

FOURTH AMENDMENT TO AGREEMENT

Between

BROWARD COUNTY

and

BROWNING-FERRIS INDUSTRIES OF FLORIDA, INC.

for

MATERIALS RECOVERY FACILITY

This is a Fourth Amendment to the Agreement made and entered into by and between Broward County, a political subdivision of the State of Florida ("County"),

AND

BFI Waste Systems of North America, Inc.;

WHEREAS, County and Browning-Ferris Industries of Florida, Inc., entered into an agreement dated October 6, 1992, ("Agreement") for the design, financing, siting, permitting, construction, operation and maintenance of facilities for processing and marketing of recyclable materials ("Materials Recovery Facility") to serve the Broward Solid Waste Disposal District ("District"); and

WHEREAS, Browning-Ferris Industries of Florida, Inc. began operation of the Materials Recovery Facility on September 1, 1993; and

WHEREAS, County and Browning-Ferris Industries of Florida, Inc. entered into a First Amendment to the Agreement dated February 7, 1996 ("First Amendment"), amending the Agreement relating to the Program Year, Program Operations, term of agreement, service fees, materials acceptance, and financial information and reports; and

WHEREAS, County and Browning-Ferris Industries of Florida, Inc. entered into a Second Amendment to Agreement on February 26, 1997 ("Second Amendment"), amending the Agreement with respect to certain Recyclable Materials and Residue; and

WHEREAS, County and Browning-Ferris Industries of Florida, Inc., entered into an Assignment Agreement dated August 25, 1998, assigning the Agreement and the First and Second Amendment to BFI Waste Systems of North America, Inc. ("BFI"); and

WHEREAS, the County and BFI entered into a Third Amendment to Agreement on November 24, 1998, ("Third Amendment") in order to implement an adjustment in the calculation of the County's Revenue Share due to an increase in the amount of mixed paper in the waste stream and to resolve issues relating to the processing of used phone books by BFI; and

WHEREAS, the County and BFI have agreed to further amend the Agreement in order to extend the term; modify the processing fees and revenue share; provide for public education; and clarify certain terms.

NOW THEREFORE, in consideration of the promises and mutual covenants herein contained and intending to be legally bound thereby, the parties hereto agree that the Agreement, notwithstanding anything to the contrary contained therein, is modified by the following provisions:

1. This Fourth Amendment is incorporated into and shall be deemed to amend and supplement the Agreement. Capitalized terms not defined herein shall have the meanings ascribed to them in the Agreement, as amended. Unless otherwise defined, the Agreement, First Amendment the Second Amendment and the Third Amendment shall be collectively referred to herein as the "Agreement". The above recitals are incorporated herein as if set forth in their entirety.

2. Article 3, Paragraph 3.1 is hereby amended as follows:

3.1 This Agreement shall become effective immediately upon execution by the parties and shall continue in full force and effect to September 30, 2009, 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 upon such terms and conditions as may be agreed to by the parties.

3. Article 5, Paragraph 5.2 a) is hereby amended as follows:

a) Annual Fixed Processing Fee (AFPF) is defined to mean the fee paid by the COUNTY to BFI on a monthly pro rata basis for processing Program Recyclables. The AFPF shall be as follows until September 30, 2001:

Program Year 1	...\$ 960,000
Program Year 2.....	\$ 960,000
plus CPI Adjustment for prior Program Year	
Program Year 3.....	\$ 1,057,000
plus CPI Adjustment for prior two Program Years	

Program Year 4 through Program Year 8...Prior  
year AFPP plus CPI Adjustment for prior Program Year

Beginning on October 1, 2001, the AFPP shall be twenty-seven dollars (\$27.00) per ton.

The AFPP 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 October 1, 1993, and each year thereafter during the term of this Agreement ("CPI Adjustment").

4. Article 5, Paragraph 5.2 c) is hereby amended as follows:

c) As of October 1, 1997, Revenue Share (RS) is defined to mean the COUNTY's share of cumulative net revenues from the sale of Recovered Materials, based on ninety-seven (97) percent of the total 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 other entity shall be fifty (50) percent until September 30, 2001. Beginning on October 1, 2001, 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 other entity shall be eighty (80) percent for the term of this Agreement.

5. Effective October 1, 2001, Article 5, Paragraph 5.2 b) and 5.6 shall be deleted and Paragraph 5.6 shall be replaced by the following paragraph:

5.6 Beginning on October 1, 2001, at the end of each Program Year, BFI shall pay to COUNTY an amount equal to fifty cents (\$.50) per ton times the total amount of tons of Program Recyclables delivered by the COUNTY during the previous twelve (12) month period, to be used for public education purposes, in order to promote recycling. Said payment shall be submitted to COUNTY within sixty (60) days of the end of each Program Year, and is conditioned upon the COUNTY providing BFI with evidence of a contribution of matching funds for said purpose.

6. Article 6, Paragraph 6.2 is hereby amended as follows

6.2 BFI may accept Recyclable Materials at the MRF from other sources provided the acceptance or processing of such Recyclable Materials shall not preclude or interfere with the daily delivery or processing of Program Recyclables from COUNTY. BFI agrees that in no event may it enter into any contract or other arrangement, either directly or indirectly by way of any third party, with any entity wherever located for either a lower processing fee or a greater revenue share from the sale of recovered material from a residential waste stream than is provided for in this Agreement, unless such more favorable term(s) are also extended to the COUNTY. Until September 30, 2001, for purposes of the preceding sentence, the minimum threshold processing fee shall equal the product of the then applicable AFPP divided by the then applicable MTC. Beginning on October 1, 2001, for purposes of the preceding sentence, the minimum threshold processing fee shall be twenty-seven dollars (\$27.00) per ton, as adjusted by the CPI.

7. Article 6, Paragraph 6.5 is hereby amended as follows:

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 Residue Allowance. Beginning on October 1, 2001, at the end of each Program Year, if the Residue for the previous twelve (12) month period exceeds seven per cent (7%) or falls below three per cent (3%), the Residue Allowance shall be reconsidered and adjusted as mutually agreed to by COUNTY and BFI. The quantity of marketable material which results from processing operations shall equal 97% of accepted Program Recyclables less the Residue Allowance and Rejects removed. (For purposes of illustration, see Exhibit "A" hereto.) 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.

8. All other terms and conditions of the Agreement shall remain in full force and effect.


IN WITNESS WHEREOF, the parties have made and executed this Agreement between Broward County and BFI of North America, Inc. on the respective dates under each signature: Broward county through its BOARD OF COUNTY COMMISSIONERS, signing by and through its Chair or Vice Chair, authorized to execute same by board action on the 8<sup>th</sup> day of February, 2000, and BFI of North America, Inc., signing by and through its vice president, duly authorized to execute the same.

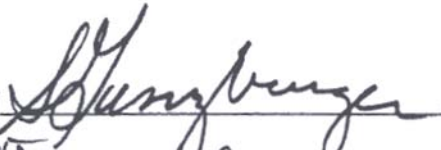
FOURTH AMENDMENT TO AGREEMENT BETWEEN BROWARD COUNTY AND BROWNING FERRIS INDUSTRIES OF FLORIDA, INC., FOR MATERIALS RECOVERY FACILITY

COUNTY

ATTEST:


BROWARD COUNTY, through its  
BOARD OF COUNTY COMMISSIONERS

  
\_\_\_\_\_  
County Administrator and  
Ex-Officio Clerk of County Commissioners  
of Broward County, Florida

By , Chair  
8<sup>th</sup> day of February, 2000




Approved as to form by Office of the  
County Attorney, Broward County, Florida  
Edward Dion County Attorney  
Governmental Center, Suite 423  
115 South Andrews Avenue  
Fort Lauderdale, Florida 33301  
Telephone: (954) 357-7600  
Telecopier: (954) 357-6968

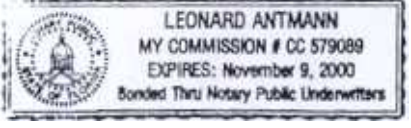
By:   
\_\_\_\_\_

BFI

ATTEST:



BFI WASTE SYSTEMS OF  
NORTH AMERICA, INC.



By:



EXHIBIT A

BROWARD COUNTY REVENUE SHARE CALCULATION

Rigid

(.97) Inbound Tons X Residue Allow. X Avg. Price X Revenue Share % = Revenue Share

97% Inbound Tons X 95.00% \$/ton X 80%

ONP

(.97) Inbound Tons X Residue Allow. X Avg. Price X Revenue Share % = Revenue Share

97% Inbound Tons X 95.00% X \$/ton X 80%

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TOTAL COUNTY REVENUE SHARE

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