

*Disposal: Waste Delivery/Disposal Agreement*

**WASTE DELIVERY/DISPOSAL AGREEMENT (WD/DA)**

Revised: April 2011

This Waste Delivery/Disposal Agreement (the “Agreement”) is made between Fairfax County, Virginia (the “County”) and the “Company” (together, the “Parties”) and shall be effective as of the date it is signed by both parties. The County has solid waste disposal facilities at locations shown on Exhibit 1.

Subject to the terms of this agreement, the Company agrees to deliver municipal solid waste (MSW) to the Facilities, and the County agrees to provide a guaranteed fee for disposal of such MSW. In consideration of the mutual obligations undertaken, the County and the Company agree as follows:

**1. Required Deliveries.** The Company will deliver all of the MSW it generates within Fairfax County (“Fairfax MSW”) as part of its business operations to the Facilities. For purposes of this Agreement, Fairfax MSW shall not include materials collected for recycling, waste that cannot be processed at the Facilities and requires special handling, including but not limited to tires (“Special Waste”), waste generated outside of Fairfax County (unless approved by the County), and construction/demolition debris. For purposes of this Agreement, Fairfax County includes the cities and towns of Fairfax, Falls Church, Clifton, Herndon, and Vienna. Fairfax MSW delivered by the Company will be accepted at the rates set forth in Exhibit 1.

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**2. Other Acceptable Deliveries.** With prior authorization from the County, the Company may also deliver MSW generated outside of Fairfax County, including Out-of-State waste and Special Waste. Out-of-State waste must be delivered directly to the I-95 Energy/Resource Recovery Facility. Out-of-State waste is not accepted at the I-66 Transfer Station Complex. Written authorization from the County generally will be completed as part of the Permit application process and approved with the issuance of the Permit.

**3. Force Majeure.** The delivery of waste may be adjusted by mutual agreement of both Parties due to an event of *force majeure*. For the purposes of this Agreement, *force majeure* means an event or condition that has, or may reasonably be expected to have, a material adverse effect on the ability of a party to perform its obligations under this Agreement if such event or condition is beyond reasonable control, and is not the result of willful or negligent action, or a lack of reasonable diligence on the party relying on the event or condition as justification for not performing or delaying performance of an obligation under this Agreement. The following events constitute *force majeure* events if they meet the requirements of the preceding sentence: an act of terrorism, an act of God, storm, flood, tornado, lightning, landslide; the revocation of any permit or license necessary to perform the obligations hereunder, but not including collection or disposal permits issued by Fairfax County; the inability of the I-95 Energy/Resource Recovery Facility (E/RRF) to process MSW at its design capacity; or any change in law that materially and adversely affects the operations of the Parties.

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**4. Penalty.** If a County employee witnesses and documents a violation of any WD/DA provision by a Company employee or vehicle, up to six (6) MSW loads delivered by the Company may be charged at the penalty rate per ton shown in Exhibit 1, the selection of how many and which truckloads to be charged will be at the County's sole discretion.

**5. Pricing/Payment.** Except as otherwise provided in this Agreement, the Company agrees to pay the Contract Disposal Rate per ton of Fairfax MSW. The Contract Disposal Rate is set forth in Exhibit 1 and may be changed from time to time, usually at the start of a fiscal year (July 1). The Company shall pay this rate for the actual tonnage of Fairfax MSW disposed at the Facilities. The County will invoice the Company, and the Company will pay, on a monthly basis **by the due date**, for the actual tonnage of MSW delivered by the Company to the Facilities. If the Federal Government or the Commonwealth of Virginia, or any regulatory agency of either, add a fee, tax, or any charge for the acceptance or processing of MSW, the additional charge will be added to the Contract Disposal Rate shown on Exhibit 1. Such charge will begin on the date required by the regulatory authority and continue as required by such authority.

**6. Identification of Waste Origin and Material Type.** The driver of each Company truck delivering MSW to the Facilities shall inform the scalehouse personnel of the state and county, city, town, or medical facility from which the waste originates

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and the type of material. Should the driver fail or refuse to identify the origin or material type for a delivery of MSW, or should an inspection of the delivered MSW indicate that the origin or material type of the waste differs from that reported by the driver, then the Company may be charged a penalty in accordance with Paragraph 4.

**7. Inspections.** All waste delivered to the Facilities is subject to inspection.

Should an inspection reveal waste from an unauthorized origin, or that delivered waste contains more than ten percent of materials other than MSW (e.g., recyclables, special waste), the Company may be charged a penalty in accordance with Paragraph 4.

**8. Compliance with Fairfax County Code.** The Company shall comply with the Fairfax County Code including but not limited to Chapters 109.1, 46, 82, and 108 of the Code. Violators will be charged a penalty as set forth in accordance with Paragraph 4.

If the Company does not comply with any administrative requirement of Chapter 109.1 (e.g., timely submission of an annual Recycling Report), the Contract Disposal Rate will be suspended until such time as the Company returns to compliance. While not in compliance, the Company may also be subject to enforcement action.

**9. Compliance with Facilities' Rules and Regulations.** The Company shall comply with the Facilities' Rules and Regulations. Further, violations of the Facilities' Rules and Regulations shall be grounds for temporarily or permanently banning the offending employee or vehicle, or even the entire Company, from disposing at any or all

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of the Facilities. Violators may also be charged a penalty in accordance with Paragraph 4.

**10. Term and Termination.** This Agreement shall commence July 1, 2011, or when the Agreement is signed, whichever is later, and continue in effect until June 30, 2015, unless terminated in accordance with the terms of this Agreement . Any duty or obligation of the Company under this Agreement which has not been fully performed or discharged shall survive the assignment of this Agreement.

This Agreement may be terminated by either party with thirty (30) days written notice.

**11. Meetings.** The Company shall attend mandatory meetings with the County, when given seven days advance written (including e-mails) notice. Failure to attend such a meeting shall cause the Company's deliveries from that day forward to be charged at the penalty rate as set forth in Exhibit 1, until the required meeting has been held.

**12. Assignment.** This Agreement shall not be assigned by the Company without the prior express written consent of the County. A permitted assignment shall not relieve the Company of its obligations under this Agreement.

**13. Amendment.** This agreement may be amended by a written mutual Agreement of the Parties. Advance notice of changes to the Agreement will be provided in a timely

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manner to the Company.

The Amendment will become effective as noted. Exhibit 1 may be amended annually to reflect changes to rates, tonnage, or other items.

Company agrees to be bound by the WD/DA and applicable Exhibit 1 for the period ending June 30, 2015.

\_\_\_\_\_

Signature

\_\_\_\_\_

Date

\_\_\_\_\_

Title

**FAIRFAX COUNTY, VIRGINIA**

By:

\_\_\_\_\_

Joyce M. Doughty, Director  
Division of Solid Waste  
Disposal and Resource Recovery

\_\_\_\_\_

Date

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**EXHIBIT 1**

Rev. April 2011

**Contract Disposal Rate: \$53 per ton**

**Penalty Rate: \$75 per ton**

**Company Name: \_\_\_\_\_**

Municipal Solid Waste (MSW) from Fairfax County (including the cities of Fairfax and Falls Church and the towns of Vienna, Herndon and Clifton).

Company understands that the County disposal locations are 9850/9898 Furnace Road, Lorton, Virginia and 4618 West Ox Road, Fairfax, Virginia.

**Company agrees to be bound by Exhibit 1 for the period ending June 30, 2012.**

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Date

\_\_\_\_\_  
Title

**FAIRFAX COUNTY, VIRGINIA**

By:

\_\_\_\_\_  
Joyce M. Doughty, Director  
Division of Solid Waste  
Disposal and Resource Recovery

\_\_\_\_\_  
Date