

## **SOLID WASTE DISPOSAL AGREEMENT**

THIS AGREEMENT is made and entered into this \_\_\_\_ day of October, 2018 by and between BLADEN COUNTY, NORTH CAROLINA (hereinafter called "Customer") and SAMPSON COUNTY DISPOSAL, INC., a North Carolina corporation, (hereinafter called "SCDI").

WHEREAS, Customer desires to transport Customer's non-hazardous waste to the SCDI Sanitary Landfill for disposal, and SCDI desires to provide such disposal services for the Customer in accordance with and subject to the terms and conditions for this Agreement.

NOW, THEREFORE, in consideration of the premises and the following mutual agreements and covenants, the Customer and SCDI, each intending to be legally bound, agree as follows:

### 1.0 DEFINITIONS

1.01 Customer Waste -Any Solid Waste or approved Special Waste generated within the jurisdictional limits of Customer that has been controlled by Customer ( or by any waste collection service operating under contract with Customer) and/or processed through Customer's Solid Waste system (including, without limitation, Customer's convenience centers and transfer station). Customer's Waste will be delivered to the SCDI Sanitary Landfill by Customer (or by any waste collection service operating under contract with Customer) in waste collection vehicles containing only Customer Waste.

1.02 Disposal Fee -The amount set forth in Section 7.01 hereof, as adjusted, charged by SCDI for the performance of disposal services hereunder.

1. 03 Governmental Approvals -All permits, licenses and approvals required for the expansion, construction and/or operation of the SCDI Sanitary Landfill.

1. 04 Hazardous Waste -Any chemical, compound, mixture, substance or article which is designated by the United States Environmental Protection Agency or by any State having jurisdiction to be "hazardous" as that term is defined by or pursuant to federal or state law.

1.05 Non-Conforming Waste -Any waste excluded from the definition of Solid Waste and any Special Waste which has not been approved by SCDI and, if required, by any governmental agency having jurisdiction.

1. 06 SCDI Sanitary Landfill -The Solid Waste sanitary landfill operated by SCDI and located off of Highway 24 in Sampson County, North Carolina.

1.07 Solid Waste -Any garbage, trash, rubbish, brush and other waste material allowed under the Governmental Approvals issued for the operation of the SCDI Sanitary Landfill but excluding (a) any Hazardous Waste, and (b) any other material not allowed pursuant to applicable laws and regulations.

1.08 Special Waste -Any Customer Waste which requires special processing, handling or disposal techniques which are different from the techniques normally utilized for handling or disposal or contains and added element of expense to transport or dispose of as determined by SCDI or requires approval from any State agency and/or SCDI. Examples of such Special Waste types may include, but are not limited to: white goods, tires, mining wastes, fly ash, combustion ash, sludges, drilling fluids and drill cuttings, asbestos, industrial wastes, liquid wastes, infectious wastes and residue, pollution control residue, debris or contaminated soil and water from the cleanup of a spill.

1.09 1 Ton = 2,000 pounds.

## 2.0 SCOPE OF SERVICES

Subject to the terms and conditions hereof, Customer agrees that it will deliver or cause to be delivered all Customer Waste to the SCDI Sanitary Landfill for disposal and SCDI agrees that it will accept such Customer Waste for disposal services at the SCDI Sanitary Landfill from and after the date hereof in accordance with and subject to the terms and conditions of this Agreement. SCDI agrees to allow County hauler to use tipper at no charge if they do not have a tipper located at SCDI or have a tipper agreement in place.

## 3.00 DISPOSAL SERVICES

3.01 Disposal Operations -From and after the date hereof, SCDI shall accept, upon delivery, all Customer Waste and such approved Special Waste delivered by the Customer ( or by any waste collection service operating under contract with Customer) in waste collection vehicles containing only Customer Waste or approved Special Waste to the SCDI Sanitary Landfill for disposal. SCDI shall have complete control and direction over all of the disposal operations and practices at the SCDI Sanitary Landfill subject, however, to the supervision of federal and state agencies having jurisdiction thereover. This Agreement is for the performance of specific services described herein. Under no circumstances or condition shall the operation of the SCDI Sanitary Landfill by SCDI in accordance with this Agreement be deemed a public function, nor shall the Customer or any other person or entity acquire any interest, ownership or otherwise, in any of the real or personal property or improvements or fixtures at the SCDI Sanitary Landfill by Virtue of this Agreement.

3.02 Inspection of SCDI Sanitary Landfill- The Customer may, on a reasonable basis as the Customer deems necessary and after giving SCDI advance written notice, make inspections of the SCDI Sanitary Landfill during normal business hours, however, such inspections shall be made only by authorized employees or agents of the Customer

accompanied by the SCDI site manager or any other person designated by the SCDI site manager. Such inspections shall not unreasonably interfere with SCDI's performance of any of its operations at the SCDI Sanitary Landfill. Customer is under no duty to inspect the operations of SCDI and the failure to inspect shall not, in any way, create liability on the part of the Customer to SCDI.

3.03 Compliance with Laws and Permits -SCDI shall conduct disposal operations with respect to services performed hereunder in accordance with all applicable federal and state laws, rules and regulations, and the terms and conditions of the Governmental Approvals issued for the operation of the SCDI Sanitary Landfill.

3. 04 Holidays -The following shall be holidays for purposes of this Agreement:

New Year's Day  
Thanksgiving Day  
Christmas Day

SCDI may decide to observe any or all of the above-mentioned holidays by suspension of disposal services on the holiday. SCDI will give the Customer advance written notice of SCDI's observance of any holiday.

3.05 Title- Title to Customer Waste delivered by the Customer shall pass to SCDI when accepted by SCDI at the SCS Sanitary Landfill. Acceptance is completed upon delivery by Customer to the SCDI Sanitary Landfill and non-rejection by SCDI within a reasonable amount of time. Notwithstanding any provision of this Agreement to the contrary, title to and liability for Non-Conforming Wastes shall remain with the Customer and shall never pass to or be assumed by SCDI.

3.06 Special Waste -Where requested by SCDI, the Customer shall assist SCDI in identifying each generator of Special Waste and shall also require each generator of Special Waste, in addition to any label, marking, manifest or other such documentation required by any applicable law, regulation, or permit, to provide to SCDI, in advance of any shipment of Special Waste, a representative sample of the Special Waste to be disposed of by SCDI, and a detailed written physical and chemical description or analysis of the Special Waste, including, without limitation, a listing of unique characteristics and safety procedures, if such exists, that would be of significance to the handling of such Special Waste ("Waste Profile Sheet" or "WPS"). The customer shall promptly furnish to SCDI any information regarding known, suspected or planned changes in composition of any such Special Waste and the Customer shall accordingly update the WPS. The Customer agrees that all Special Waste specified in a WPS and delivered to SCDI Sanitary Landfill shall conform to the description set forth on the WPS. Such Special Waste shall not be delivered to SCDI for disposal until such WPS and representative sampling are analyzed and approved by SCDI. SCDI shall have the right to reject loads of

bulky Special Wastes if in SCDI's judgment such loads would disrupt any normal operating procedures.

3.07 Non-Exclusive Use of SCDI Sanitary Landfill- The use of the SCDI Sanitary Landfill by the Customer shall be non-exclusive and, in addition to the disposal of Customer Waste pursuant to this Agreement, SCDI shall have the absolute and unrestricted right to accept for disposal any waste materials not covered by this Agreement and brought to the SCDI Sanitary Landfill by any other municipality or other body, corporation, person or other entity, public or private, for disposal, and the absolute and unrestricted right to establish from time to time all fees, deductions, discounts, credits and allowances, and charge and retain such fees, for disposal of any waste material (other than Customer Waste).

3.08 Inspection of Customer Waste -SCDI shall have the right to inspect any incoming loads of Customer Waste delivered to the SCDI Sanitary Landfill for disposal for compliance hereunder and reject any Non- Conforming Waste. Customer shall remove and properly dispose of all such Non-Conforming Waste at Customer's expense.

3.09 Covenant for Delivery of Waste. The Customer covenants and agrees that it will deliver or cause to be delivered all Bladen Solid Waste to the Bladen County Transfer Station for disposal at the SCDI facility. To the extent allowed by law, the customer shall: (I) exclusively use the SCDI facility for disposal of Bladen County Waste;(II) not contract with any other person for services which are the same or similar to those provided by SCDI pursuant to this agreement and; (III) not establish or operate a solid waste management facility within the county offering the same or similar services as those provided by SCDI pursuant to this agreement.

#### 4.00 EFFECTIVE DATE

This Agreement shall be effective upon the execution of this Agreement by the Customer and SCDI, and the delivery of Customer Waste to the SCDI Sanitary Landfill and performance of disposal services by SCDI hereunder shall commence on the date hereof in accordance with the terms and conditions of this Agreement.

#### 5.0 INDEMNITY

5.01 Indemnity of SCDI -SCDI will indemnify and save harmless the Customer from and against any and all suits, actions, legal proceedings, claims, demands, damages, costs, expenses, and reasonable attorneys' fees incurred by the Customer to the extent resulting from (a) any breach by SCDI of any of its agreements hereunder, and (b) any negligent act or omission of SCDI, its employees or agents in the performance of services under this Agreement; provided, however, that SCDI shall not be obligated to indemnify the Customer from and against any suits, actions, legal proceedings, claims, demands,

damages, costs, expenses or attorneys' fees to the extent resulting from negligent act or omission of the Customer or of any of its officers, agents, servants, employees or contractors or to the extent resulting from any breach by the Customer of any of its agreements hereunder .

5.02 Indemnity by Customer -The Customer will indemnify and save harmless SCDI from and against any and all suits, actions, legal proceedings, claims, demands, damages, costs, expenses, and reasonable attorneys' fees incurred by SCDI to the extent resulting from (a) any breach by the Customer and any of its agreements hereunder, and (b) any negligent act or omission of the Customer or any of its officers, agents, servants, employees or contractors; provided, however, that the Customer shall not be obligated to indemnify SCDI from and against any suits, actions, legal proceedings, claims, demands, damages, costs, expenses or attorneys' fees to the extent resulting from any negligent act or omission of SCDI or of any of its officers, agents, servants, employees or contractors or to the extent resulting from any breach by SCDI of any of its agreements hereunder.

## 6.0 TERM

This Agreement is for an initial term of ten (10) years from and after the date of execution of this Agreement to and including October 31, 2028. An additional ten (10) year term may be mutually agreed upon by both parties.

## 7.0 RATES FOR WASTE DELIVERED TO THE LANDFILL

7.01 Base Rate -For Customer Waste (exclusive of any Special Waste) disposal services rendered hereunder, SCDI will charge and the Customer will pay to SCDI, without set-off or deduction, Twenty-Eight and 79/100 Dollars (\$28.79) per Ton of Customer Waste, as adjusted in accordance with the terms and provisions of Sections 7.02, 7.03, and 7.04 hereof, for each Ton of Customer Waste accepted at the SCDI Sanitary Landfill for disposal. This Base Rate includes the current \$2.00 per ton State of North Carolina Trash Tax.

SCDI further agrees that the Base Rate applies to the disposal of Customer Waste in a sanitary landfill disposal cell that is lined in accordance with applicable laws and regulations.

7.02 CPI Adjustment – On July 1, 2019 and every July 1 thereafter during this agreement and any additional terms of this agreement, the Base Rate then in effect shall be increased by the increase, if any, of the percentage of increase in the Consumer Price Index for All Urban Consumers (All Items -U.S. City Average), Water, Sewer and Trash-Garbage and Trash-Sub-Index as published by the U.S. Department of Labour, Bureau of Labour Statistics (CPI). The measurement period will be the immediate preceding January through December with the July 1, 2019 increase based on December 2018 statistics. December statistics are published in the following January.

7.03 Change in Law Fees, Etc. - In addition, SCDI shall have the right to increase the Base Rate at any time to due to changes in Local, State and Federal regulations. These additional costs will be billed as a straight pass through to the County. The County will be notified thirty (30) days in advance of any such increase and will be provided documentation to substantiate any additional charge.

7.04 Special Wastes -The Disposal Fee shall not apply with respect to Special Waste. The charge for the disposal of Special Waste shall be set by mutual agreement of the parties on a periodic, case-by-case basis.

7.05 Billings to Customer- SCDI will invoice the Customer on a weekly basis for disposal services rendered during the preceding calendar week and the Customer will remit payment for each invoice without set-off or deduction to SCDI within twenty-five (25) working days of the date of such invoice. Such billing shall be based on the Disposal Fee as adjusted pursuant to Sections 7.02, 7.03 and 7.04 hereof.

## 8.0 INSURANCE

SCDI shall maintain in full force and effect Employer's Liability, Workmen's Compensation, Public Liability and Property Damage Insurance. Before commencement of work hereunder, SCDI will furnish Customer with certificate(s) of insurance (see attached certificates) to the effect that such insurance has been procured and is in force. The certificates shall contain the following express obligations:

"This is to certify that the policies of insurance described herein have been issued to the insured for whom this certificate is executed and are in force at this time. In the event of cancellation or material change in a policy affecting the certificate holder, thirty (30) days prior written notice will be given the certificate holder."

SCDI shall carry the following types of insurance in at least the limits, specified below:

<u>Coverages</u>	<u>Limits of Liability</u>
Workmen ' s Compensation	Statutory
Employer's Liability	\$500,000
Bodily Injury Liability Except Automobile	\$500,000 each occurrence \$1,000,000 aggregate
Property Damage Liability Except Liability	\$500,000 each occurrence \$1,000,000 aggregate

Automobile Property Damage	\$500,000 each person
Liability	\$1,000,000 each occurrence
Automobile Property Damage	\$500,000 each occurrence
Liability	
Excess Umbrella Liability	\$5,000,000 each occurrence

As an alternative to the above, SCDI may insure the above public liability and property coverages under any plan or plans of self-insurance. The coverages may be provided by any corporation affiliated with SCDI.

## 9.0 DEFAULT

Except as otherwise provided herein, if either party breaches any of the material provisions of this Agreement and fails to cure such breach within a period of thirty (30) days after receiving written notice setting forth a detailed description of such breach from the other party, unless a longer period of time is required to cure such breach and the party breaching shall have failed to commence to cure such breach within said thirty (30) day period and pursue diligently to completion thereof, then the other party may terminate this Agreement; provided, however, that the foregoing provisions relating to notice of breach and cure shall not apply to any failure of Customer to pay SCDI for services rendered hereunder .

## 10.0 MISCELLANEOUS

10.01 Transferability -No assignment of this Agreement or any right accruing under this Agreement shall be made in whole or in part by the Customer without the express prior written consent of SCDI or by SCDI without the express prior written consent of the Customer, except that SCDI without the consent of the Customer may assign and delegate any of its rights and obligations under this Agreement or subcontract the performance of any services to be rendered hereunder to any corporation or other entity which controls, or is controlled by, or is under common control with SCDI.

10.02 Force Majeure -The obligations of SCDI hereunder are subject to and excused in the event of the occurrence of any contingency beyond its reasonable control including, without limitation, (i) strikes, riots, wars, acts of God, accidents, (ii) compliance with any law, regulation, order or decree, and (iii) the denial, loss, suspension, expiration, termination, revocation or failure of issuance or renewal of any permit, license of other governmental approval required to construct and/or operate the SCDI Sanitary Landfill.

10.03 Severability -In case anyone or more of the provisions contained in this Agreement shall, for any reason, be held to be invalid, illegal or unenforceable in any respect or its inclusion shall result in the invalidity, illegality or unenforceability of this Agreement, such invalidity, illegality or unenforceability shall not affect any other provision of this Agreement and this Agreement shall be construed as if such invalid, illegal or unenforceable provision had never been contained herein; provided, however, that it is the intention of the parties hereto that in lieu of each term, clause, or provision that is held to be invalid, illegal or unenforceable, there shall be added as part of this Agreement a term, clause or provision as similar in terms to such invalid, illegal or unenforceable term, clause or provision as may be possible and be valid, legal or enforceable.

10.04 Cumulative Remedies -all rights, remedies and powers shall be deemed cumulative and not exclusive of any rights, remedies or powers available. No delay or omission to exercise any right, remedy or power shall impair such right, remedy or power or shall be construed to be a waiver of any breach or any acquiescence therein. Any such right, remedy or power may be exercised from time to time, independently or concurrently, and as often as shall be deemed expedient. No single or partial exercise of any right, remedy or power shall preclude other or further exercise thereof.

10.05 Independent Contractor -No Agency-SCDI will act hereunder as an independent contractor and not as an agent of the Customer. Similarly, the Customer is not an agent of SCDI or empowered or authorized to obligate SCDI in any way.

10. 06 Entire Agreement -This Agreement constitutes the entire agreement and understanding between the parties relating to the subject matter hereof and cancels and supersedes all prior negotiations, representations, proposals, understandings and agreements, either written or oral, relating to the subject matter hereof. This Agreement shall not be modified, altered, changed or amended unless in writing and signed by the parties.

EXECUTED by their duly authorized representatives, who hereby certify that their signatures below bind the parties to the terms and conditions of this Agreement, as of the day and year first above written.

ATTEST:

COUNTY OF BLADEN, NORTH CAROLINA

\_\_\_\_\_  
Maria C. Edwards  
Clerk to the Board

\_\_\_\_\_  
Ray Britt, Chairman  
Board of County Commissioners

This instrument has been pre-audited in the manner required by the Local Government Budget and Fiscal Control Act.

\_\_\_\_\_  
County Finance Officer

\_\_\_\_\_  
Date

ATTEST:

SAMPSON COUNTY DISPOSAL, INC.

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

By: \_\_\_\_\_  
Name: Bryan Wuester  
Title: Landfill Manager