or women are underutilized and will take appropriate affirmative action to rectify any such under-utilization.
 - 2) That, if it hires additional employees in order to perform this Solid Waste Services Agreement or any portion hereof, it will determine the availability (in accordance with the Illinois Department of Human Rights Rules and Regulations) of minorities and women in the area(s) from which it may reasonably recruit and it will hire for each job classification for which employees are hired in such a way that minorities and women are not under-utilized.
 - 3) That, in all solicitations or advertisements for employees placed by the Contractor or on the Contractor's behalf, the Contractor will state that all applicants will be afforded equal opportunity without discrimination because of race, color, religion, sex, marital status, national origin or ancestry, age, physical or mental handicap unrelated to ability, or an unfavorable discharge from military service.
 - 4) That the Contractor will send to each labor organization or representative thereof with which it is bound by a collective bargaining or other agreement or understanding, a notice advising such labor organization or representative of the Contractor's obligations under the Illinois Human Rights Act and the Illinois

Department of Human Rights Rules and Regulations. If any such labor organization or representative fails or refuses to cooperate with the Contractor in its efforts to comply with such Act and Rules and Regulations, the Contractor will promptly notify the Illinois Department of Human Rights and the Municipality, and will recruit employees from other sources when necessary to fulfill the Contractor's obligations thereunder.

- 5) That the Contractor shall submit reports as required by the Illinois Department of Human Rights Rules and Regulations, furnish all relevant information as may from time to time be requested by the Illinois Department of Human Rights or the Municipality, and in all respects comply with the Illinois Human Rights Act and the Illinois Department of Human Rights Rules and Regulations.
 - 6) That the Contractor shall permit access to all relevant books, records, accounts and work sites by personnel of the Municipality and the Illinois Department of Human Rights for purposes of investigation to ascertain compliance with the Illinois Human Rights Act and the Illinois Department of Human Rights Rules and Regulations.
 - 7) That the Contractor shall include, verbatim or by reference, the provisions of this Section 11.2 in every subcontract it awards under which any portion of the Solid Waste Services Agreement obligations are undertaken or assumed, so that such provisions will be binding upon each subcontractor. The Contractor will promptly notify the Municipality and the Illinois Department of Human Rights in the event any subcontractor fails or refuses to comply therewith. In addition, the Contractor will not utilize any subcontractor ineligible for contracts or subcontracts with the State or any of its political subdivisions or municipal corporations.
- c) During the term of this Solid Waste Services Agreement, the Contractor shall comply in all respects with the Equal Employment Opportunity Act. The Contractor shall have a written equal employment opportunity policy statement declaring that it does not discriminate on the basis of race, color, religion, sex, national origin, disability, or age. Findings of non-compliance with applicable State or federal equal employment opportunity laws and regulations may be sufficient reason for revocation or cancellation of this Solid Waste Services Agreement.

Section 11.3 Prevailing Wage Rates

- a) Not less than the prevailing rate of wages, as found by the Municipality or the Illinois Department of Labor, or determined by a court on review, shall be paid to all laborers, workers and mechanics performing work under this Solid Waste Services Agreement. The Contractor and each subcontractor shall keep an accurate record showing the names and occupations of all laborers, workers, and mechanics employed by them on this Solid Waste Services Agreement and showing the actual hourly wages paid to each such person.
- b) The submission by the Contractor and each subcontractor of payrolls, or copies thereof, is not required. However, the Contractor and each subcontractor shall preserve their weekly payroll records for a period of three (3) years from the date of completion of this Solid Waste Services Agreement.
- c) If the Illinois Department of Labor revises the prevailing rate of hourly wages to be paid by the Municipality, the revised rate, as provided by the Municipality to the Contractor, shall apply to this Solid Waste Services Agreement.

Section 11.4. Performance Bond or Letter of Credit

The Contractor shall furnish a performance bond for the faithful performance of this Agreement, such bond to be substantially in the form attached as Exhibit C, to be executed by a responsible surety company and to be in the penal sum of \$500,000. Such performance bond shall be furnished annually by the Contractor for the following contract year, and shall indemnify the Municipality against any loss resulting from any failure of performance by the Contractor. The initial bond shall be posted on or before the date that the Contractor commences providing Services to the Municipality and bond shall be posted within thirty (30) days of the anniversary of the date on which the Contractor commenced provision of Services pursuant to this Agreement.

Section 11.5 Provision for Telephone Calls

The Contractor shall maintain an office and a [1-800] telephone number, for the receipt of service, billing and complaint calls, and shall be available for such calls on all working days from 8:00 a.m. to 5:00 p.m. Any complaints must be given prompt and courteous attention, and in case of missed scheduled collections, the Contractor shall investigate; and if verified, shall arrange for collection of such waste within 24 hours after the complaint is received.

Section 11.6 Equipment to be used by Contractor

- a) The Contractor agrees to collect all materials described in Section 4.1 in fully enclosed, leak-proof, modern trucks. All vehicles and collection equipment will be kept in safe, operable condition. Any equipment that is used by the Contractor, that is determined to be unsafe, or in an overall poor condition by the Municipality, shall be replaced at the request of the Municipality. Equipment used for Private Service described in Section 4.3 may be open-body trucks, dump trucks and similar type equipment. When open-body trucks are used, the Contractor shall take such action as is necessary to prevent littering and blowing debris.
- b) Containers used under the franchised service shall be operable, safe and free of graffiti. Any container in disrepair of this sort shall be replaced within three (3) days of notification by the Municipality. Containers with plastic lids that are ill-fitted due to obolences or warping shall be replaced within three (3) days of notification by the Municipality, in order to maintain a tight fitting seal to prevent access for pests. All containers will be adequately demarcated with the Contractor's logo. Each container will have an inventory control number demarcated on each container that is cross-referenced to the service matrix.

Section 11.7 Compliance with Laws

- a) The Contractor shall comply at all times with all applicable federal, State and municipal laws, ordinances and regulations at any time applicable to the Contractor's operations under this Solid Waste Services Agreement with no increase to the Contractor's compensation as set forth in this Solid Waste Services Agreement.
- c) The Contractor shall obtain, at its own expense, all permits and licenses required by law or ordinance and maintain the same in full force and effect.

Section 11.8 Care and Performance

The Contractor shall undertake to perform all services rendered hereunder in a neat, thorough and competent manner, without supervision by the Municipality, and to use care and diligence in the performance of all specified services and to provide neat, orderly, uniformed and courteous employees and personnel on its crews.

If the Contractor causes damages to the streets and/or alleys of the Municipality, the Municipality shall prepare a cost estimate to repair the damage and the Contractor has 30-days to provide written comment to the cost estimate and will remit the cost to repair the damage to the Municipality within 30-days once a final written cost of the repair is sent to the Contractor.

Section 11.9 No Alcohol or Drugs

The Contractor shall prohibit and use its best efforts to enforce the prohibition of any drinking of alcoholic beverages or use of illegal drugs by its drivers and crew members while on duty or in the course of performing their duties under this Solid Waste Services Agreement.

Section 11.10 Governing Law

This Solid Waste Contract and any questions concerning its validity, construction, or performance shall be governed by the laws of the State of Illinois.

Change in Law

The parties agree to negotiate a reasonable price adjustment for Contractor's performance of future services under this Agreement in the event that there is a change of any nature (by modification, addition or deletion of any provisions) in any Federal, State or local environmental or waste disposal law, ordinance or regulation, and such event causes, or will cause, an increase in the Contractor's future costs of performing its obligations under this Agreement. Upon the occurrence of such an event, the Contractor shall notify the Village in writing of its request to negotiate a price adjustment, and shall submit documentation of the cost increases it anticipates as a result of such event. The parties shall have ninety (90) days from the date that the Contractor has delivered said notice to the Village in which to agree mutually on a price adjustment for the Contractor's performance of future services under this Agreement. If an agreement cannot be reached in ninety (90) days, both parties agree to continue negotiations for another ninety (90) days and/or go to arbitration before the American Arbitration Association.

Section 11.11 Severability

The invalidity or unenforceability of one or more of the terms or provisions contained in this Solid Waste Services Agreement shall not affect the validity or enforceability of the remaining terms and provisions of this Solid Waste Services Agreement so long as the material purposes of this Solid Waste Services Agreement can be determined and effectuated.

Section 11.12 Customer Service

The Contractor will each contract year conduct a customer service survey to assess the Contractor's service performance under the contract. The survey content and administration will be approved by the Village.

Section 11.13 Temporary Construction and Demolition Roll Off

Pursuant to Chapter 82 Solid Waste, Article 1 of Niles Code of Ordinances, Groot will provide the required plywood base for temporary construction and demolition roll off receptacles placed on Village streets.

IN WITNESS WHEREOF, the parties hereto have caused this Solid Waste Services Agreement to be executed by their duly authorized representatives, all on the day and year first above written.

[CONTRACTOR]
Its:

[MUNICIPALITY]

By :

Its:

ATTEST:

ATTEST:

Its:

Its:

EXHIBIT A
PRICING SHEET

Refuse Container Size

	1XWk.	2XWk.	3XWk.	4XWk.	5XWk.	6XWk.	7XWk.
65 gal toter	\$17.52	\$53.52	\$59.48	\$79.31	\$94.81	\$112.85	\$148.93
95 gal toter	\$29.28	\$53.52	\$59.48	\$79.31	\$94.81	\$112.85	\$148.93
1 yard	\$46.11	\$76.92	\$107.73	\$177.77	\$220.56	\$264.47	\$352.26
1 yard compactor	\$68.78	\$127.38	\$186.22	\$245.07	\$303.92	\$362.77	\$480.21
1.5 yard	\$53.56	\$89.27	\$138.34	\$202.22	\$248.31	\$294.53	\$411.80
1.5 yard compactor	\$91.88	\$173.80	\$255.76	\$337.70	\$419.65	\$501.58	\$665.48
2 yard	\$59.69	\$105.88	\$149.86	\$240.27	\$295.13	\$345.14	\$525.88
2 yard compactor	\$117.77	\$225.65	\$333.48	\$441.20	\$549.06	\$656.90	\$872.59
4 yard	\$97.21	\$165.72	\$233.98	\$311.58	\$370.66	\$439.02	\$531.79
4 yard compactor	\$194.46	\$331.46	\$467.94	\$623.12	\$741.31	\$878.04	\$1,063.60
6 yard	\$159.31	\$272.77	\$386.97	\$501.31	\$615.64	\$729.98	\$880.96
6 yard compactor	\$335.61	\$661.30	\$986.98	\$1,312.67	\$1,638.34	\$1,964.02	\$2,620.34
8 yard	\$193.18	\$332.29	\$472.12	\$611.85	\$751.65	\$891.44	\$1,226.25
10 yard	\$229.29	\$397.27	\$564.42	\$731.97	\$899.52	\$1,067.08	\$1,456.20

Recycle Container Size

	1XWk.	2XWk.	3XWk.	4XWk.	5XWk.	6XWk.	7XWk.
65 gal toter	\$24.75	\$44.54	\$64.20	\$83.83	\$103.48	\$123.13	\$162.42
95 gal toter	Free	\$24.75	\$44.54	\$64.20	\$83.83	\$103.48	\$162.42
1 yard	\$37.46	\$69.30	\$101.46	\$133.71	\$165.76	\$197.95	\$262.27
1 yard compactor	\$74.92	\$138.58	\$202.91	\$267.42	\$331.54	\$395.89	\$524.53
1.5 yard	\$40.13	\$75.29	\$110.48	\$145.63	\$180.79	\$215.97	\$286.28
1.5 yard compactor	\$80.27	\$150.59	\$220.93	\$291.28	\$361.58	\$431.93	\$572.59
2 yard	\$45.75	\$86.52	\$127.30	\$168.08	\$208.87	\$249.66	\$331.21
2 yard compactor	\$91.52	\$173.06	\$254.60	\$336.15	\$417.72	\$499.31	\$662.40
4 yard	\$83.59	\$162.21	\$240.84	\$319.45	\$398.08	\$476.71	\$633.95
4 yard compactor	\$167.17	\$324.41	\$481.67	\$638.90	\$796.16	\$953.38	\$1,267.87
6 yard	\$99.94	\$194.89	\$289.84	\$384.82	\$479.77	\$574.73	\$762.65
6 yard compactor	\$199.85	\$389.78	\$579.68	\$769.62	\$959.55	\$1,149.48	\$1,525.31
8 yard	\$117.54	\$230.21	\$342.66	\$455.23	\$567.81	\$680.35	\$905.47
10 yard	\$133.50	\$262.05	\$390.57	\$519.11	\$647.65	\$776.17	\$1,033.25

Dumpster Pricing	Temporary and Permanent						
	Refuse	Recycle					
6 yard roll-off	\$310.00	\$312.17	per haul	1.50	Ton Cap		
10 yard roll-off	\$340.00	\$312.17	per haul	2.00	Ton Cap		
15 yard roll-off	\$370.00	\$312.17	per haul	2.50	Ton Cap		
20 yard roll-off	\$400.00	\$312.17	per haul	3.00	Ton Cap		
30 yard roll-off	\$465.00	\$312.17	per haul	4.50	Ton Cap		
Additional Tons Over Cap	\$51.92	n/a	per ton				

	Collection Only					Leased Service	
20 yard compaction equipment*	\$364.19	\$312.17	per haul	3.00	ton cap	\$375.28	per month
25 yard compaction equipment*	\$377.72	\$312.17	per haul	3.50	ton cap	\$398.02	per month
30 yard compaction equipment*	\$509.87	\$312.17	per haul	4.00	ton cap	\$398.02	per month
40 yard receiver box*	\$445.36	\$312.17	per haul	5.00	ton cap	n/a	per month
2 yard stationary compactor leased*	-					\$210.40	per month
6 yard compactor leased*	-					\$187.65	per month

•Rental/Lease/Purchase of Apartment style compactor and receiver boxes will be the responsibility of the customer.

Please list all items included for recycling pick-up:

"Recyclable Materials" means aluminum cans, tin, steel, and bi-metal cans, clear, green and brown glass bottles and jars, newspapers, magazines, mixed papers, junk mail, chipboard, white and colored paper, brown kraft paper bags): corrugated cardboard. #1 PETE plastic containers and #2 HPDE plastic containers, #3-#7 plastic containers and bags, aseptic beverage containers, six pack rings and twelve-pack brands, and any other material or materials which the Municipality and the Contractor agree to include as a "Recyclable Material" subsequent to the execution of this Agreement.

EXHIBIT B

INSURANCE PROVISIONS

A. Insurance Requirements

The Contractor shall procure and maintain the following insurance during the entire term of the agreement described in Section 3.1:

<u>Type of Insurance</u>	<u>Required Limits of Liability</u>
1. Workers' Compensation	Statutory
2. Employers' Liability	\$500,000 per accident \$500,000 disease (policy limit) \$500,000 disease (each employee)
Commercial General Liability, including "occurrence" coverage for:	
a. Premises and operations, independent contractors protective, contractual liability, broad form property damage and XCU hazards	\$1,000,000 per occurrence for bodily injury and property damage combined. \$1,000,000 annual aggregate per location for bodily injury and property damage combined.
b. Products and completed operations (including broad form property damage)	\$1,000,000 per occurrence for bodily injury and property damage combined. \$1,000,000 annual aggregate for bodily injury and property damage combined.
c. Personal injury liability	\$1,000,000 per occurrence \$1,000,000 annual aggregate
4. Business Auto liability (including owned, non-owned and hired vehicles and coverage for environmental liability)	\$1,000,000 per accident for bodily injury and property damage combined.
5. Umbrella/Excess liability (to apply as excess over 2, 3 and 4 above)	\$5,000,000 per occurrence \$5,000,000 annual aggregate

B. Miscellaneous Provisions

1. The insurance policies set forth in items 3 and 5 above shall continue to be maintained for a period of two (2) years following the termination of the Agreement.
2. Equivalent insurance must be maintained by each subcontractor of the Contractor.
3. All insurance companies must be reasonably acceptable to the Municipality and may include self-insurance obtained by the Contractor. Minimum insurance carrier requirements include a current rating from A.M. Best Co., Inc. (or any successor publication of comparable standing within the industry) of "A VIII" and a license to do business in the State of Illinois.

4. All liability coverages shall be written on an occurrence basis.
5. Prior to commencing Services under the agreements, the Contractor shall deliver, or cause to be delivered, to the Municipality certificates of insurance (and other evidence of insurance requested by the Municipality) which the Contractor is required to purchase and maintain pursuant to this Schedule. The Contractor shall deliver certificates of renewal or replacement policies or coverage no less than ten (10) days prior to the effective date of each renewal or replacement policy or coverage.
6. All insurance coverage required to be purchased and maintained shall contain a provision or endorsement providing that the coverage afforded will not be cancelled, materially reduced or altered or renewal refused until at least thirty (30) days' prior written notice has been given to the Municipality by certified mail.
7. The Contractor shall be responsible for promptly reporting all claims to the appropriate insurer on behalf of itself, the Municipality and the additional insureds set forth below.
8. The insurance policies set forth in items 3, 4 and 5 above shall be endorsed to include the Municipality, the directors, officers, employees, agents and members of the Municipality, SWANCC and the directors, officers, employees, agents and members of SWANCC as additional named insureds for all activities of the Contractor in the performance of the Agreement. Such insurance is to be primary and non-contributory with any insurance secured and maintained by such additional named insureds.

EXHIBIT C

FORM OF PERFORMANCE BOND

Any singular reference to Contractor, Surety, Owner or other party shall be considered plural where applicable.

CONTRACTOR (Name and Address):

SURETY (Name and Principal Place of Business):

OWNER (Name and Address or Municipality):

SOLID WASTE COLLECTION AND HAULING AND SERVICE CONTRACT

Date: Amount: Description (Name and Location):

BOND

Date (Not earlier than In-Service Date):

Amount:

CONTRACTOR AS PRINCIPAL:

Company: (Corporate Seal)

Signature: Name and Title:

SURETY

Company: (Corporate Seal)

Signature:

Name and Title:

(Any additional signatures appear on page ____)

_____(FOR INFORMATION ONLY- Name, Address and Telephone)
AGENT or BROKER:

OWNER'S REPRESENTATIVE (Architect, Engineer or other party):

- I. **The Contractor and the Surety, jointly and severally, bind themselves, their heirs, executors, administrators, successors and assigns to the Owner for the performance of the Solid Waste Services Agreement, which is incorporated herein by reference.**
- II. **If the Contractor performs the Contract, the Surety and the Contractor shall have no obligation under this Bond, except to participate in conferences as provided in Subparagraph 3.1.**
- III. **If there is no Owner Default, the Surety's obligation under this Bond shall arise after:**
 - a) **The Owner has notified the Contractor and the Surety at its address described in Paragraph 10 below that the Owner is considering declaring a Contractor Default and has requested and attempted to arrange a conference with the Contractor and the Surety to be held not later than fifteen (15) days after receipt of such notice to discuss methods of performing the Contract. If the Owner, the Contractor and the Surety agree, the Contractor shall be allowed a reasonable time to perform the Contract, but such an agreement shall not waive the Owner's right, if any, subsequently to declare a Contractor Default; and**
 - b) **The Owner has declared a Contractor Default and formally terminated the Contractor's right to complete the contract. Such Contractor Default shall not be declared earlier than twenty (20) days after the Contractor and the Surety have received notice as provided in Subparagraph 3.1; and**
 - c) **The Owner has agreed to pay the Balance of the Contract Price to the Surety, in accordance with the terms of the Contract, or to a contractor selected to perform the Contract in accordance with the terms of the contract with the Owner.**
- IV. **When the Owner has satisfied the conditions of Paragraph 3, the Surety shall, promptly and at the Surety's expense, take one of the following actions:**
 - d) **Arrange for the Contractor, with consent of the Owner, to perform and complete the Contract; or**
 - e) **Undertake to perform and complete the Contract itself, through its agents or through independent contractors; or**
 - f) **Obtain bids or negotiated proposals from qualified contractors acceptable to the Owner for a contract for performance and completion of the Contract, arrange for a contract to be prepared for execution by the Owner and the contractor selected with the Owner's concurrence, to be secured with a performance bond executed by a qualified surety equivalent to the bond issued on the Contract, and pay to the Owner the amount of damages as described in Paragraph 6 in excess of the Balance of the Contract Price incurred by the Owner resulting from the Contractor's default; or**
 - g) **Waive its right to perform and complete, arrange for completion, or obtain a new contractor and with reasonable promptness under the circumstances:**
 - .1 **After investigation, determine the amount for which it may be liable to the Owner and, as soon as practicable after the amount is determined, tender payment therefore to the Owner; or**

.2 Deny liability in whole or in part and notify the Owner citing reasons therefore.

- V. If the Surety does not proceed as provided in Paragraph 4 with reasonable promptness, the Surety shall be deemed to be in default on this Bond fifteen (15) days after receipt of an additional written notice from the Owner of the Surety demanding that the Surety perform its obligations under this Bond, and the Owner shall be entitled to enforce any remedy available to the Owner. If the Surety proceeds as provided in Subparagraph 4.4, and the Owner refuses the payment tendered or the Surety has denied liability, in whole or in part, without further notice the Owner shall be entitled to enforce any remedy available to the Owner.**
- VI. After the Owner has terminated the Contractor's right to complete the Contract, and if the Surety elects to act under Subparagraph 4.1, 4.2, or 4.3 above, then the responsibilities of the Surety to the Owner shall not be greater than those of the Contractor under the Contract, and the responsibilities of the Owner to the Surety shall not be greater than those of the Owner under the Contract. To the limit of the amount of this Bond, but subject to commitment by the Owner of the Balance of the Contract Price to mitigation of costs and damages on the Contract, the Surety is obligated without duplication for:**
- h) The responsibilities of the Contractor for correction of defective work and completion of the Contract;**
 - i) Additional costs resulting from the Contractor's Default, and resulting from the actions or failure to act of the Surety under Paragraph 4;**
 - j) Liquidated damages as provided in the Contract, or if no liquidated damages are provided for in the Contract for such event, actual damages caused by delayed performance or non-performance of the Contractor.**
 - k) The responsibilities of the Contractor for obtaining the insurance specified in the Contract and for fulfilling the indemnification obligations undertaken by the Contractor in the Contract.**
- VII. The Surety shall not be liable to the Owner or others for obligations of the Contractor that are unrelated to the Contract, and the Balance of the Contract Price shall not be reduced or set off on account of any such unrelated obligations. No right of action shall accrue on this Bond to any person or entity other than the Owner or its heirs, executors, administrators or successors.**
- VIII. The Surety hereby waives notice of any addition, alteration, modification or change, including changes of time, to the Contract or to related subcontracts, purchase orders and other obligations.**
- IX. Any proceeding, legal or equitable, under this Bond is required to be instituted in the Circuit Court of Cook County and shall be instituted within two (2) years after Contractor Default or within two (2) years after the Contractor ceased working or within two (2) years after the Surety refuses or fails to perform its obligations under this Bond, whichever occurs first. If the provisions of this Paragraph are void or prohibited by law, the minimum period of limitations available to sureties as a defense prescribed by Illinois law shall be applicable.**
- X. Notice to the Surety, the Owner or the Contractor shall be mailed or delivered to the address shown on the signature page.**

DEFINITIONS

- l) The Balance of the Contract Price:** The total amount payable by the Owner to the Contractor under the Contract after all proper adjustments have been made, including allowance to the Contractor of any amounts received or to be received by the Owner in settlement of insurance or other claims for damages to which the Contractor is entitled, reduced by all valid and proper payments made to or on behalf of the Contractor under the Contract.
- m) Contractor Default:** Failure of the Contractor, which has neither been remedied nor waived, to perform or otherwise to comply with the terms of the Contract.
- n) Owner Default:** Failure of the Owner, which has neither been remedied nor waived, (a) to pay the Contractor, but only to the extent such failure to pay excuses or relieves the Contractor from full and faithful performance of its obligations under the Contract and the completion of the Services provided for in said Contract; or (b) to perform and complete or comply with the terms of the said Contract, but only to the extent such failure excuses or relieves the Contractor from full and faithful performance of its obligations under the said Contract and the completion of the Services provided for in the said Contract.

(Space is provided below for additional signatures of added parties, other than those appearing on the coverage page.)

CONTRACTOR AS PRINCIPAL

Company: (Corporate Seal)

Signature: _____

Name and Title:

Address:

SURETY

Company: (Corporate Seal)

Signature:

Name and Title:

Address: