

AGREEMENT FOR SOLID WASTE SERVICES

THIS AGREEMENT FOR SOLID WASTE SERVICES (this "Agreement") is made and entered into this ___ day of August, 2023, by and between the CITY OF GALENA, IL (hereinafter called "CITY"), and RRD Holding Company d/b/a MONTGOMERY TRUCKING WASTE AND RECYCLING (hereinafter referred to as "CONTRACTOR").

WHEREAS, CITY has determined that it is in the best interests of its taxpayers that CITY provide to said taxpayers, a solid waste removal service;

WHEREAS, CONTRACTOR has offered to provide trash removal service for an agreed upon amount as provided herein within the incorporated limits of CITY; and

WHEREAS, said offer is also conditioned upon the fact that this Agreement will be exclusive and that CONTRACTOR will be the exclusive solid waste disposal service operating within CITY.

NOW, THEREFORE, in consideration of the mutual covenants herein expressed, the parties hereto agree as follows:

1. Scope and Description of Right. CONTRACTOR has the exclusive right during the term of this Agreement to collect and haul for hire over the streets and alleys of CITY, all Solid Waste generated and collected from public and private customers located within the incorporated limits of CITY, including, without limitation, all single family and multi-family residences. This Agreement shall extend to any territory annexed to CITY during the term of this Agreement. CITY shall not, during the term of this Agreement, contract with any other party for the services to be provided under this Agreement.
2. Definition of Solid Waste. Pursuant to this Agreement, the words "Refuse", "Recyclable Materials" and "Excluded Waste" shall have the following meanings:
 - a. "Refuse". Garbage, refuse, industrial, lunchroom or other waste resulting from operation of single-family and multi-family residential properties and from community activities. It shall include paper, cartons, boxes, barrels, wood, wood furniture, bedding, metals, tin cans, metal furniture, small quantities of dirt, rock and pieces of concrete, glass crockery, street sweepings, leaves, catch basin dirt and contents of litter receptacles. For the avoidance of doubt, the term "Refuse" shall specifically exclude Excluded Waste (as hereinafter defined).
 - b. "Recyclable Material". Materials collected by CONTRACTOR for recycling, including Paper Items: newspaper (all inserts), magazines and catalog (glossy and non-glossy, telephone directories, kraft brown paper bags, paperboard (cereal boxes, tissue boxes, pasta boxes, clothing boxes, frozen food packages, beverage carries, pizza boxes), mixed paper, junk mail, coated paper milk and juice containers, and other paper items; Aluminum cans, Bottles, and Jars: food and beverage cans made of aluminum

or other metal, clean empty paint cans, empty aerosol cans, aluminum foil and food pans, plastic food and beverage containers numbered 1-5, as well as plastic six and twelve pack rings; and all other items at the sole discretion of the CONTRACTOR. For the avoidance of doubt, the term "Recyclable Material" shall specifically exclude Excluded Waste (as hereinafter defined).

- c. "Excluded Waste". residents and businesses within the CITY shall not deposit in CONTRACTOR's equipment or place for collection by CONTRACTOR any radioactive, volatile, corrosive, highly flammable, explosive, biomedical, infectious, biohazardous, toxic or hazardous material as defined by applicable federal, state or local laws or regulations ("Excluded Waste"). Additionally, Solid Waste shall specifically exclude any construction and demolition debris, bricks and/or heavy concrete, heavy steel, tires, batteries, earth/soil, tree stumps, white goods, or industrial waste. Notwithstanding any other term contained herein, the Contractor shall have no obligation to collect any waste which is, or which the Contractor reasonably believes to be, Excluded Waste. Title to and liability for any Excluded Waste shall remain with resident/generator of such Excluded Waste, even if the Contractor inadvertently collects and disposes of such Excluded Waste. If the Contractor finds what reasonably appears to be discarded Excluded Waste, the Contractor shall notify the resident/business/generator, if such can be determined, that the Contractor may not lawfully collect such Excluded Waste and leave a tag specifying the nearest location available for appropriate disposal.

3. Access Rights. CITY hereby grants to CONTRACTOR the right to utilize rights-of-way for the purpose of allowing CONTRACTOR to collect Solid Waste and to place and remove receptacles therefor; provided, that the right granted hereunder and the obligation of CONTRACTOR to provide such services is applicable only where there is a maintained road, street or alley allowing lawful access to a receptacle placed out for collection. CONTRACTOR shall have the right, until receipt of written notice revoking permission to pass is delivered to CONTRACTOR, to enter or drive on any private street, court, place, easement or other private property for the purpose of collecting or transporting Solid Waste pursuant to this Agreement.

4. Enforcement of Exclusivity. The CITY may, in its sole discretion, enforce the exclusivity provisions of the Agreement against third-party violators, taking into account the cost of doing so and other factors. CONTRACTOR may independently enforce the exclusivity provisions of the Agreement against third-party violators, including, but not limited to, seeking injunctive relief and/or damages, and the CITY shall use good-faith efforts to cooperate in such enforcement actions brought by CONTRACTOR. The CITY shall use its best efforts to adopt ordinances, rules or regulations that have the effect of requiring third parties, including, without limitation, customers, to comply with the provisions of the Agreement, including, without limitation, the exclusive service rights granted to CONTRACTOR pursuant to the Agreement.

5. Destination of Solid Waste. CONTRACTOR agrees to deposit Solid Waste at a properly licensed landfill, transfer station or recycling center. Said disposal facility shall, at all times, maintain compliance with all local, state and federal regulations and standards of operation.

6. Scope of Services.

- a) Limited Refuse Service: Each residential dwelling shall receive limited curbside service from the CONTRACTOR, which shall consist of once-per-week collection of Refuse from one 65 gallon wheeled cart provided by the CONTRACTOR. Refuse outside the cart will be collected as long as it is properly prepared (35 gallon container, smaller rigid container or plastic bag not to exceed 50lbs) and a prepaid sticker affixed to each item. Refuse stickers will be available at a fee of \$2.00 per sticker.

Upon delivery of new 65 gallon refuse cart to each residence, the CONTRACTOR shall remove old refuse containers on a schedule and terms determined by the CONTRACTOR.

- b) Recycling Service: Each residential dwelling shall receive unlimited curbside collection of Recyclable Material from the CONTRACTOR, which shall consist of every other week collection for a 65 gallon wheeled cart provided by the CONTRACTOR. The CONTRACTOR shall not be required to collect any recycle cart should it contain, in its sole discretion of the CONTRACTOR, contaminants that could prevent the CONTRACTOR from successfully processing and marketing the material. The list of acceptable recyclable items shall be determined solely by the CONTRACTOR.

Upon delivery of new 65 gallon recycle cart to each residence, the CONTRACTOR shall remove old recycle containers on a schedule and terms determined by the CONTRACTOR.

7. Rates, Facilities, and Furnishing of Service. CITY shall pay CONTRACTOR monthly in an amount equal to \$16.32 per home during the initial year of the contract term. Refuse stickers shall be made available for sale at the rate of \$2.00 per sticker. CONTRACTOR will provide collection of Refuse and Recyclable Material for each residence within the incorporated limits of CITY. CONTRACTOR shall collect and properly dispose of all Solid Waste from all residential units located within the CITY, once each week, on a schedule determined by the CONTRACTOR and communicated to the CITY, except when a holiday, as set forth herein, occurs on such service day, in which event the pick-up scheduled for that day will be postponed until the next regularly scheduled collection day, and except for emergencies resulting from a Force Majeure Event. CONTRACTOR may change or alter the days of collection. Individual residences will receive collection of both Refuse and Recyclable Material on the same collection day although not all residences will have the same collection day. CONTRACTOR shall bear the cost to notify the customers of any changes in service days, if applicable. Customers and the CITY must comply with any description of and/or procedures with respect to removal of contaminants or preparation

of recyclable materials as reasonably provided by CONTRACTOR. If any customer or the CITY fails to do so, CONTRACTOR may decline to collect such materials without being in breach of the Agreement. CONTRACTOR shall not be responsible for and has not made any representation regarding the ultimate recycling of such recyclable materials by any third-party facilities. CONTRACTOR will provide monthly invoices for services provided to the CITY and the CITY will pay such invoices within thirty (30) days of receipt thereof.

8. Rate Increases. Beginning on September 1, 2024 and on each successive September 1 for the remainder of the Agreement, CONTRACTOR shall increase the rate outlined under Section 8 of this agreement to adjust for Consumer price index increases based upon the U.S. Department of Labor, Bureau of Labor and Statistics Consumer Price Index for Garbage and Trash Collection (series ID CUSR0000SEHG02) for the most recent twelve month period for which such index is available. This annual adjustment shall have a minimum requirement of three percent (3%) and maximum requirement of six percent (6%). Additionally, CONTRACTOR may pass through, and the CITY shall pay to CONTRACTOR any documented increases in disposal fees, increases in CONTRACTOR'S costs due to changes in local, state or federal rules, ordinances or regulations applicable to CONTRACTOR'S operations or the services provided hereunder, and any increases in and newly imposed taxes, fees or other governmental charges assessed against or passed through to CONTRACTOR (other than income or real property taxes).

9. Commercial Industrial and Institutional Service. The CONTRACTOR agrees with the CITY to provide collection and disposal of Refuse for all commercial, industrial or institutional establishments within the City, unless such establishment makes said collection and disposition with its own employees or personnel or with another contractor. The CONTRACTOR shall not have the exclusive right to provide such services.

10. Limitations on Collection. Accounts requiring return trips due to customer's failure to timely set out his container or for reasons within the control of the customer will be assessed a charge in addition to regular charges. CONTRACTOR may refuse to pick up materials from locations where, because of the condition of the streets, alleys or roads, it is impracticable to operate vehicles. CONTRACTOR may refuse to drive onto private property when, in CONTRACTOR'S sole judgment, driveways or roads are improperly maintained or without adequate turn coverage or contain other unsafe conditions. CONTRACTOR may refuse service when a customer fails to comply with applicable waste regulations. CONTRACTOR may refuse to enter on private property when, in CONTRACTOR'S sole judgment, the weight of the collection vehicle may damage the driveway.

11. Holidays. CONTRACTOR is not required to collect Solid Waste on the following holidays: New Year's Day, Memorial Day, Independence Day, Labor Day, Thanksgiving Day, and Christmas Day. CONTRACTOR shall notify the CITY each year the service dates that will be delayed as a result of the above listed holidays.

12. Free Service to CITY Facilities.

- a. During the term of this Agreement, the CONTRACTOR agrees to furnish free collection and disposal service for refuse to all park facilities which are either owned or leased by the CITY. These collections will be made three times weekly on a schedule determined by the CONTRACTOR. This service will continue from April 1 through November 30 of each year.
- b. The CONTRACTOR agrees to furnish free collection and disposal service to all buildings owned or leased to not-for-profit entities by the CITY. These collections shall be made two times weekly on a schedule determined by the CONTRACTOR, and shall be made throughout the entire year. The CONTRACTOR agrees to furnish free collection and disposal service on each day, including Sunday, from April 15 through October 31 and daily from Monday through Saturday from November 1 through April 14 for refuse cans which are placed by the CITY throughout the area defined by the 1985 Tax Increment Finance (TIF) District.

13. Independent Contractor. CONTRACTOR is, for all purposes arising out of this Agreement, an independent contractor and none of its officers, agents, or employees shall be deemed to be employees of CITY.

14. Customer Service Standards. CONTRACTOR shall maintain an office and toll-free telephone, for receipt of service calls or complaints, and shall be available for such calls on all business days from 7:00 a.m. to 5:00 p.m. All complaints shall be given prompt and courteous attention, and in the case of alleged missed scheduled collections, the CONTRACTOR shall investigate, and if such allegations are verified, the CONTRACTOR shall arrange for the collection of all materials the same day as the complaint is registered or no longer than twenty-four hours after the complaint is received.

15. Commencement of Service. CONTRACTOR hereby agrees to commence furnishing service in CITY beginning September 1, 2023 (the "Effective Date"). CONTRACTOR shall furnish service in the entire incorporated limits of CITY during the term of this Agreement.

16. Reports and Records. CONTRACTOR shall submit to CITY the following reports on forms agreed to by the parties during the remaining term of this Agreement and any subsequent extensions.

Semi-Annual Reports. On or before September 1st and March 1st of each year of the term of this Agreement, CONTRACTOR shall submit a semi-annual report to the CITY, which includes at least the following:

- a. Summaries of tonnages of Recyclable Materials collected. The CITY acknowledges that tonnages may be well-reasoned estimates since the CONTRACTOR does not collect recyclables exclusively in Galena;
- b. Summaries of yards of non-Recyclable Materials collected within the CITY limits and deposited in landfills pursuant to the Solid Waste Agreement. The method of calculating

yards collected within the CITY shall be subject to the agreement of the parties and may include estimating if the collection route includes properties and Refuse outside of the CITY.

17. Term. The initial term of this Agreement shall be five (5) years from the date of the Effective Date (the "Initial Term"). Upon the expiration of the Initial Term and each Renewal Term (as defined below), this Agreement shall be automatically renewed on the same terms and conditions for additional successive five (5) year terms (each a "Renewal Term"); unless and until either of the parties hereto notifies the other in writing at least sixty (60) prior to the expiration of the Initial Term or the then-current Renewal Term, but not more than one hundred eighty (180) days prior to the expiration of the Initial Term or the then-current Renewal Term, as applicable, of its intention not to renew the Agreement.

18. Default. In the event a party shall violate or be in default of any of the covenants, terms, or provisions of this Agreement, the non-defaulting party shall be entitled to cancel and terminate this Agreement by giving sixty (60) days written notice to cure to the defaulting party, and if such listed violation or default is not cured by the end of such sixty (60) days, this Agreement shall terminate and be at an end.

19. Uncontrollable Circumstances. Except for the payment of amounts owed hereunder, neither party hereto shall be liable for its failure to perform or delay in its performance hereunder due to contingencies beyond its reasonable control including, but not limited to, strikes, riots, compliance with laws or governmental orders, inability to access a container, fires, inclement weather and acts of God, pandemics, and such failure shall not constitute a breach under this Agreement.

20. Damage to Pavement. Except in the case of CONTRACTOR's negligence or willful misconduct, CONTRACTOR shall not be liable for any damages to pavement, curbing, or other driving surface resulting from the weight of its trucks and equipment.

21. Responsibility for Equipment. Any equipment furnished hereunder by CONTRACTOR shall remain the property of CONTRACTOR; however, customers and the CITY (as applicable) shall have care, custody and control of the equipment while at the service locations. Customers and the CITY shall not overload (by weight or volume), move or alter the equipment, and shall use the equipment only for its proper and intended purpose. Customers and the CITY must provide unobstructed access to the equipment on the scheduled collection day. The word "equipment" as used in this Agreement shall mean all containers used for the storage of non-hazardous solid waste. Notwithstanding anything herein to the contrary, in the event that a container becomes lost, unsightly, unsanitary, broken, or unserviceable because of the acts or omissions of a customer or the CITY (excluding normal wear and tear), the customer or the CITY (as applicable) will be charged for the resulting repairs or replacement and such amounts will be paid to CONTRACTOR upon demand.

22. Performance Bond. The CONTRACTOR shall furnish a performance bond or other surety (hereinafter "bond") for the faithful performance of this Agreement, said bond to be executed by

a responsible surety company, and to be in the penal sum of \$65,000. Such performance bond shall be furnished annually by the CONTRACTOR for the following year of this Agreement and shall indemnify the Village against any loss resulting from any failure of performance by the CONTRACTOR.

23. Maintenance of Permits. Except as otherwise set forth herein, CONTRACTOR shall, at CONTRACTOR's sole expense, take all actions necessary to apply for, and shall take no actions which would adversely affect the retention of, all permits in good standing.

24. Compliance with Laws, Ordinances and Regulations. CONTRACTOR agrees that, in the performance of work and services under this Agreement, CONTRACTOR will qualify under and comply with any and all Federal, State and local laws and regulations now in effect, or hereinafter enacted during the term of this Agreement, which are applicable to CONTRACTOR, its employees, agents or subcontractors, if any, with respect to the work and services described herein.

IN WITNESS WHEREOF, the parties have executed this Agreement on the day and year first written above.

CITY OF GALENA

**RRD Holding Company d/b/a MONTGOMERY
TRUCKING WASTE AND RECYCLING**

By: Terry Renner
Terry Renner, Mayor

By: Kiel Pennington
Kiel Pennington, Division Vice President

Attest:

Attest:

By: Mary Beth Hyde
Mary Beth Hyde, Village Clerk
City

By: Josh Molnar
Josh Molnar, Municipal Manager

