

**TRANSPORTATION DISPOSAL SERVICE AGREEMENT**  
**BETWEEN THE CITY OF DACULA, GEORGIA**  
**AND**  
**R&B LANDFILL, INC.**

Agreement is made as of this \_\_\_\_ day of \_\_\_\_\_ 2021, by and between the City of Dacula, Georgia (hereinafter referred to as the "City") and R&B Landfill, Inc., a Delaware corporation, (hereinafter referred to as "Contractor").

**WHEREAS**, Contractor is in the business of solid waste transportation and disposal;  
and

**WHEREAS**, the City desires to ensure the availability of a sanitary landfill for the economically and environmentally sound disposal of solid waste; and

**WHEREAS**, the City desires to secure services to transport solid waste from the Contractor's transfer station to a sanitary landfill for ultimate disposal; and

**WHEREAS**, the Contractor desires to provide services to City to transport and dispose of City solid waste from Contractor's transfer station to a sanitary landfill owned and/or operated by Contractor; and

**WHEREAS**, the governing authority of the City has the power to negotiate and enter into service contracts for the transportation and disposal of such solid waste; and

**WHEREAS**, in reliance on this Agreement, the Contractor will secure the necessary equipment, services, and personnel to service the foregoing objectives of the City.

**NOW, THEREFORE, FOR AND IN CONSIDERATION** of the respective covenants herein contained, the parties have agreed as follows:

**DEFINITIONS**

Sanitary Landfill. As used herein, the term "Sanitary Landfill" means the R&B Landfill in Homer, Georgia or any other alternate, duly permitted sanitary landfill mutually agreeable to the parties.

Transfer Station. As used herein, the term "Transfer Station" shall mean the Contractor's facility located at 350 Maltbie Industrial Drive in Lawrenceville, Georgia.

City Solid Waste. As used herein, the term "City Solid Waste" shall mean non-hazardous (as defined by CERCLA and other applicable laws) and non-special (as defined in Exhibit "A" hereto) solid waste material generated in the City, including garbage, refuse, trash, sliced tires, bulky waste construction and remodeling debris, and commercial waste, but excluding yard waste, discarded appliances and white goods, and further provided that such materials must be of the type and consistency to be lawfully accepted at the Transfer Station and the Sanitary Landfill under the applicable federal, state and local laws, regulations and permits governing each.

### **SCOPE OF SERVICE** **CONTRACTOR OBLIGATIONS**

The Contractor shall own and operate the Transfer Station.

The Contractor shall be responsible for securing necessary permits and approvals from relevant federal, state and local governmental agencies having jurisdiction over the Transfer Station and its transportation and disposal operations referenced herein. During the term hereof, Contractor shall receive and accept City Solid Waste at the Transfer Station and transport and dispose of such waste at the Sanitary Landfill, all in compliance with applicable laws and regulations.

The Contractor shall maintain the Transfer Station open for performance of this Agreement between the hours of 6:00 a.m. and 5:00 p.m., Monday through Friday, and between 7:00 am. and 12:00 noon on Saturdays. These hours may be changed by Contractor after prior notice is provided to the City in writing.

Contractor shall provide a scale at the Transfer Station for use in weighing City Solid Waste delivered to the Transfer Station for disposal pursuant to the terms of this Agreement. City may at its cost and expense and on a monthly basis and during normal business hours, inspect the scale and test the accuracy of same. In the event the scale is not available for use by the Transfer Station or if available is inoperable, vehicles hauling City Solid Waste will be charged on a cubic yard basis calculated to be commensurate with the then existing Service Fee based upon the maximum rated cubic yardage capacity for such size vehicles.

### **COMPENSATION TO CONTRACTOR**

The Service Fee due to Contractor from City for Contractor's receipt and handling of City Solid Waste at the Transfer Station and the transportation and disposal of such waste at the Sanitary Landfill pursuant to this Agreement shall be as follows:

During the initial term of this Agreement, the Service Fee shall be Forty-Three and 75/100 Dollars (\$43.75) per ton of City Solid Waste accepted at the Transfer Station and transported by Contractor from the Transfer Station to the Sanitary Landfill, including the cost of disposal at the Sanitary Landfill, as adjusted pursuant to the terms hereof. This rate includes all current surcharges and fees.

These rates shall be subject to an adjustment on each January 1, beginning January 1, 2023, based upon changes in the Consumer Price Index ("C.P.I.") during the most recently available preceding twelve month period; provided, however, no single annual C.P.I. adjustment will exceed five percent (5%). For purposes of this Agreement, C.P.I. means the Consumer Price Index for Water, Sewer, and Trash CPI, Not Seasonally Adjusted, All Areas, (WST CPI) (published by the Bureau of Labor Statistics, U.S. Department of Labor ("C.P.I.")) as issued by the U.S. Department of Labor, Bureau of Labor Statistics, or the successor of that index.

Contractor shall invoice City monthly for the Service Fee, and payment thereon shall be due fifteen (15) days after receipt of invoice.

Contractor shall be entitled to an automatic Service Fee increase in the Service Fee equal to the amount of any fee, surcharge, duty, tax, or other charges of any nature imposed by the federal government, any agency thereof, the state where the Transfer Station and/or Sanitary Landfill are located, any agency thereof, or by any local governmental agency which is payable solely by reason of the nature of the Transfer Station operation, or the transportation or disposal operations conducted by Contractor and any other sales or service taxes of general application to the operation of the Transfer Station, or the transportation services and/or the Sanitary Landfill. Such fee, surcharge, duty, tax or other charge shall be paid by the City in the form of a Service Fee increase and shall include by way of example and not limitation any state superfund tax for funding waste disposal and minimization studies or projects and any other tax, fee, surcharge or like charge.

Contractor shall be entitled to an automatic increase in the Service Fee to offset the increased cost of transportation services or of operating the Transfer Station or Sanitary Landfill as a result of increased charges by Contractor's transportation subcontractor or increases in costs of operations at the Sanitary Landfill resulting from changes in federal, state or local environmental or other law or regulation concerning the receipt, transportation, disposal or handling of waste material at the Transfer Station or Sanitary Landfill, which law or regulation becomes effective after January 1, 2022.

In the event it becomes necessary for Contractor to dispose of waste at a landfill other than the R&B Landfill, such site must first be agreed to by Contractor and the City. Thereafter, Contractor shall be entitled to offset any increased costs of transportation or disposal by increasing the Service Fee unless Contractor's inability to use the R&B Landfill is directly attributable to Contractor's default of its obligations hereunder.

### **TERM OF CONTRACT**

This Agreement shall be effective on full execution by the parties. The services shall commence on January 1, 2022, and the initial term shall extend through December 31, 2026, provided, however, either party may terminate its obligations hereunder at the close of calendar year 2022, and at the close of each succeeding calendar year during the term hereof. Any decision by a party to terminate in accordance with this provision shall be given to the other party at least sixty (60) days prior to the end of the calendar year.

### **REPRESENTATIONS AND WARRANTIES OF CITY**

The City warrants that it will undertake reasonable efforts to exclude regulated hazardous wastes and special waste, from the City Solid Waste delivered to the Transfer Station. To the knowledge of the City, said waste will not contain either hazardous or special waste. The City warrants that it shall exercise its best efforts to maintain its collection and transportation of City Solid Waste to the Transfer Station in compliance with the terms hereof and in compliance with applicable federal, state and local laws and regulations throughout the term of this Agreement. City shall be responsible for the proper disposal of excluded wastes in the event any such wastes are provided to Contractor for disposal.

### **TONNAGE COMMITMENT**

The City agrees to deliver or cause to be delivered to the Transfer Station, all acceptable City Solid Waste collected by the City or at its direction.

**INSURANCE**

During the term of this contract, Company shall maintain in full force and effect the following insurance:

<u>COVERAGE</u>	<u>LIMITS OF LIABILITY</u>
Workmen's Compensation	Statutory
Employer's Liability	\$ 500,000.00
Bodily Injury Liability	\$1,000,000.00 each occurrence
except Automobile	\$1,000,000.00 aggregate
Property Damage Liability	\$1,000,000.00 each occurrence
except Automobile	\$1,000,000.00 aggregate
Automobile Bodily Injury Liability	\$1,000,000.00 each person
Automobile Property Damage Liability	\$1,000,000.00 each occurrence
Excess Umbrella Liability	\$1,000,000.00 each occurrence

**DEFAULT**

Except as otherwise provided herein, if either party allegedly defaults in the performance of any of the warranties, covenants or conditions contained herein for thirty (30) days after the other party has given the defaulting party written notice of such default, unless a longer period of time is required to cure such default and the party allegedly defaulting shall have commenced to cure such default within said period and pursues diligently to the completion thereof, the other party may: i) terminate this Agreement as of any date at least thirty (30) days after the last day of the thirty (30) day period; ii) cure the default at the expense of the defaulting party; and iii) have recourse to any other right or remedy to which it may be entitled by law or equity, including, but not limited to, the right for all damage or loss suffered as a result of such default and termination. In the event either party waives default by the other party, such waiver shall not be construed or determined to be a continuing waiver of the same or any subsequent default. In the event that in the exercise of due diligence during the aforesaid thirty (30) day cure period such cure cannot reasonably be effected or completed, such cure period shall be extended to include such additional time as is reasonably necessary to effect or complete such cure provided the defaulting party exercises continuous diligent efforts to cure such default during such extended period.

**NOTICE**

A letter addressed and sent by certified United States mail to either party at the business address specified shall be sufficient notice whenever required for any purpose

in this Contract. Also, the address designated at this address may be changed from time to time by written notice sent by Certified U.S. Mail as provided herein.

City: City of Dacula  
P.O. Box 400  
Dacula, GA 30019-0007  
Attn: City Clerk

Company: R & B Landfill  
705 Frank Bennett Road  
Homer, GA 30547  
Attention: Landfill Manager

with a copy to: Group General Counsel  
Waste Management Southern Group Office  
1850 Parkway Place, Suite 600  
Marietta, GA 30067  
jfoster@wm.com

### **GENERAL PROVISIONS**

Neither party shall assign or transfer, or permit the assignment or transfer of this Agreement or the rights hereunder without the prior written consent of the other party, provided however the Contractor may subcontract the transportation services to another entity. Also, Contractor may without the prior consent of the City transfer or assign its interests hereunder to an "Affiliated Contractor" without the prior written consent of City. In the event of any assignment or transfer, the assignee shall assume the liability of the Contractor, but such assumption of liability shall not relieve the Contractor of liability under this Agreement. For purposes of this paragraph, "dated Contractor" means any company which controls, is controlled by, or is under common control with the Contractor.

This Agreement constitutes the entire agreement and understanding between the parties hereto, and it shall not be considered modified, altered, changed or amended in any respect unless in writing and signed by the parties hereto.

This is an Agreement for the performance of specific services described herein. Under no circumstances or conditions shall the operation of the Transfer Station or the Sanitary Landfill by the Contractor in accordance with this Agreement be deemed a public function, nor has City acquired an interest, ownership or otherwise in the real or personal property or improvements or fixtures used in providing the transportation services and/or the disposal services at the Transfer Station or the Sanitary Landfill by virtue of this Agreement.

From and after the date of this Agreement the Contractor's performance hereunder may be suspended and its obligations hereunder excused in the event and during the period that such performance is prevented by a cause or causes beyond the reasonable control of the Contractor. Such causes may include, by way of example and not limitations, acts of God, pandemic, epidemic, labor shortages, acts of war, riot, fire, explosion, accident, flood or sabotage; lack of adequate fuel, power or raw materials, judicial administrative or governmental laws, regulations, requirements, rules, orders or actions; injunctions or restraining orders; the failure of any governmental body to issue or grant, or the suspension or revocation or modification of any license, permit or other authorization necessary for the services envisioned by this Agreement; national defense requirements; labor strike, lockout or injunction.

If any term, clause or provision of this Agreement or the application thereof to any person or circumstances shall, to any extent, be illegal, invalid or unenforceable under present or future laws effective during the term hereof, then it is the intention of the parties hereto that the remainder of this Agreement, or the application of such term, clause or provision to persons or circumstances other than those to which it is held illegal, invalid or unenforceable, shall not be affected thereby, and it is also the intention of the parties hereto that in lieu of each term, clause or provision that is illegal, invalid or unenforceable, there be added by a Court of competent jurisdiction or otherwise as a part of this Agreement a term, clause or provision as similar in terms to such illegal, invalid or unenforceable term, clause or provision as may be possible to effect the expressed intent of the parties and be legal, valid and enforceable.

This Agreement shall be governed by and construed in accordance with the laws of the State of Georgia.

The covenants, terms, conditions and provisions of this Agreement shall extend to and be binding upon the successors and assigns of the respective parties.

IN WITNESS WHEREOF, the parties hereto cause their presence to be signed and sealed as of the date first written above.

APPROVED AS TO FORM:

CITY OF DACULA

By: \_\_\_\_\_  
City Attorney

By: \_\_\_\_\_  
Its: \_\_\_\_\_

Witness:

\_\_\_\_\_  
City Clerk

Witness:

R&B LANDFILL, INC.

\_\_\_\_\_

By: \_\_\_\_\_  
Its: \_\_\_\_\_

## EXHIBIT "A"

"Hazardous Waste" shall mean solid wastes defined as hazardous under the Resource Conservation and Recovery Act, 42 U.S.C. § 1002, et seq., or regulated as toxic under the Toxic Substances Control Act, 15 U.S.C. § 2601 et seq., regulations promulgated thereunder or applicable state law concerning the regulation of hazardous or toxic wastes.

"Special Waste" means any discarded material from a non-residential source meeting any of the following descriptions:

- a. Containerized waste (e.g., a drum, portable tank, lugger box, roll-off box, pall, bulk tanker, etc.) listed in b. - g. below.
- b. Waste containing free liquids.
- c. Sludge waste.
- d. Waste from an industrial process.
- e. Waste from a pollution control process.
- f. Residue from a spill of a non-hazardous chemical substance or commercial product or waste listed in a - e. or g.
- g. Contaminated non-hazardous residuals from the cleanup of a facility generating, storing, treating, recycling or disposing of wastes, chemical substances or commercial products listed in a - f.