

STATE OF NORTH CAROLINA

COUNTY OF JACKSON

THIS AGREEMENT is made and entered into as of the 1st day of January 2024, by and between JACKSON COUNTY, a body politic corporate in nature and subdivision of the State of North Carolina, hereafter “**County**,” and Curbside Management, LLC, hereinafter “**Contractor**.”

WITNESSETH

WHEREAS, County desires Contractor perform recycled material processing, hereinafter “**Services**,” and

WHEREAS, Contractor is in the business of processing recycled material and has the ability, facilities and desire to perform such Services.

NOW, THEREFORE, in consideration of the mutual covenants and agreements hereinafter set forth, the parties agree with the other, as follows:

DEFINITIONS.

BID MATRIX: The document which defines the market pricing and material mixture that is the basis for compensation or charge to County, marked as Appendix 1, attached, and incorporated herein.

COMINGLED CONTAINERS: Recyclable metal, glass, and plastic containers, as defined in the Material Acceptance Protocol, marked as Appendix 2, attached, and incorporated herein.

FACILITY: Contractor’s Material Recycling Facility (“MRF”), located at 116 North Woodfin Avenue, Asheville, NC 28804.

FLOOR PRICING: The minimum price per ton Contractor will pay or charge County for material delivered to Contractor’s MRF.

HAULERS RULES: Marked as Appendix 3, attached, and incorporated herein.

MARKET PRICE: The official board markets’ “Yellow Sheet,” which source is used to determine secondary materials pricing (“SMP”) in the southeast materials market, which average pricing is available to Contractor for polyethylene terephthalate (PET), high density polyethylene (HDPE), steel cans, aluminum cans, and glass bottles.

MATERIALS ACCEPTANCE PROTOCOL: Defines the recyclable material to be delivered as Comingled Containers and Residential Fiber, including additional detail listed in Appendix 2.

MATERIAL MIXTURE: A percent of the whole by commodity as the recyclable materials are delivered to Contractor.

MRF: The Material Recovery Facility owned and operated by Contractor, located at 116 North Woodfin Avenue, Asheville, NC 28804.

RECYCLABLES: Both Comingled Containers and Residential Fiber.

RESIDENTIAL FIBER: Recyclable paper from residential, commercial, and institutional sources, as further defined in Appendix 2.

FIBER or CONTAINER RESIDUE: Any material delivered by County which cannot be processed and marketed as recycled material.

MATERIAL RECYLING AGREEMENT: The Agreement between County and Contractor.

RESPONSIBILITIES OF COUNTY. County will be obligated to perform the following Services, in accordance with the terms of this Agreement. Specific responsibilities shall include:

- A. County will cause to be delivered to the MRF all recyclables received through collections made by County.
- B. County will provide Contractor with a monthly report showing the weight delivered by load to Contractor for Fiber and Commingled Containers for that calendar month.
- C. County will comply with Appendix 2.
- D. For the mutual benefit of County and Contractor, County will use its best efforts to preclude the scavenging of recyclables.
- E. County will comply with all federal, state and local laws and regulations.

RESPONSIBILITIES OF CONTRACTOR. Contractor will be obligated to perform the following Services, in accordance with the terms of this Agreement. Specific responsibilities shall include:

- A. Contractor will receive, process, and market all recyclables delivered to the MRF by County.
- B. At least quarterly, County will sample the material delivered from County to determine if the Material Mixture percentage requires adjustment. Contractor will permit a representative from County to observe the material sample.
- C. Contractor will provide County with a monthly report showing the weight received for Fiber and Commingled Containers for that calendar month.

D. Contractor will comply with all federal, state, and local laws and regulations.

TERM AND TERMINATION. The Effective Date is the date of mutual execution of this Agreement. The Agreement shall have a term of **January 1, 2024, through December 31, 2029**. County may terminate this Agreement at any time, with or without cause, by notification to Contractor in writing. In the event of termination without cause, Contractor shall be paid for services performed to the date of notification of termination by County.

County will begin to deliver material to Contractor's MRF no later than thirty (30) days after the Agreement is executed.

Contractor will compensate County for recyclable material delivered to its MRF. The rate of compensation is based on the Bid Matrix, labeled Appendix 1, incorporated herein. Regardless of price fluctuations, County will not be responsible for any payments to Contractor.

The minimum Floor Price Contractor will pay County per ton is \$0.00 for combined fiber and a charge of \$0.00 per ton for combined containers.

Contractor will compensate County in the month following the recyclable material deliveries.

FORCE MAJEURE. Either party shall be excused from failure to perform any of its obligations hereunder if, and to the extent, such failure to perform is caused by, arises out of, or is attributable to war, riot, fire, explosion, acts of God, labor disputes, sabotage, accident, embargo, injunction, compliance with governmental order, inability to obtain fuel or raw materials preventing either party from performing any of its obligations hereunder, provided the party claiming such excuse shall promptly notify the other party of the reason therefore and the approximate duration of such delay or failure.

COUNTY NOT RESPONSIBLE FOR WORKMAN'S COMPENSATION. No workman's compensation insurance shall be obtained by County concerning Contractor or the employees of Contractor. Contractor shall comply with the workman's compensation law concerning Contractor and the employees of Contractor.

BASIC INSURANCE REQUIREMENTS. At Contractor's sole expense, Contractor shall procure and maintain the following minimum insurances with insurance companies authorized to do business in North Carolina and rated A-VII or better by A.M. Best.

COVERAGE:

LIMITS OF LIABILITY:

- | | |
|--|--|
| A. Workman's Compensation: | Statutory Limits |
| B. Employer's General Liability: | \$500,000 |
| C. Bodily Injury Liability (<i>except Auto</i>): | \$1,000,000 each / \$2,000,000 aggregate |
| D. Property Damage Liability (<i>except Auto</i>): | \$1,000,000 each / \$2,000,000 aggregate |

- E. Automobile Bodily Injury Liability \$1,000,000 each person
- F. Automobile Property Damage \$1,000,000 each occurrence
- G. Excess Umbrella Liability \$2,000,000 each occurrence

Contractor shall provide evidence of continuation or renewal of Professional Liability Insurance for a period of two (2) years following termination of the Agreement.

ADDITIONAL INSURANCE REQUIREMENTS.

- A. Contractor's General Liability policy will name County, its elected officials, officers, agents, and employees as additional insureds with respect to both the General Liability and Auto Liability policies. Before commencement of any work or event, Contractor shall provide a Certificate of Insurance as evidence of the required basic insurance coverages detailed above. The Certificate Holder must be listed as:

Jackson County
Attn: County Manager
401 Grindstaff Cove Road, Suite A-207
Sylva, NC 28779

The Certificate of Insurance must note in the Description of Operations the following information:

Department: **Jackson County Public Works**
Contractor: **Curbside Management, LLC**

If Contractor is authorized to assign or subcontract any of its rights or duties hereunder and in fact does so, Contractor shall ensure the assignee or subcontractor satisfies all requirements of this Agreement, including, but not limited to, maintenance of the required insurance coverages and provision of Certificate(s) of Insurance, and additional insured endorsement(s), in proper form prior to commencement of services.

- B. Contractor shall have no right of recovery or subrogation against County (including its elected officials, officers, agents, and employees).
- C. The parties intend the insurance policies afforded by the Contractor to protect both parties and be primary and non-contributory coverage for any and all losses covered by the above-described insurance. Notwithstanding the notification requirements of the Insurer, Contractor hereby agrees to notify the County Manager within two (2) days of the cancellation or substantive change of any insurance policy set out herein. County, in

its sole discretion, may deem failure to provide such notice as a breach of this Agreement.

- D. County shall have no liability with respect to Contractor's personal property whether insured or not insured. Any deductible or self-insured retention is the sole responsibility of the Contractor.
- E. Insurance procured by Contractor shall not reduce nor limit Contractor's contractual obligation to indemnify, hold harmless and defend County for claims made, or suits brought, which result from, or are in connection with, the performance of this Agreement.

INDEMNIFICATION. Contractor agrees to protect, defend, indemnify and hold County, its elected officials, officers, employees and agents free and harmless from and against any and all losses, penalties, damages, settlements, costs, charges, professional fees or other expenses or liabilities of every kind and character arising out of or relating to any and all claims, liens, demands, obligations, actions, proceedings, or causes of action of every kind in connection with or arising out of this Agreement and/or the performance hereof that are due, in whole or in part, to the negligence of Contractor, its elected officials, officers, employees, subcontractors or agents. Contractor further agrees to investigate, handle, respond to, provide defense for, and defend the same at its sole expense and agrees to bear all other costs and expenses related thereto.

HOW NOTICES SHALL BE GIVEN. Any notice given in connection with this Agreement must be in writing and delivered in person or via certified mail, return receipt requested, postage prepaid, to the party at the party's address stated herein. Any party may change its address by giving notice of the change in accordance with this Paragraph.

COUNTY:

Jackson County
Attn: County Manager
401-B Grindstaff Cove Road, Suite A-207
Sylva, NC 28779

CONTRACTOR:

Curbside Management, LLC
Attn: Abraham L. Lawson
P.O. Box 18722
Asheville, NC 28814

COMPLETE AGREEMENT. This Agreement contains the entire agreement of the parties regarding the terms and conditions contained herein, and there are no oral or written conditions, terms, warranties, understandings, or other agreements pertaining thereto which have not been incorporated herein. This Agreement may be modified only by written instrument duly executed by both parties or by their respective successors in interest.

SUCCESSORS AND ASSIGNS. This Agreement shall be binding upon and inure to the benefit of the successors and assignees of either party. A party desiring to assign its obligations to an assignee must have the written consent of the other party. In the event of a stock sale or a sale of substantially all the assets of either County or Contractor, approved by the other party, this Agreement shall be disclosed to the purchasing party and the purchasing party will be required to assume, in good faith, the terms and obligations of this Agreement.

GOVERNING LAW. This Agreement and all rights and obligations hereunder, including matters of construction, validity, and performance, shall be governed by the laws of the State of North Carolina. If any of the provisions of this Agreement is declared invalid, the remainder of the Agreement shall not be affected thereby, and each term and provision of the Agreement shall be valid and enforced to the fullest extent permitted by law.

E-VERIFY. E-Verify is the federal program operated by the United States Department of Homeland Security and other federal agencies, or any successor or equivalent program, used to verify the work authorization of newly hired employees pursuant to federal law. Contractor shall ensure that Contractor and any subcontractor performing work under this Agreement: (i) uses E-Verify if required to do so by North Carolina law; and (ii) otherwise complies with the requirements of Article 2 of Chapter 64 of the North Carolina General Statutes. A breach of this provision by Contractor will be considered a breach of this Agreement, which entitles County to terminate this Agreement, without penalty, upon notice to Contractor.

IRAN DIVESTMENT. Pursuant to Article 6E of Chapter 147 of the North Carolina General Statutes, County must require most entities with which it contracts, which would include Contractor under this Agreement, to certify that the entity is not identified on a list created by the State Treasurer pursuant to N.C.G.S. § 147-86.58 (the "Final Divestment List"). This requirement is related to ensuring that entities with which local governments contract are not involved in investment activities in Iran. Contractor certifies that: (i) it is not listed on the Final Divestment List, and (ii) it will not utilize any subcontractor performing work under this Agreement which is listed on the Final Divestment List.

IN WITNESS WHEREOF, the parties hereto, acting under authority of their respective governing bodies, have caused this Agreement to be duly executed.

COUNTY OF JACKSON

CURBSIDE MANAGEMENT, LLC

BY: _____

BY: _____

Don Adams, Jackson County Manager

Abraham L. Lawson, President

This Instrument has been preaudited in the manner required by the Local Government Budget and Fiscal Control Act.

BY: _____

Darlene Fox, Jackson County Finance Director

Appendix 1



Jackson County, Solid Waste Department
401 Grindstaff Cove Road
Sylva, NC 28779

August 31, 2023

Attn: Chad Parker, Solid Waste Director

Chad,

We are pleased to offer you the following proposal to Jackson County, NC.

PROPOSAL

Based on high side yellow sheet market prices (PPI) for July 2023, Curbside Management is proposing to compensate Jackson County the following for fiber delivered to our Material Recovery Facility located at 116 N. Woodfin Ave, Asheville, NC, 28804.

Fiber price	High side market price plus \$15.00/ton
Floor price	\$0.00/ton

Based on secondary materials market regional average pricing for July 31, 2023, Curbside Management is proposing to compensate Jackson County the following for combined recyclable containers delivered to our Material Recovery Facility located at 116 N. Woodfin Ave, Asheville, NC, 28804.

Co-mingled containers price	\$80.62/ton*
Floor price	\$ 0.00/ton

*In calculating the ACR (Average Commodity Revenue), Curbside Management would pay 50% of the value of any commodity with a positive index value.
If in the case of a negative index value, 100% of the cost would be deducted from the total value.

The ACR shall be calculated each month based on the weights received of each commodity from the County.

We appreciate the opportunity to continue to provide recycling services to Jackson County. We have enjoyed working together. If you have any questions, please do not hesitate to contact me.

Sincerely,

Barry Lawson, President

blawson@curbie.com

Curbside Management, Inc.
828. 252. 2532 PO Box 18722 116 N. Woodfin Ave. Asheville, NC 28814 FAX 828.251.2588

Jackson County - 2023 samples Bid Matrix

Pricing based on materials pricing from July 2023

Base Bid

Commodity	MXP	#1 Plastic	#2 Plastic Natural	#2 Plastic Color	Steel Cans 2000 lb/tn	Aluminum Cans	Glass	Waste / Trash	Proof Number
c/lb									
Market Price/ \$ Ton	\$20	\$182.50	\$680.00	\$150.00	\$215.00	\$1,425.00	-\$35.00	-\$47.75	
% Mix Fiber	100.0%								100.00%
% Mix Containers	0.0%	13.25%	2.04%	6.49%	7.11%	4.63%	59.04%	7.44%	100.00%
Tons Delivered Fiber	121.19								121.19
Tons Delivered Commingle	77.93	10.3257	1.5898	5.0577	5.5408	3.6082	46.0099	5.7980	77.93
Value above market price	\$15								
Jackson County Share % \$ Fiber	100%							0%	
Jackson County Share % \$ Containers		50%	50%	50%	50%	50%	100%	100%	
Jackson County Payout for FIBER	\$4,241.65								\$4,241.65
Jackson County Payout for CONTAINERS		\$942.22	\$540.52	\$379.32	\$595.64	\$2,570.81	-\$1,610.35	-\$276.85	\$3,141.32
									<u>\$7,382.97</u>

Fiber TOTAL

Container TOTAL

Grand TOTAL

Appendix 2
MATERIALS ACCEPTANCE PROTOCOL

RECYCLABLE RESIDENTIAL COMMINGLED CONTAINERS (Bottles & Cans) consist of the following, loose, uncompacted, and commingled.

- Glass, transparent and translucent food and beverage bottles and jars. Paper labels are acceptable. Ceramics, drinking glasses, window and mirror glass are not acceptable.
- Tin/Steel cans, tin-plated, food and beverage containers, all sizes.
- Aluminum used beverage containers.
- All plastic bottles, jugs, tubs, and jars. This includes plastic milk jugs, water jugs, detergent bottles, soda bottles, dishwashing soap and shampoo bottles, and similar items; caps and labels are acceptable. Tub and yogurt containers are acceptable. Motor oil, anti-freeze, clam shell, and To-Go containers are not acceptable. Black microwavable trays are not acceptable. No Styrofoam.
- Gable top and Aseptic containers. This includes shelf-stable and refrigerated cartons used for Juice, Milk, Soy and Grain Milk, Soup and Broth, Wine, Cream, Egg substitutes, Fabric softener, Epson Salts, and similar items. Juice pouches are not acceptable.

RECYCLABLE RESIDENTIAL FIBER consist of the following loose, and commingled.

- ONP – old newspapers and advertisement. Old newspaper that contains incidental moisture from rain on collection days is acceptable. Soaked paper or yellowed newsprint is unacceptable.
- OMG – old magazines containing glossy coated paper, including catalogues, glossy fillers or mailers, with the exception of wet material or material that was once wet.
- OCC – (old, corrugated cardboard) Staples and tape with water soluble glues do not have to be removed. OCC can be damp but not soaked.
- Kraft (brown) paper bags – all sizes of loose, bundled, or bagged Kraft paper grocery sacks.
- Junk mail – all dry, loose or bagged bulk mail. All unopened junk mail and envelopes with windows are acceptable. Manila envelopes with small clasps are acceptable.
- High grade paper – all dry, loose, or bagged white and colored ledger and copier paper, note pad paper (no backing), loose leaf fillers, computer paper (continuous-form perforated white bond or green-bar paper).
- Boxboard – all non-corrugated cardboard, commonly used in dry foods and cereals boxes, shoe boxes, and other similar packaging. Boxboard with wax or

plastic coating and boxboard that has been contaminated by food is not acceptable.

- *Please note:* Delivered materials that do not meet the Material Acceptance Protocol may be rejected or subjected to a surcharge.

Appendix 3
HAULERS' RULES

1. All vehicles tipping at the recycling facility shall be self-dumping.
2. All vehicles tipping at the recycling facility shall clearly display on both doors of the cabin the following information: hauler identification number and name.
3. Deliveries will be accepted according to the following schedule:
Monday through Friday from 6:30 am to 4:00 pm
The recycling facility shall be closed on the following holidays:
New Years Day Memorial Day
Independence Day Labor Day
Thanksgiving Day Christmas Day
The Contractor and County may mutually agree on expanded tipping hours, including Saturdays.
4. Hauler is required to tip material where directed by the Contractor's personnel.
5. Maximum dump height of the vehicles shall not exceed 22 feet, measured from the tipping floor to the highest point on the dump body.
6. The Contractor shall have the right to inspect all vehicles and reject, in whole or in part, such loads deemed not to be in compliance with the rules of operation and the standards for the quality of the product. Driver cooperation in following directions is expected in all cases of contaminated deliveries.
7. All loads entering or leaving the recycling facility must be covered.
8. All trucks and trailers must comply with applicable State of North Carolina Department of Transportation rules and regulations.
9. Speed limit within the site is 5 M.P.H.
10. No hazardous material will be permitted on the site. Delivery of hazardous material will require that the driver remain on site until released by the Contractor.
11. Haulers who do not comply with any of the above rules will not be permitted on site.