



Powering Today. Protecting Tomorrow.

Disposal Services Agreement C-1945

DATE #: 12/5/2016

ACCOUNT #: City of Beech Grove Sanitation

ACCOUNT MANAGER: Bindi Kean

Covanta Sustainable Solutions, LLC
445 South Street, Morristown, NJ 07960
Phone: (862) 345-5000 Fax: (862) 345-5080
("DISPOSER")

BILLING INFORMATION

CUSTOMER INFORMATION ("CUSTOMER")

Company Name	: City of Beech Grove Sanitation	Physical Address	: 806 Main Street
Company City, State	: Beech Grove, IN, 46107	Company Zip Code	: 46107
Contact Person	: Brad Meriwether	Contact Title	: Director of Public Works
Contact Phone	: (317) 803-9092	Contact E-mail	: brad.meriwether@beechgrove.com
Type of Business	: Others		
Billing Address	: City of Beech Grove Public Works Dept	City	: Beech Grove
State	: IN	Zip Code	: 46107
Billing Contact	: Brad Meriwether	Contact Phone	: (317) 803-9092
Contact Title	: Director of Public Works	Billing Fax #	: (317) 788-4983

COVANTA FACILITY INFORMATION ("FACILITY")

Facility	Address	City	State	Operating Hours		
Covanta Indianapolis, Inc.	2425 South Belmont Ave	Indianapolis	IN	M-Sun: 24hrs/7days		
Type of Waste	Minimum Charge Per Shipment(\$)	Disposal Price /Ton(\$)	Special Instructions	Disposal Price /Ton(\$)	Special Instructions	Disposal Special Price Instructions /Ton(\$)
MSW	0.00	\$31.63	2017	\$0.00		\$0.00

Permit/License Type or Number :
Term Start Date : 1/1/2017 **Term End Date** : 12/31/2017
Quantity to be Delivered (tons) : 4500
Initial Fees and/or Taxes : 0.50
Comments : 2017 agreement, month to month thereafter (after term end date)

- If the Facility is the Plymouth EfW, Customer hereby represents, warrants and covenants to Disposer that none of the Acceptable Waste delivered pursuant to this Agreement will have been collected from within the Eastern Waste District of Montgomery County, PA.
- The Facility is the Delaware Valley EfW, Customer hereby represents, warrants and covenants to Disposer that none of the Acceptable Waste delivered pursuant to this Agreement will have been collected from within Delaware County, PA.
- If the Facility is the Hempstead EfW, Customer hereby represents, warrants and covenants to Disposer that none of the Acceptable Waste delivered pursuant to this Agreement will have been collected by or transferred, transported, or disposed of on behalf of a municipality or other governmental entity or public authority.
- If the Facility is located in the Commonwealth of Pennsylvania, Act 90Decals are required.
- If the Facility located in the State of New Jersey, Customer represents, warrants and covenants that it is in compliance with all applicable NJDEP A-901 licensing requirements and all applicable NJ county solid waste plans.
- The following Terms and Conditions of Disposal Services Agreement are attached hereto and incorporated herein.

THEREFORE, in consideration of their mutual promises set forth herein and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, and intending to be legally bound, Disposer and Customer hereby agree to the terms of this Agreement.

DISPOSER

Scott Peterson	Digitally Signed by Scott Peterson, Market Area VP cn= Scott Peterson o= Covanta Sustainable Solutions, LLC Date= 12/5/2016
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DISPOSER

Authorized Signature and Title

Terms and Conditions

1. **SERVICES:** Customer shall deliver, and Disposer shall receive and dispose of, all of Customer's Acceptable Waste (as defined on the first page hereof). Acceptable Waste is delivered FOB the Facility, unless otherwise stated on Exhibit A. Services will not be provided on those days designated as a holiday by the Facility or Disposer. DISPOSER RESERVES THE RIGHT TO INTERRUPT DELIVERIES AT ANY TIME IN ITS SOLE DISCRETION.
2. **ACCEPTABLE WASTE:** "Acceptable Waste" means municipal solid waste and, if specifically listed under "Type of Waste", construction and demolition debris and/or recyclables, but excludes any waste defined or regulated as hazardous by any federal, state, local, or provincial authority. Acceptable Waste excludes incinerator residue, demolition and construction debris (unless specifically listed under "Type of Waste"), regulated medical waste, substances in gaseous form, special nuclear or by-product materials within the meaning of the Atomic Energy Act of 1954, as amended, and any waste prohibited by any applicable permit condition. Acceptable Waste must be of a size and composition such that the Facility is able to process it. Acceptable Waste excludes any material that has the reasonable possibility of adversely affecting the operation of any part of the Facility. Disposer may reject any and all waste which is not Acceptable Waste. Disposer may inspect random material on incoming waste vehicles. Disposer shall have no obligation to accept title to or process non-Acceptable Waste. If non-Acceptable Waste arrives at the Facility, Disposer may (but shall have no obligation to) arrange to have it picked up, transported, and disposed of at Customer's expense, paid in advance if Disposer so demands. In the alternative, and to the extent allowed under applicable law, Disposer may instruct Customer to pick up, transport and dispose of such waste at Customer's expense and provide Disposer with written proof of disposal in compliance with all applicable laws and regulations. Title to Acceptable Waste shall vest in Disposer only after acceptance of the Acceptable Waste. In the event that Disposer subsequently determines that any materials accepted from Customer are not Acceptable Wastes, then Disposer may revoke its acceptance of such non-Acceptable Waste, so long as the material has not been combined with any other materials by Disposer, and manage such non-Acceptable Waste as outlined in this paragraph. Any and all liability associated with Acceptable Waste shall pass to Disposer upon its acceptance of the waste; PROVIDED, HOWEVER, THAT IF CUSTOMER DELIVERS ANY NON-ACCEPTABLE WASTE, CUSTOMER SHALL INDEMNIFY DISPOSER FOR ALL LOSSES, COSTS, AND DAMAGES (INCLUDING ATTORNEY'S FEES AND COSTS) ("COSTS") ARISING THEREFROM, EXCEPT COSTS ARISING FROM DISPOSER'S GROSS NEGLIGENCE OR INTENTIONAL MISCONDUCT. Customer is prohibited from bringing any commingled non-Acceptable Waste along with Acceptable Waste for disposal, but in the event that Customer does bring any such non-Acceptable Waste, CUSTOMER SHALL BE SOLELY RESPONSIBLE FOR COSTS ASSOCIATED WITH SUCH NON-ACCEPTABLE WASTE, SPECIFICALLY INCLUDING ALL COSTS ASSOCIATED WITH DISPOSER'S NEGLIGENCE, BUT EXCLUDING COSTS ASSOCIATED WITH DISPOSER'S GROSS NEGLIGENCE AND INTENTIONAL MISCONDUCT, IN HANDLING OR DISPOSING OF SUCH NON-ACCEPTABLE WASTE. Delivery of non-Acceptable Waste shall be grounds for immediate termination of this Agreement.
3. **PAYMENT TERMS:** Except where Customer is required to prepay as indicated on Exhibit A, Customer shall make payment within 30 days of the date of Disposer's invoice at the address specified on such invoice. Amounts owed to Disposer after invoice due date shall accrue interest each day such invoice is not paid at the maximum rate permitted by applicable law. Customer shall also pay Disposer's reasonable investigation costs and attorney's fees for purposes of collection of amounts owed by Customer. At Disposer's option, based on the results of a credit check, Disposer may require, and Customer shall provide as security, an escrow fund or a payment bond sufficient to cover processing Acceptable Waste brought to the Facility by Customer. A fee of \$35.00 will be charged on all returned checks.
4. **INDEMNIFICATION:** Disposer shall indemnify and hold harmless Customer, its subsidiaries and affiliates from and against any and all loss, damage, suits, liability and expenses (including, but not limited to, reasonable investigation and legal expenses) arising out of any claim for loss of or damage to property, including Disposer's and the Facility's property, contamination of or adverse effects on the environment, and injuries to or death of persons, including Customer's, Disposer's or Facility's employees, caused by or resulting from: (1) the negligence or willful misconduct of Disposer, its employees, haulers, contractors, subcontractors or agents; or (2) Disposer's breach of any term or provision of this Agreement.
Customer shall indemnify and hold harmless Disposer and the Facility(ies), their partners, parent companies, subsidiaries, and affiliates (collectively, the "Indemnified Parties"), from and against any and all loss, damage, suits, liability and expenses (including, but not limited to, reasonable investigation and legal expenses) arising out of any claim for loss of or damage to property, including Disposer's and the Facility's property, contamination of or adverse effect on the environment, and injuries to or death of persons, including Customer's, Disposer's or Facility's employees, caused by or resulting from: (1) the negligence or willful misconduct of Customer, its employees, haulers, contractors, subcontractors or agents; or (2) Customer's breach of any term or provision of this Agreement. Notwithstanding anything contained in this Agreement to the contrary, Customer assumes responsibility for (1) any injury or loss incurred by its employees or agents while on the Facility's premises (except that caused by Disposer's gross negligence), (2) any damage to Customer's property, including, but not limited to Customer's vehicles, that results from Disposer or the Facility providing unloading assistance to Customer while Customer is on the Facility's premises (except that caused by Disposer's gross negligence), and (3) the compliance with all of the Facility's rules and regulations, particularly those relating to safety and health.
Neither party shall have any liability to the other for any special, incidental or consequential damages, whether arising in contract, tort, strict liability, or in any other cause of action whatsoever. Said duties to indemnify, defend and hold harmless shall survive the termination of this Agreement.
5. **COMPLIANCE WITH LAWS:** Both parties shall comply with all applicable federal, state, local and provincial laws, regulations, ordinances, rules, permits, licenses and governmental orders and directives (collectively "Applicable Laws".) Customer shall also comply with work and safety rules promulgated to govern operations at the Facility.
6. **FORCE MAJEURE:** Except for the obligation to pay for services rendered, neither party hereto shall be liable for its failure to perform hereunder due to contingencies beyond its reasonable control, including, but not limited to, strikes, riots, war, fire, or acts of God, herein referred to as "Events of Force Majeure." The financial inability to perform of a party is not an Event of Force Majeure.
7. **TERMINATION:** Either party may terminate this Agreement at any time, with or without cause, upon 30 days prior written notice to the other party.

8. **INSURANCE:** Customer shall maintain workers' compensation insurance providing statutory benefits, employer's liability coverage of not less than \$500,000 and automobile and commercial general liability insurance with policy limits of not less than \$5,000,000 each occurrence for bodily injury or death and property damage. Limits for automobile and general liability can be satisfied either through a single policy or combination of primary and umbrella/excess coverage. Where umbrella/excess coverage is used, coverage must be "follow form" or as broad as primary coverage. Customer shall cause the aforesaid policies to be duly and properly endorsed by Customer's insurance underwriter's as follows: a) to provide endorsement naming as additional insured, except for workers' compensation, and waiving subrogation in favor of the Indemnified Parties; b) to contain a standard cross liability and severability clause; c) to provide that said insurances shall be primary in all instances with respect to Disposer's insurances, which shall be secondary and non-contributing at all times; d) to provide contractual liability coverage for all liability assumed by Customer under the terms of this Agreement; and e) to notify Disposer in writing at least 30 days prior to cancellation of any policy covered hereunder. These limits are considered minimum and in no way intended to limit the Customer's liability under this Agreement. Prior to commencing any Services under this Agreement, Customer shall furnish Disposer with Certificates of Insurance issued by Customer's insurer(s), as necessary, in a form acceptable to Disposer, as evidence that the insurance policies, including all applicable endorsements, providing the required coverage's, conditions, and limits required by the section are in full force and effect. Disposer also reserves the right to request and receive certified copies of any or all of such insurance policies and/or endorsements. Disposer shall not be obligated, however, to review such insurance certificates, policies, and endorsements, or to advise Customer of any deficiencies in such documents, and such receipt shall not relieve Customer from or be deemed a waiver or Disposer's right to insist on strict fulfillment of Customer's obligations herein.
9. **FEES/TAXES:** In addition to the Disposal Price, Customer shall pay such fees as Disposer may impose from time to time by notice to Customer (including, by way of example only, administrative fees and environmental fees), with Disposer to determine the amounts of such fees in its discretion up to the maximum amount allowed by Applicable Law. Without limiting the foregoing, Customer shall pay Disposer a fuel surcharge fee in the amount shown on Disposer's invoices, which amount Disposer may increase or decrease from time to time by showing the amount on the invoice. The initial amounts for the fees listed in this paragraph are set forth on the first page of this Agreement, but are subject to change from time to time as described in this paragraph.
- In addition to the Disposal Price, Customer shall pay all federal, state, local or other taxes, fees (including host fees), surcharges and other similar charges related to the acceptance or disposal of Acceptable Waste or the operations or activities of the Facility that are imposed by law, ordinance, regulation, agreement with a governmental authority, governmental audit or otherwise (collectively, "Taxes"). The initial amount of Taxes is set forth on the first page of this Agreement, but is subject to change from time to time as described in this paragraph. In addition, Disposer shall have the right to increase the Disposal Fee from time to time by the pro-rata amount (determined by relative tonnage of Acceptable Waste delivered by Customer and accepted by Disposer divided by the total tonnage processed at the Facility) of any increase in operating costs or capital costs of the Facility as a result of a change in Applicable Laws. Any such increase shall be effective immediately upon written notice by Disposer to Customer.
10. **CONFESSION OF JUDGMENT:** CUSTOMER HEREBY EMPOWERS ANY ATTORNEY OF ANY COURT OF RECORD WITHIN THE UNITED STATES, OR ELSEWHERE, TO APPEAR FOR CUSTOMER WITH DECLARATION FILED, AND CONFESS JUDGMENT AGAINST CUSTOMER IN FAVOR OF DISPOSER, ITS SUCCESSORS AND/OR ASSIGNS, AS OF ANY TERM, FOR ANY COMPENSATION, SUM OR AMOUNT TO WHICH DISPOSER IS ENTITLED TO RECEIVE FROM CUSTOMER UNDER THIS DISPOSAL SERVICES AGREEMENT, INCLUDING INTEREST THEREON AT THE RATE OF TEN PERCENT (10%), COMPOUNDED QUARTERLY (HEREAFTER "DAMAGES"), TOGETHER WITH AN ATTORNEY'S FEE FOR COLLECTION OF SAME OF TWENTY PERCENT (20%) OF THE TOTAL AMOUNT OF SUCH DAMAGES, TOGETHER WITH COSTS OF SUIT, AND CUSTOMER HEREBY WAIVES ALL ERRORS, DEFECTS AND IMPERFECTIONS IN ENTERING SAID JUDGMENT OR IN ANY WRIT, OR PROCESS, OR PROCEEDING THEREON OR THERETO OR IN ANY WISE TOUCHING OR CONCERNING THE SAME; AND FOR THE CONFESSION AND ENTRY OF SUCH JUDGMENT, THIS DISPOSAL SERVICES AGREEMENT, OR A TRUE AND CORRECT COPY THEREOF, SHALL BE SUFFICIENT WARRANT AND AUTHORITY. THE AUTHORITY AND POWER CONTAINED HEREIN TO CONFESS JUDGMENT SHALL NOT BE EXHAUSTED BY ONE EXERCISE THEREOF, BUT JUDGMENT MAY BE CONFESSED FROM TIME TO TIME AND AS OFTEN AS THERE IS AN OCCURRENCE OF ANY EVENT OF DEFAULT, AND FURTHERMORE SUCH AUTHORITY AND POWER MAY BE EXERCISED DURING THE TERM AND ANY EXTENSION OR RENEWAL OF THIS DISPOSAL SERVICES AGREEMENT, OR AFTER THAT EXPIRATION OR EARLIER TERMINATION OF THIS DISPOSAL SERVICES AGREEMENT.
11. Customer shall not use the name of Covanta or any of its affiliates, related companies or customers in any publicity or advertising or disclose any information related to the existence of this Agreement or the terms and conditions of this Agreement hereof, without the prior written consent of Covanta.
12. (a) This Agreement constitutes the entire understanding between the parties and supercedes all prior negotiations, understandings, and agreements concerning Disposer's service. No changes to this Agreement will be effective unless in writing and signed by the party to be bound. (b) No failure by either party to insist on performance shall operate as a waiver of other or subsequent breaches. (c) Neither party shall assign its rights or delegate its duties under this Agreement to any other person without the prior written consent of the other party, such consent shall not be unreasonably withheld. This Agreement shall inure to the benefit of and bind the respective successors and permitted assigns of the parties hereto. (d) If any provision of this Agreement is held to be unenforceable, this Agreement shall be reformed, but only to the extent necessary to render it enforceable. This Agreement may be executed in any number of counterparts, each of which when so executed shall be an original and all of which together shall constitute one and the same instrument.

PLEASE REVIEW AND SIGN:

Title:

Customer Name:

I have read the terms and conditions contained in the attached Agreement and I accept, acknowledge and agree to the terms and conditions stated in therein.