

FIRST AMENDMENT

to

AGREEMENT

Between

BROWARD COUNTY

and

BROWNING-FERRIS INDUSTRIES OF FLORIDA, INC.

for

MATERIALS RECOVERY FACILITY

This is the First Amendment to the Agreement between Broward County ("COUNTY"), a political subdivision of the State of Florida, and Browning-Ferris Industries of Florida, Inc. (BFI).

Whereas, BFI began operations of the Materials Recovery Facility on September 1, 1993; and

Whereas, there were administrative processes developed to ensure proper management of the Agreement; and

Whereas, the COUNTY and BFI desire to regularize these processes; NOW, THEREFORE,

IN CONSIDERATION of the mutual terms, conditions, promises, covenants set forth, COUNTY and BFI hereby agree to amend the Agreement for Materials Recovery Facility as follows:

1. Article 1, DEFINITIONS, is amended to read:

1.12 Program Year - means 12 consecutive months commencing on the Commencement Date (as defined in Section 1.21) and repeated each operation year thereafter for the purpose of measuring compliance with the Minimum Tonnage Commitment. The first PROGRAM YEAR will end September 30, 1994, and subsequent 12 month periods will begin on October 1, 1994.

1.13 Program Materials - means newspapers; corrugated cardboard; glass containers (clear, brown, green); aluminum, steel and bi-metal containers; plastic containers (Types 1, 2, and 3); polycoated gable top containers and aseptic packages; incidental kraft paper and film plastic bags used to contain Program Materials; and other Recyclables which shall from time to time be designated, if mutually agreed to be the parties, (as evidenced by a change order) for separation, collection and/or processing as part of the program when additional Recyclables and viable markets are identified.

1.13a Program Recyclables means Program Materials which (i) are collected from Residential Units located in the County by the County or as a result of the Interlocal Agreements entered into between the County and Participating Municipalities, (ii) are, subject to the limitations set forth in Section 5.1, collected from Residential Units outside the County and delivered to the Facility as a result of an agreement between the County and a governmental entity outside the County, or (iii) are delivered as a result of an agreement between the County and any other government entity located in the County, provided that the Program Materials are actually generated by the governmental entity and the collection of the Program Recyclables is performed by the County or the governmental entity.

2. Article 3, TERM OF AGREEMENT, is amended to read:

3.1 This Agreement shall become effective immediately upon execution by the parties and shall continue in full force and effect ~~for a period of eight (8) years from the Commencement Date, to September 30, 2001,~~ unless this Agreement is sooner terminated as provided for herein. Upon mutual agreement of the parties, this Agreement may be renewed for additional terms not to exceed eight (8) years each upon such terms and conditions as may be agreed to by the parties.

3. Article 5, SERVICE FEES, Clauses 5.2, 5.4, 5.5, and 5.6, are amended to read:

5.2 The AFPF otherwise payable by the COUNTY to BFI shall be automatically increased by seventy percent (70%) of the cumulative change in the Consumer Price Index (CPI-U, all items index for Miami, Florida as published by the U.S. Department of Labor) for the immediately preceding 12-month period beginning one year from ~~the Commencement Date~~ Oct. 1, 1993, and each year thereafter during the term of this Agreement ("CPI Adjustment").

- b) Variable Processing Fee (VPF) is defined to mean the fee paid by the COUNTY to BFI ~~on a monthly basis~~ for processing Program Recyclables in excess of the MTC. The VPF shall be \$3.40 per ton through the end of the first Program Year under this Agreement. For each Program Year thereafter, the VPF for such Program Year shall be the VPF for the immediately preceding Program Year automatically increased by seventy percent (70%) of the cumulative change in the Consumer Price Index (CPI-U, all items index for Miami, Florida as published by the U.S. Department of Labor) for the immediately preceding 12-month period.
- c) Revenue Share (RS) is defined to mean the COUNTY's share of cumulative net revenues from the sale of Recovered Materials, based on Program Recyclables delivered to BFI

pursuant to this Agreement. This amount is calculated monthly based on actual sales (including transactions in which BFI may be required to pay the buyers of Recovered Materials) net of freight and other approved delivery costs. The COUNTY's Revenue Share percentage for Program Recyclables delivered to BFI from any Residential Unit wherever located and for which the County receives credit pursuant to Section 5.1, up to the MTC, shall be eighty (80) percent for the term of this Agreement. The County's Revenue Share percentage for Program Recyclables in excess of the MTC delivered to BFI under this Agreement pursuant to any agreement entered into between County and any other entity shall be fifty (50) percent for the term of this Agreement.

- d) The County's Revenue Share will be calculated using inbound weighscale records for Program Recyclables as adjusted for Residue Allowance (RA). The Residue Allowance (%) shall be 3%.
- e) In the event Program Materials which are not Program Recyclables are delivered and commingled with Recovered Materials in a way that results in either dilution or enhancement of the net revenues from the sale of Recovered Materials, then those tons and the revenue on those tons shall be backed out of the price per ton calculation used to determine the Revenue Share.
- f) BFI shall receive a Residue Credit (RC) as defined in Article 6.

5.4 Upon the Commencement Date, BFI shall prepare, certify and submit to the COUNTY for approval a monthly invoice containing all required information for the NSF. This statement will be presented to the COUNTY in a format prescribed by the Office of Integrated Waste Management on or before the 10th day of the following month. The statement will include support documentation for any adjustments and freight charges. If the NSF is positive, the COUNTY shall promptly pay to BFI the amount due within 30 days of receipt of an invoice. If the NSF is negative, BFI shall promptly pay to the COUNTY the amount due within thirty (30) days of the end of the month. ~~At the end of each quarter of a Program Year, BFI shall reconcile differences between the pro rata share of the MTC and actual tons delivered to ensure that VPF is paid for tonnages in excess of the pro rata MTC for the given Program Year.~~

5.5 The NSF for each month beginning on the Commencement Date shall be calculated as follows:

$$NSF = \frac{AFPF}{12} - RS + RC$$

5.6 At the end of each quarter of a Program Year, BFI shall reconcile differences between the pro rata share of the MTC and actual tons delivered to ensure that VPF is paid for tonnages in excess of the pro rata MTC. The quarterly reconciliation shall also adjust Revenue Share for tonnage that exceeds pro rata MTC. The Quarterly Reconciliation will follow the form attached hereto and made a part hereof as Exhibit A.

4. Article 6, MATERIALS ACCEPTANCE, Clauses 6.5 and 6.8 are amended to read:

6.5 BFI shall be solely responsible for processing all Program Recyclables in accordance with this Agreement, the Specifications and the requirements of the secondary materials buyers. Residue which is culled from material and accepted by BFI or which is the result of processing activity shall not exceed the ~~proposed~~ Residue Allowance. The quantity of marketable material which results from processing operations ~~should~~ shall equal the quantity of accepted materials less the Residue Allowance and Rejects removed. Residue and Rejects, except Hazardous Waste, will be accepted for disposal by the COUNTY at the Landfill or Waste to Energy Facility as the COUNTY directs.

6.5.1 BFI shall bear the cost of transporting the Residue and Rejects;

6.5.2 BFI shall pay the current tip fee at the Waste to Energy Facility and Landfill for disposal of Residue and Rejects, except Hazardous Waste; and

6.5.3 BFI shall receive a Residue Credit (RC) determined by multiplying the Residue Allowance by the Program Recyclables tonnage and then multiplying this product by the prevailing tipping fee paid.

County will use its best efforts to designate a Waste to Energy Facility or Landfill most convenient to the MRF as may be requested by BFI from time to time.

6.8 All scale information and data shall be maintained on a system compatible with the COUNTY'S system. The COUNTY shall be supplied in an electronic media format as prescribed by the Office of Integrated Waste Management with a digital tape formatted to be compatible with the COUNTY's system containing all transactions covered by this Agreement ~~by Wednesday~~ no later than ten (10) days following the week month that the transaction took place. BFI shall submit to the COUNTY a monthly report of all materials flowing through and stored in the MRF to verify monthly computation of the Net Service Fee. All unprocessed material storage and processing shall be under roof. To the extent practical processed or recovered materials storage shall also be under roof.

5. Article 7, FINANCIAL INFORMATION AND REPORTS, Clause 7.1 is amended, and Clause 7.3 is deleted.

7.1 BFI shall prepare a special financial report signed by an officer of the company which shall disclose information on the calculation of all payments and fees between BFI and COUNTY in accordance with Article 5.2 and whether or not any funds are due to the COUNTY.

The financial records shall be kept in accordance with generally accepted accounting principles.

The reports shall be submitted to COUNTY within ~~sixty (60)~~ ninety (90) days at the end of the Program Year.

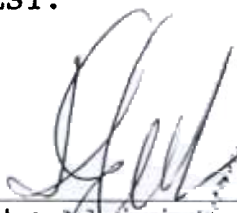
~~7.3 Attached hereto as Exhibit A is the format and sample contents of the records to be maintained and the reports to be generated by BFI in fulfillment of the requirements of this Agreement.~~

6. All other terms and conditions of this Agreement shall remain in full force and effect.

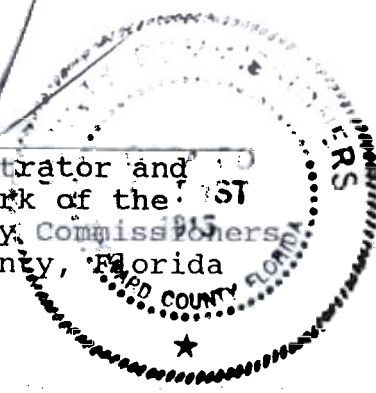
COUNTY

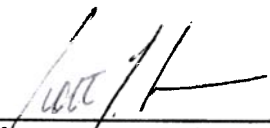
ATTEST:

BROWARD COUNTY, through its
BOARD OF COUNTY COMMISSIONERS



County Administrator and
Ex-Officio Clerk of the
Board of County Commissioners
of Broward County, Florida



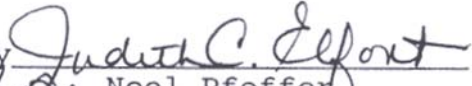


John E. Redstrom, Jr., Chair

27th day of February, 1996

FIRST AMENDMENT TO AGREEMENT BETWEEN BROWARD COUNTY AND BROWNING
FERRIS INDUSTRIES OF FLORIDA, INC. FOR MATERIALS RECOVERY FACILITY

Approved as to form by Office of
County Attorney Broward County,
Florida JOHN J. COPELAN, JR., County
Attorney Governmental Center, Suite
423, 115 South Andrews' Avenue, Fort
Lauderdale, Florida 33301
Telephone: (305)357-7600
Telecopier: (305)357-7641


By 

Noel Pfeffer
Deputy County Attorney

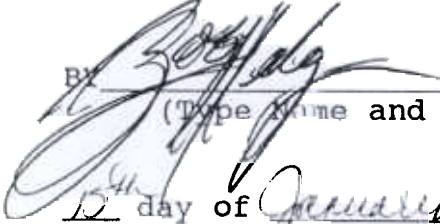
CONTRACTOR

ATTEST:

Browning Ferris Industries of
Florida, Inc.



Assistant Secretary

By 

(Type Name and Title)
12th day of January, 1996

(CORPORATE SEAL)

BROWNING FERRIS INDUSTRIES
 QUARTERLY RECONCILIATION
 For Period Ending December 31, 1994

	OCT.	NOV.	DEC.	TOTALS	
SERVICE FEE	0.00	0.00	0.00	0.00	
RESIDUE CREDIT	0.00	0.00	0.00	0.00	
VARIABLE PROCESSING FEE			0.00	0.00	
MONTHLY SERVICE FEE	0.00	0.00	0.00	0.00	
ACTUAL AMOUNT PAID	0.00	0.00	0.00	0.00	
AMOUNT DUE BFI	0.00	0.00	0.00	0.00	
REVENUE SHARE	0.00	0.00	0.00	0.00	
REVENUE CREDIT			0.00	0.00	
ACTUAL AMOUNT RECEIVED	0.00	0.00	0.00	0.00	
AMOUNT DUE COUNTY	0.00	0.00	0.00	0.00	
RECONCILED AMOUNT DUE BFI (COUNTY)				0.00	
PROGRAM TONS DELIVERED	0.00	0.00	0.00	0.00	
MONTHLY M-T-C	3,900.00	3,900.00	3,900.00	11,700.00	
VARIABLE PROCESSING FEE (TON)	(3,900.00)	(3,900.00)	(3,900.00)	(11,700.00)	
TOTAL VARIABLE PROCESSING FEE				0.00	
PROGRAM TONS SOLD					
PAPER	0.00	0.00	0.00	0.00	
COMMINGLED	0.00	0.00	0.00	0.00	
TOTAL TONS SOLD	0.00	0.00	0.00	0.00	
MONTHLY M-T-C	3,900.00	3,900.00	3,900.00	11,700.00	0%
	(3,900.00)	(3,900.00)	(3,900.00)	(11,700.00)	0%
REVENUE CREDIT CALCULATION					
TOTAL PROGRAM REVENUE	0.00	0.00	0.00	0.00	
TOTAL REVENUE AT 80%	0.00	0.00	0.00	0.00	
COUNTY REVENUE AT 80%			0%	0.00	
COUNTY REVENUE AT 50%			0%	0.00	
REVENUE CREDIT				0.00	