

THIRD AMENDMENT TO AGREEMENT

Between

BROWARD COUNTY

and

BFI WASTE SYSTEMS OF NORTH AMERICA, INC.

for

MATERIALS RECOVERY FACILITY

This is a Third Amend 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. f/k/a Browning-Ferris Industries of Florida, Inc.,

WHEREAS, County and BFI Waste Systems of North America, 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, BFI Waste Systems of North America, Inc., began operation of the Materials Recovery Facility on September 1, 1993; and

WHEREAS, County and BFI Waste Systems of North America, 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 BFI Waste Systems of North America, 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 BFI Waste Systems of North America, 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 have mutually agreed to further amend the Agreement 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;

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 Third 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 and Second Amendment shall be collectively referred to herein as the "Agreement".

2. 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 for the term of this Agreement.

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

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. 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.

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

Effective January 1, 1997, and each year thereafter, the County shall designate a three (3) month period coinciding with and following the distribution of new phone books ("Phone Book Term") for the delivery of up to one thousand (1,000) tons of used phone books ("Phone Books") to the MRF. The processing of used phone books in excess of one thousand (1,000) tons shall be addressed by the parties in a separate written agreement if and when such tonnage reaches the maximum amount. During the Phone Book Term, Phone Books shall be deemed a Program Material under the Agreement, but shall not be subject to the Revenue Share calculation. In the event that the County designates a Phone Book Term, as provided herein, BFI shall be entitled to an annual supplemental processing fee. In 1997, the processing fee for Phone Books shall be Forty-five Thousand Dollars (\$45,000) and said payment will be adjusted annually, January 1<sup>st</sup> of each year, thereafter by the "CPI Adjustment" referenced in 5.2a. In 1999, the processing fee for Phone Books shall be Thirty-two Thousand Five Hundred Dollars (\$32,500), said payment to be adjusted annually thereafter, as provided herein. BFI agrees to use reasonable efforts to locate a market to recycle the Phone Books. In the event that disposal of the Phone Books is required, those shall not be subject to the disposal requirements of Paragraph 6.5 of the Agreement.

5. The parties agree that the mutual covenants and consideration contained herein constitute a resolution and full satisfaction of the issues relating to BFI's past processing of phone books, including those described in Finding 1 of the Audit Report of the Browning-Ferris Industries, Inc. Materials Recovery Facility for FY 1996 and 1997 and BFI's letter to the County dated April 8, 1998.

6. 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 Waste Systems 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 24<sup>th</sup> day of November, 1998, and BFI WASTE SYSTEMS OF NORTH AMERICA, INC., signing by and through its vice president, duly authorized to execute the same.

COUNTY

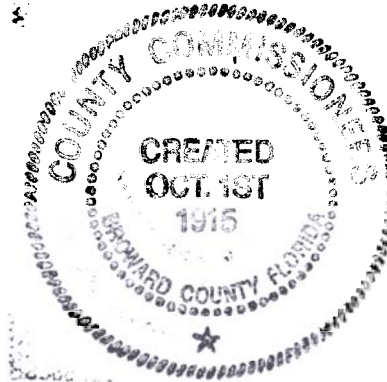
ATTEST:

BROWARD COUNTY, through its  
BOARD OF COUNTY COMMISSIONERS

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

By: Gene Lieberman  
Chair

24<sup>th</sup> day of November, 1998



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

By: Nurse

BFI

ATTEST:

BFI WASTE SYSTEMS OF  
NORTH AMERICA, INC.

Albert E. Luer  
By: Albert E. Luer  
District Vice President

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

ONP

(.97) Inbound Tons X Residue Allow. X Avg. Price X Revenue Share % = Revenue Share  
97% Inbound Tons X 95.00% X \$/ton X

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TOTAL COUNTY REVENUE SHARE =

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