

AGREEMENT

between

BROWARD COUNTY, FLORIDA

And

[REDACTED]

for

BILLING RELATED TO THE BROWARD COUNTY LANDFILL

This Agreement ("Agreement") is entered into by and between Broward County, a political subdivision of the State of Florida ("COUNTY"), and [REDACTED], a [REDACTED] ("LANDFILL CUSTOMER").

- A. COUNTY owns and operates the Broward County Landfill, located at 7101 S.W. 205 Avenue, Fort Lauderdale, FL 33332 ("Landfill").
- B. LANDFILL CUSTOMER intends to deliver solid waste to the Landfill, which waste is acceptable for COUNTY to process at the Landfill.
- C. COUNTY provides, as an option to users of the Landfill, a mechanism to pay for services using a Charge Account.
- D. LANDFILL CUSTOMER desires to take advantage of this option.

NOW, THEREFORE, for good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties hereto agree as follows:

ARTICLE 1  
DEFINITIONS

For the purposes of this Agreement, the following definitions shall apply unless otherwise specifically stated:

"**Disposal Fees**" shall mean any tipping fee or other service fee charged for use of the Landfill.

"**Effective Date**" shall mean the last of: 1) the date this Agreement is executed by LANDFILL CUSTOMER; 2) the date this Agreement is executed by COUNTY; and 3) the date LANDFILL CUSTOMER complies with all the information and security deposit requirements under Article 5 hereof.

ARTICLE 2  
TERM

This Agreement shall begin on the Effective Date and shall continue until terminated by either party, which termination shall be effective forty-five (45) days after written notice of termination is provided to the other party. The County Administrator is authorized to exercise this forty-five (45) day termination provision on behalf of COUNTY.

ARTICLE 3  
VEHICLE INFORMATION AND IDENTIFICATION

Each of LANDFILL CUSTOMER's vehicles delivering waste to the Landfill shall prominently display its vehicle decal as supplied by COUNTY. Vehicle drivers entering the Landfill shall verbally identify the municipality of origin of delivered material. COUNTY may, from time to time, require the re-validation of the tare weight of any vehicle or the re-weighing of unloaded vehicles. Vehicle drivers may be required to provide additional documentation to ensure the validity of an account if COUNTY's Landfill employee determines that such additional documentation is required.

ARTICLE 4  
RULES OF OPERATION

LANDFILL CUSTOMER agrees to abide by all rules promulgated and/or posted by COUNTY for the Landfill including, but not limited to, hours of operations, types of waste allowed, weighing procedures, and fee schedules.

ARTICLE 5  
CHARGE ACCOUNTS

- 5.1 Establishment of Charge Accounts. LANDFILL CUSTOMER hereby requests to establish a Charge Account with COUNTY for LANDFILL CUSTOMER's Disposal Fees at the Landfill.
- 5.2 Information Required. LANDFILL CUSTOMER shall supply COUNTY with the following information:
  - (a) Name of LANDFILL CUSTOMER;
  - (b) LANDFILL CUSTOMER's mailing address;
  - (c) LANDFILL CUSTOMER's telephone number;
  - (d) Identification of vehicles that will be accessing the Landfill; and
  - (e) An estimate of the amount of billing expected during any 42-day period (comprised of three bi-weekly billing cycles).
- 5.3 Security Deposit. *Section 5.3 is applicable only for landfill customers that are not*

*public entities*. LANDFILL CUSTOMER must provide a security deposit equal to or exceeding the amount of the forty-two (42) day estimate referenced in section 5.2(e), above. If cumulative billing during any forty-two (42) day period exceeds the amount of the security deposit, the security deposit, at COUNTY's option, must be increased by LANDFILL CUSTOMER within ten (10) business days of receipt of COUNTY's written notice to increase to the amount of that higher cumulative billing. Failure to timely increase a security deposit when required by COUNTY (pursuant to the provisions of this paragraph) shall result in the suspension of charging privileges and will subject LANDFILL CUSTOMER to imposition of a fee as provided below. The security deposit, which is subject to approval by the Office of the County Attorney, may be in any of the following forms:

- (a) A cash deposit;
- (b) An Escrow Agreement with a Florida financial institution or other acceptable escrow agent;
- (c) An Irrevocable Letter of Credit or a Certificate of Deposit; or
- (d) A Payment Bond with a surety licensed to do business in the State of Florida.

After approval of the security deposit by the Office of the County Attorney, COUNTY will assign LANDFILL CUSTOMER an account number. Vehicle numbers and decals shall be provided by COUNTY to identify the vehicles authorized to access the Landfill pursuant to this Agreement.

## ARTICLE 6 PAYMENT PROCEDURES

- 6.1 COUNTY shall, no more frequently than biweekly, invoice LANDFILL CUSTOMER for the Disposal Fees incurred by LANDFILL CUSTOMER at the Landfill. LANDFILL CUSTOMER shall pay COUNTY the full amount of each invoice within thirty (30) days of receipt of such invoice. Payment of accounts will not be accepted at the Landfill; payment shall be made using the procedure and at the location indicated on the invoice. Invoices not timely paid shall be considered delinquent, which shall subject LANDFILL CUSTOMER to the late payment fee stated below. In addition, invoices not timely paid shall accrue interest at the rate consistent with the Florida Prompt Payment Act, Sections 218.70-218.80, Florida Statutes. If any invoice remains outstanding for more than fifteen (15) days after payment thereof was required, COUNTY shall suspend LANDFILL CUSTOMER's account until that invoice is paid.
- 6.2 In the event LANDFILL CUSTOMER disputes an invoice from COUNTY, LANDFILL CUSTOMER shall pay the full amount of the invoice (including the disputed charges) when due, and shall, within thirty (30) days from the date of the receipt of the disputed invoice, give written notice of the dispute to COUNTY. The notice of dispute shall identify the disputed invoice, state the amount in dispute,

and set forth a full statement of the grounds on which such dispute is based. The parties agree to work in good faith to settle the dispute. In the event the parties cannot settle the dispute within sixty (60) days from the date of the receipt of the disputed invoice, LANDFILL CUSTOMER may pursue any remedy available at law but may not withhold payment on any invoice or offset the amount in dispute against future invoices.

- 6.3 LANDFILL CUSTOMER shall be required to timely pay all invoices even if any invoices are due or payable after the date of any termination of this Agreement.

ARTICLE 7  
COLLECTION OF DISHONORED CHECKS; OTHER FEES

7.1 Any LANDFILL CUSTOMER whose check is returned for nonpayment must pay a dishonored check service charge of: \$25 on checks with a value up to and including \$50; \$30 on checks with a value of \$50.01 to \$300; and the greater of \$40 or 5% of the face value on checks with a value above \$300. If full payment, including of the dishonored check service charge and any applicable late payment charges, is not received within fourteen (14) days after COUNTY notifies LANDFILL CUSTOMER of the dishonored check, LANDFILL CUSTOMER's account shall be suspended and the nonpayment issue will be forwarded to the Office of the County Attorney for appropriate legal action.

7.2 LANDFILL CUSTOMER shall be subject to and agrees to pay the following fees:

|   |                   |
|---|-------------------|
| (a) Duplication of weigh tickets  | \$3.00 per ticket |
| (b) Outstanding invoices that cumulatively exceed the amount of the security deposit  | \$150.00          |
| (c) Failure to timely pay any invoice   | \$150.00          |
| (d) Failure to timely increase security deposit amount when requested by COUNTY   | \$150.00          |
| (e) Failure to maintain in effect the full security deposit when the security deposit is provided by a third party (e.g., bond or letter of credit) | \$150.00          |

ARTICLE 8  
INSPECTIONS

COUNTY may inspect any vehicle making a delivery to the Landfill for the purpose of spot checking loads or checking any questionable loads. If a load is rejected, LANDFILL CUSTOMER shall remove the load at its sole cost and expense. Neither LANDFILL CUSTOMER nor COUNTY will be obligated to pay a tipping fee for waste that is rejected.

ARTICLE 9  
INDEMNIFICATION

LANDFILL CUSTOMER shall at all times hereafter indemnify, hold harmless and, at the County Attorney's option, defend or pay for an attorney selected by the County Attorney to defend COUNTY, its officers, agents, servants, and employees (collectively or individually, "Indemnified Party") from and against any and all causes of action, demands, claims, losses, liabilities and expenditures of any kind, including attorney fees, court costs, and expenses, caused or alleged to be caused by any intentional or negligent act of, or omission of, LANDFILL CUSTOMER, its employees, agents, servants, or officers, including, without limitation, any and all claims, losses, liabilities, expenditures, demands or causes of action of any nature whatsoever resulting from injuries or damages sustained by any person or property. In the event any lawsuit or other proceeding is brought against any Indemnified Party by reason of any such claim, cause of action or demand, LANDFILL CUSTOMER shall, upon written notice from COUNTY, resist and defend such lawsuit or proceeding by counsel satisfactory to COUNTY or, at COUNTY's option, pay for an attorney selected by the County Attorney to defend the Indemnified Party(ies). The provisions and obligations of this section shall survive the expiration or earlier termination of this Agreement. To the extent the County Administrator and the County Attorney, in their reasonable discretion, determine it is required, any sums due LANDFILL CUSTOMER under this Agreement may be retained by COUNTY until all of COUNTY's claims for indemnification pursuant to this Agreement have been settled or otherwise resolved; and any amount withheld shall not be subject to payment of interest by COUNTY.

ARTICLE 10  
DEFAULT

In the event there should occur any material breach or material default in the performance of any covenant or obligation of a party hereunder that has not been remedied within thirty (30) days after receipt of notice from the non-breaching party specifying such breach or default (unless a shorter cure period is otherwise provided, in which event that shorter cure period shall be applicable), the non-breaching party may terminate this Agreement or exercise any other remedy available under applicable law. The parties may also exercise any other right or remedy provided under this Agreement.

ARTICLE 11  
NOTICES

Whenever either party desires to give notice to the other, such notice must be in writing, sent by certified United States Mail, postage prepaid, return receipt requested, or sent by commercial express carrier with acknowledgement of delivery, or by hand delivery with a request for a written receipt of acknowledgement of delivery, addressed to the party for whom it is intended at the place last specified. The place for giving notice shall remain the same as set forth herein until changed in writing in the manner provided in this section. For the present, the parties designate the following:

**FOR COUNTY:**

County Administrator  
Governmental Center, Suite 409  
115 South Andrews Avenue  
Fort Lauderdale, Florida 33301

With a copy to:  
Director, Solid Waste and Recycling Services  
One North University Drive, Suite 400  
Plantation, Florida 33324

**FOR LANDFILL CUSTOMER:**

ARTICLE 12  
MISCELLANEOUS

12.1 AUDIT RIGHT AND RETENTION OF RECORDS: COUNTY shall have the right to audit the books, records, and accounts of LANDFILL CUSTOMER and its subcontractors that are related to this Agreement, at no cost to COUNTY. LANDFILL CUSTOMER and its subcontractors shall keep such books, records, and accounts as may be necessary in order to record complete and correct entries related to the services under this Agreement.

LANDFILL CUSTOMER and its subcontractors shall preserve and make available, at reasonable times for examination and audit by COUNTY, all financial records, supporting documents, statistical records, and any other documents pertinent to this Agreement for the required retention period of the Florida Public Records Act, Chapter 119, Florida Statutes, as may be amended from time to time, if applicable, or, if the Florida Public Records Act is not applicable, for a minimum period of three (3) years after termination of this Agreement. If any audit has been initiated and audit findings have not been resolved at the end of the retention period or three (3) years, whichever is longer, the books, records, and accounts shall be retained until resolution of the audit findings. If the Florida Public Records Act is determined by COUNTY to be applicable to LANDFILL CUSTOMER's and its subcontractors' records, LANDFILL CUSTOMER and its subcontractors shall comply with all requirements thereof; however, no confidentiality or non-disclosure requirement of either federal or state law shall be violated by LANDFILL CUSTOMER or its subcontractors.

LANDFILL CUSTOMER shall, by written contract with its subcontractors, require its subcontractors to agree to the requirements and obligations of this Section 12.1.

12.2 Independent Contractor. LANDFILL CUSTOMER is an independent contractor under this Agreement. Services provided by LANDFILL CUSTOMER pursuant to this Agreement shall be subject to the supervision of LANDFILL CUSTOMER. In providing such services, neither LANDFILL CUSTOMER nor its agents shall act as officers, employees, or agents of COUNTY. No partnership, joint venture, or other joint relationship is created hereby. COUNTY does not extend to LANDFILL CUSTOMER authority of any kind to bind COUNTY in any respect whatsoever.

12.3 Assignment and Performance. Neither this Agreement nor any right or interest herein shall be assigned, transferred, or encumbered without the prior written consent of the COUNTY. COUNTY may terminate this Agreement, effective immediately, if there is any assignment, or attempted assignment, transfer, or encumbrance, by LANDFILL CUSTOMER of this Agreement or any right or interest herein without COUNTY's written consent.

LANDFILL CUSTOMER represents that each person who will render services in connection with this Agreement is duly qualified to perform such services by all appropriate governmental authorities, where required, and that each such person is reasonably experienced and skilled in the area(s) for which he or she will render his or her services.

LANDFILL CUSTOMER shall perform its obligations under this Agreement in a skillful and respectable manner. The quality of LANDFILL CUSTOMER's performance and all interim and final product(s) provided to or on behalf of COUNTY shall be comparable to the best local and national standards.

12.4 Conflicts. Neither LANDFILL CUSTOMER nor its employees shall have or hold any continuing or frequently recurring employment or contractual relationship that is substantially antagonistic or incompatible with LANDFILL CUSTOMER's loyal and conscientious exercise of judgment and care related to its performance under this Agreement. In the event LANDFILL CUSTOMER utilizes subcontractors to perform any services required by this Agreement, LANDFILL CUSTOMER agrees to require such subcontractors, by written contract, to comply with the provisions of this section to the same extent as LANDFILL CUSTOMER.

12.5 Materiality and Waiver of Breach. COUNTY and LANDFILL CUSTOMER agree that each requirement and obligation set forth herein is substantial and important to the formation of this Agreement and that each is, therefore, a material term hereof. COUNTY's failure to enforce any provision of this Agreement shall not be deemed a waiver of such provision or modification of this Agreement. A waiver of any breach of a provision of this Agreement shall not be deemed a waiver of any subsequent breach and shall not be construed to be a modification of the terms of this Agreement.

12.6 Severability. In the event a portion of this Agreement is found by a court of competent jurisdiction to be invalid, the remaining provisions shall continue to be effective unless COUNTY or LANDFILL CUSTOMER elects to terminate this

Agreement. An election to terminate this Agreement based upon this provision shall not be effective until seven (7) days after the finding by the court becomes final (finality requires resolution of any pending appeals).

- 12.7 Jurisdiction, Venue, Waiver of Jury Trial. This Agreement shall be interpreted and construed in accordance with and governed by the laws of the State of Florida. All parties agree and accept that jurisdiction of any controversies or legal problems arising out of this Agreement, and any action involving the enforcement or interpretation of any rights hereunder, shall be exclusively in the state courts of the Seventeenth Judicial Circuit in Broward County, Florida, and venue for litigation arising out of this Agreement shall be exclusively in such state courts, forsaking any other jurisdiction which either party may claim by virtue of its residency or other jurisdictional device. **BY ENTERING INTO THIS AGREEMENT, LANDFILL CUSTOMER AND COUNTY HEREBY EXPRESSLY WAIVE ANY RIGHTS EITHER PARTY MAY HAVE TO A TRIAL BY JURY OF ANY CIVIL LITIGATION RELATED TO THIS AGREEMENT.**
- 12.8 Incorporation by Reference. The truth and accuracy of each "Whereas" clause set forth above is acknowledged by the parties.
- 12.9 Representation of Authority. Each individual executing this Agreement on behalf of a party hereto hereby represents and warrants that he/she is, on the date he/she signs this Agreement, duly authorized by all necessary and appropriate action to execute this Agreement on behalf of such party and does so with full legal authority.
- 12.10 Multiple Originals. Multiple copies of this Agreement may be executed by all parties, each of which, bearing original signatures, shall have the force and effect of an original document.

[REMAINDER OF PAGE INTENTIONALLY BLANK]



IN WITNESS WHEREOF, the parties hereto have made and executed this Agreement: BROWARD COUNTY through its BOARD OF COUNTY COMMISSIONERS, signing by and through its Mayor or Vice-Mayor, authorized to execute same by Board action on this \_\_\_\_ day of \_\_\_\_\_, 2018, and LANDFILL CUSTOMER, signing by and through its \_\_\_\_\_, duly authorized to execute same.

COUNTY

ATTEST:

BROWARD COUNTY, by and through  
Its Board of County Commissioners

\_\_\_\_\_  
Broward County Administrator, as  
Ex-officio Clerk of the Broward County  
Board of County Commissioners

By \_\_\_\_\_  
Mayor

day of \_\_\_\_\_, 2018

Approved as to form by  
Andrew J. Meyers  
Broward County Attorney  
Governmental Center, Suite 423  
115 South Andrews Avenue  
Fort Lauderdale, Florida 33301  
Telephone: (954) 357-7600  
Telecopier: (954) 357-6968

By \_\_\_\_\_  
Keoki M. Baron (Date)  
Assistant County Attorney

AGREEMENT between BROWARD COUNTY and [REDACTED] for BILLING  
RELATED TO THE BROWARD COUNTY LANDFILL

LANDFILL CUSTOMER

WITNESS:

\_\_\_\_\_  
(Date)

\_\_\_\_\_  
Signature of Witness

Its \_\_\_\_\_  
Officer

\_\_\_\_\_  
Print Name of Witness

\_\_\_\_\_  
Signature of Witness

\_\_\_\_\_  
Print Name of Witness

CORPORATE SEAL:

AFB/dt  
10/02/15  
Broward county landfill –  
15-081.06