



COUNTY COMMISSION

BALDWIN COUNTY
312 Courthouse Square, Suite 12
Bay Minette, Alabama 36507
(251) 580-2564
(251) 580-2500 Fax
agary@baldwincountyal.gov
www.baldwincountyal.gov

ANU GARY
Records Manager

MONICA E. TAYLOR
Assistant Records Manager

December 21, 2012

Waste Pro
5859 Commerce Road
Milton, Florida 32583

**RE: Service Agreement for a 4 Yard Container for the Baldwin County
Emergency Operations Center**

Dear Sir or Madam:

Enclosed is a **fully executed copy** of the *Service Agreement*, approved during the November 20, 2012, Baldwin County Commission meeting, between the Commission and Waste Pro. The *Service Agreement* provides a 4 yard container for the Baldwin County Emergency Operations Center, for a period of thirty-six (36) months at a cost of \$90.73 per month.

If you have any questions or need further assistance, please do not hesitate to contact Mitchell Sims, Emergency Management Agency Director, at (251) 972-6806.

Sincerely,

ANU GARY, Records Manager
Baldwin County Commission

AG/met Item ED1

cc: Mitchell Sims
Nancy Banks
Kim Creech
Eva Cutsinger
Donna Bryars

ENCLOSURE

RECORDED
DEC 18 2012



BY: akg

Service Agreement

5859 Commerce Rd. Milton, FL 32583
Phone 850.305.7218 Fax 850.365.0183

RESIGN

A. CUSTOMER SITE INFORMATION

Account Name: Baldwin County EMA		Effective Date: 11/20/12	Account #: <u>006051</u>
Service Address: 23100 McAuliffe Dr.		County: Baldwin	Salesperson: TKnowles
City/State: Robertsdale, AL	Zip Code: <u>36567</u>	Contact Name: Nancy Banks	
Email: nbanks@baldwincountyal.gov	Telephone: 251.972.6807	Fax:	Mobile:

B. BILLING INFORMATION

Billing Name: Baldwin County Commission/ Baldwin County EMA		P.O.# Required?	
Billing Address: 312 Courthouse Square/ Suite 11		Payment Method:	Customer Deposit:
City/State: Bay Minette, AL	Zip Code: <u>36507</u>	Contact Name: Nancy Banks	
Credit Card Number:	Exp Date:	Security Number:	Card Provider:
Email:	Telephone: 251.972.6807	Fax:	Mobile:

C. EQUIPMENT / SERVICE SPECIFICATIONS

Qty	Service Type	Material	Size	Freq.	Compact Y/N	Locks	Wheels	Gates	Rate	Schedule
1	FEL	MSW	4 yd	1x	No	No			\$80.73/ Month Haul	<u>WE</u>
									Month Haul	---
									Month Haul	---
									Month Haul	---

D. ADDITIONAL FEES

Delivery: N/A	Locks/Castors: No
Container Rental:	Franchise Fee: No
Disposal:	Fuel: None
Landfill Site:	Environmental: None
Extra Pickup: \$50.00	Relocation:
Special Services:	*A fuel surcharge and environmental compliance cost/recovery charge calculated as a percentage of the Charge(s), will be included on your invoice

Other Instructions:
Container is set left side, rear of building

Special Service:

THE UNDERSIGNED INDIVIDUAL SIGNING THIS AGREEMENT ON BEHALF OF THE CUSTOMER ACKNOWLEDGES THAT HE/SHE HAS READ AND UNDERSTANDS THE TERMS AND CONDITIONS OF THIS AGREEMENT ON THE REVERSE SIDE AND THAT HE/SHE HAS THE AUTHORITY TO SIGN ON BEHALF OF THE CUSTOMER

Customer Signature: [Signature]
Date: 12/20/12
Print Name: Kevin Dorsey

Waste Pro Representative: [Signature]
Date: 10/10/12



TERMS & CONDITIONS ON THE REVERSE

JK



Notwithstanding anything in this Agreement to the contrary, the Company or the Customer shall have the right to terminate this Agreement by giving thirty (30) days written notice to the other party.

Collection Service Agreement Terms & Conditions

pursuant to this Agreement

Initials
JK
JK

1. SERVICES RENDERED; WASTE MATERIALS Customer grants to Company the exclusive right to provide equipment and services to collect and dispose of and/or recycle ~~of~~ Customer's non hazardous Waste Material. Customer represents and warrants that the materials to be collected under this Agreement shall be only 'Waste Materials' as defined herein. For purposes of this Agreement, 'Waste Materials' means all non-hazardous putrescible and non-putrescible solid waste and recyclable materials generated by Customer ~~at~~ at Customer's Service Address. Waste Materials includes Special Waste, such as industrial process wastes, asbestos containing material, petroleum contaminated soils treated/ de-characterized wastes, and demolition debris, provided that Customer has completed a Waste Profile for such Special Waste which has been approved by Company in writing. Waste Materials specifically excludes and Customer agrees not to deposit or permit the deposit for collection of any radioactive, volatile, corrosive, flammable, explosive, bio- medical, infectious, biohazardous regulated medical or hazardous waste, toxic substance or material, as defined by, characterized or listed under applicable federal, state, or local laws or regulators, or Special Waste not approved in writing by Company (collectively, 'Excluded Materials'). Title to and liability for Excluded Material shall remain with Customer at all times.

LOADING RESTRICTIONS. Container must adhere to recommended safety precautions when loading container. This includes, but is not limited to weight restrictions, capacity limits, and material restrictions as stated above. Materials must be loaded into the container in order to be removed. Service will not be rendered until these requirements are met

Initials
JK

2. TERM. The initial term ("Term") of this Agreement is ~~90~~ 12 months from the Effective Date set forth above ("Initial Term"). This Agreement shall automatically renew thereafter for additional terms of 12 months each ("Renewal Term") unless either party gives to the other party written notice (See Section 10) of termination at least ~~90~~ thirty (30) days, but not more than one hundred eighty (180) days, prior to the termination of the then-existing term.

Initials
JK
JK

3. SERVICES GUARANTY If the Company fails to perform the services described within five business days of its receipt of written demand from Customer (See Section 10) Customer may terminate this Agreement with the payment of all monies due through the termination date

4. CHARGES; PAYMENTS; ADJUSTMENTS. Upon receipt of the invoice, Customer shall pay for the services and/or equipment (including repair and maintenance) furnished by Company in accordance with the charges on the reverse side, or as adjusted over the term of the contract as noted herein. Company reserves the right to charge a late fee no greater than that allowed by law on balances not paid within thirty (30) days of the date of the invoice. ~~Company may increase the charges to address any increase in the cost of or any portion of, fuel or environmental compliance costs, to address any change in the composition of the Waste Materials or increases in the average weight per container of Waste Materials to address increased costs due to uncontrollable circumstances, including without limitation, changes in local, state or federal law or regulation, imposition of taxes, fees or surcharges or cost of God such as floods, fires, hurricanes, natural disasters, etc. Company may also increase the charges to reflect increases in disposal and/or transportation costs and increases in the Disposal Fee lines for the municipal or regional area in which the Service Address is located. Increases in charges for reasons other than as provided above require the consent of Customer which may be received verbally, in writing, by payment of the invoice or by the actions and practices of the parties. Company reserves the right to charge an additional fee if the following additional services are provided to Customer: Enclosure Change Services, or High Demand Days, Full/Part-Off Services, Container Relocation Fee, or Occasional Retention Fee. Company reserves the right to charge a fee no greater than that allowed by law on all Customer checks returned for insufficient funds.~~

5. CHANGES. Changes in level of service, schedule of charges, type or amount of equipment may be agreed to orally or in writing, by the parties. Oral changes shall be evidenced by the actions and practices of the parties. If customer changes its service address during the term of this Agreement, this Agreement shall remain valid and enforceable with respect to services rendered at Customer's new service location if such location is within Company's service area. *normal wear and tear excepted.*

Initials
JK
JK

6. EQUIPMENT, ACCESS All equipment furnished by Company shall remain on the property of Company however. Customer shall have care, custody and control of the equipment and shall bear responsibility and liability for all loss or damage to the equipment and to its contents while at Customer's location. Customer shall not overload, move or alter the equipment and shall use the equipment only for its intended purpose. At the termination of this Agreement Customer shall return the equipment to Company in the condition in which it was provided, normal wear and tear excepted. Customer shall provide unobstructed access to the equipment on the scheduled collection day. Customer shall pay, if charged by Company, an additional fee for any service modifications caused by

or resulting from Customer's failure to provide access. Company shall not be responsible for any damage to Customer's property, including pavement, subsurface, curbing, resulting from Company's provision of services hereunder. Customer warrants that Customer's right of way is sufficient to bear the weight of Company's equipment and vehicles

7. LIQUIDATED DAMAGES. In the event Customer terminates this Agreement prior to the expiration of any term for any reason other than a default by Company or in the event Company terminates this Agreement for Customer's default, Customer shall pay the following liquidated damages, in addition to the Company's legal fees: 1) if the remaining Initial Term under this Agreement is six or more months, Customer shall pay its most recent monthly charges multiplied by six; 2) if the remaining Initial Term under this Agreement is less than six months, Customer shall pay its most recent monthly charges multiplied by the number of months remaining in the Term; 3) if the remaining Renewal Term under this Agreement is three or more months Customer shall pay its most recent monthly charges multiplied by three; or 4) if the remaining Renewal Term under this Agreement is less than three months Customer shall pay its most recent monthly charges multiplied by the number of months remaining in the Renewal Term. Customer acknowledges that the actual damage to Company in the event of termination is difficult to fix or prove, and the foregoing liquidated damages amount is reasonable and commensurate with the anticipated loss to Company resulting from such termination and is an agreed upon fee and is not imposed as a penalty. Company shall not be liable under any circumstances for any special, incidental or consequential damages arising out of or in connection with performance of this Agreement. Customer shall pay liquidated damages of \$100 for every customer waste tire that is found at the disposal facility

8. INDEMNITY The Company agrees to indemnify, defend and save Customer harmless from and against any and all liability which Customer may be responsible for or pay out as a result of bodily injuries (including death), property damage, or any violation or alleged violation of law, to the extent caused by any negligent act, negligent omission or willful misconduct of the Company or its employees, which occurs (1) during the collection or transportation of Customer's Waste Materials, or (2) as a result of the disposal of Customer's Waste Materials, after the date of this Agreement, in a facility owned by a subsidiary of Waste Pro provided that the Company's indemnification obligations will not apply to occurrences involving Excluded Materials.

Customer agrees to indemnify, defend and save the Company harmless from and against any and all liability which the Company may be responsible for or pay out as a result of bodily injuries (including death), property damage, or any violation or alleged violation of law to the extent caused by Customer's breach of this Agreement or by a negligent act, negligent omission or willful misconduct of the Customer or its employees, agent or contractors in the performance of this Agreement or Customer's use, operation or possession of any equipment furnished by the Company. Neither party shall be liable to the other for consequential, incidental or punitive damages arising out of the performance of this Agreement.

9. RIGHT OF FIRST REFUSAL. Customer grants to Company a right of first refusal to match any offer relating to services similar to those provided hereunder which Customer receives (or intends to make) upon termination of this Agreement for any reason and Customer shall give Company prompt written notice of any such offer, and a reasonable opportunity to respond to it.

10. MISCELLANEOUS (a) Except for the obligation to make payments hereunder, neither party shall be in default for its failure to perform or delay in performance caused by events or significant threats of events beyond its reasonable control, whether or not foreseeable, including, but not limited to, strikes, labor trouble, riots, imposition of laws or governmental orders, fires, acts of war, terrorism, acts of God, and the inability to obtain equipment, and the affected party shall be excused from performance during the occurrence of such events; (b) This Agreement shall be binding on and shall inure to the benefit of the parties hereto and their respective successors and assigns; (c) This Agreement represents the entire agreement between the parties and supersedes any and all other agreement, whether written or oral, that may exist between the parties; (d) This Agreement shall be construed in accordance with the law of the state in which the services are provided; and (e) All written notification to Company required by this Agreement shall be by Certified Mail, Return Receipt Requested. If any provision of this Agreement is declared invalid or unenforceable then such provision shall be severed from and shall not affect the remainder of this Agreement; however, the parties shall amend this Agreement to give effect to the maximum extent allowed, to the intent and meaning of the severed provision. In the event the Company successfully enforces its rights against Customer hereunder, the Customer shall be required to pay the Company's attorneys fees and court costs

Customer Initials:

In the event the Baldwin County Solid Waste disposal fees are increased on the services provided by the Company to the Customer, the Company shall be entitled to adjust the fees charged pursuant to this Agreement to reflect such increase in costs, based on the allocation of such costs to all of Company's customers.