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Service Agreement

Date: ~~2021-12-09~~
Salesperson: Cory Bruce

March 15, 2022 | 6:51 A

CB

BILLING

Customer Name: Payment Terms: Credit
Address: Purchase Order:
City, State, Zip:
Phone:
Email:
Contact:

LOCATION

Service Name: Berry Springs Parks
Address: 1801 Co Rd 152
City, State, Zip: Georgetown, TX 78626
Phone: (512) 943-1944
Email: kgeer@wilco.org
Contact: Keith Geer

Service Start Date:
Access Hours: 24 Hour

Commercial

Qty	Product	Container Type	Frequency	Price Per Unit
1	8 YD Front Load Trash Container	Landfill	1 X Week	\$150.00

Comments:

Container Placement:

Sub Total \$150.00



ADDITIONAL TERMS AND CONDITIONS

1. DEFINITIONS: The following terms, as used in the agreement, shall have the meanings specified in this paragraph.

- a) "Company" shall mean Texas Disposal Systems, Inc.
- b) "Customer" shall mean the customer named on the front page of this Agreement
- c) "Equipment" shall mean all containers, stationary and self-contained compactors and the other equipment and devices provided to Customer by the Company as specified on the front page of this Agreement, or otherwise as supplied by Company for Customer use in accordance with the terms of the Agreement, all of which Equipment shall remain the sole and exclusive property of Company.
- d) "Hazardous Materials" shall mean any substance that is toxic, ignitable, reactive, corrosive, acidic, radioactive, volatile, highly flammable or explosive and that is regulated by any local government, state government or United States government, and includes any and all materials or substances that are defined as "hazardous waste", or a "hazardous substance" pursuant to local, state or federal law or regulation. Hazardous materials include but are not restricted to asbestos, polychlorobiphenyls (PBS) and petroleum.
- e) "Proper Waste Materials" or "Waste" shall mean any solid waste material or substance which Company can handle and transport without the requirement of a hazardous or toxic license or permit, which does not contain Hazardous Materials, and shall include Recyclable Material.
- f) "Recyclable Material" shall be defined as material which the Company determines can be recycled included but not limited to aluminum, glass, office paper, production paper, newspaper, cardboard and plastic.

2. EQUIPMENT AND SERVICE: The Company shall deliver and install Equipment at a site designated by the Customer. The Company shall collect and dispose of all Proper Waste Materials properly deposited by Customer in the Equipment in those intervals specified on the face hereof. Customer shall notify Company of any and all recycling efforts by Customer. Company, at its option, shall collect and dispose of any and all Recyclable Material generated by Customer. The Company shall maintain and service Equipment for use under normal operating conditions provided that the Equipment is maintained and used by the Customer in accordance with the requirements hereinafter set forth.

3. DUTIES AND RESPONSIBILITIES OF CUSTOMER: Customer acknowledges that it shall have responsibility for the proper care, custody, control, safekeeping and use of the Equipment on Customer's premises and shall use the Equipment solely for the deposit of Proper Waste Materials. Proper Waste Material must be solid waste which allows the Company safely to handle and transport the waste without incurring any damage or injury to its employees, to the Company's Equipment, or vehicles, or to any third party. Customer shall be responsible for any damage to the Equipment in the event of fire, vandalism, or other damage beyond normal use and wear of the Equipment. Customer shall not overload the Equipment in either weight or volume of Proper Waste Materials as defined by federal, state or local law, regulations or ordinance. Customer shall be responsible for all liabilities that result therefrom, including any fines and penalties. All risk of loss for the damage or destruction of the Equipment on the Customer's premises shall be borne by Customer. Customer shall make no alteration or changes to the Equipment. Customer is responsible for any damage caused by an electrical drop or surge, including lightning, which is conducted into the Equipment. On collection day, Customer shall provide unobstructed access to the Equipment. If the Equipment is inaccessible, customer will be notified and any such attempts to provide service shall be charged as "extra pick up."

4. SERVICE FEE: Customer shall pay, on a monthly basis, the service fees and charges designated on the face of this Service Agreement, plus such adjustments as are calculated below:

a) Sales tax, Use tax, Fees, and Surcharges: Customer shall also be responsible for any and all sales tax, use tax, fees, surcharges and other charges imposed in connection with services provided under or services arising out of this Agreement. Including, without limitation, imposed charges for waste material collection, transportation, and disposal. The fees and charges in this Agreement shall, at the option of the Company, be increased and the Customer shall be responsible for paying the increased amount. The cost of any increase in the fee, as stated above, shall be distributed proportionally to each and every applicable Customer.

b) Adjustments:

i. Fuel: Since fuel costs are a significant portion of the cost of Company's services provided herein, Company reserves the right to increase the unit price of the schedule of fees, and charges in an amount equal to any equivalent unit increase in fuel costs.

ii. Landfill Fee: The monthly charge for service shall be automatically adjusted as landfill charges change, it being recognized that landfill services may increase or decrease from time to time.

iii. Consumer Price Index: The Company reserves the right to increase the fees and charges hereunder from time to time on an annual basis to reflect the percentage increase in the Consumer Price Index ("CPI"). CPI means the index now known as the United States Bureau of Labor Statistics, Revised Consumer Price Index for Urban Wage Earners, U.S. Cities Average, all items (1967=100). In the event that the publication of the CPI is hereinafter converted,



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revised or discontinued the Company shall designate a comparable index to be used in lieu thereof for the purposes of this Agreement. Upon notice from the company, and with Customer's assent or consent, Company may increase the fees and charges hereunder in an amount in excess of such CPI percentage increase. The Customer's assent or consent may be evidenced by the practices and actions of the parties hereto.

iv. **Extra Services:** The Company shall be entitled to an upward adjustment for any services performed outside the Company's normal working hours or on a federal or state holiday.

c) **Terms:** The Customer shall be billed on a monthly basis by Company. ~~Payments shall be made on a monthly basis by the Customer, and all charges shall be due upon receipt of the Company's statement. Ten (10) days after receipt of statement, Customer shall pay late charges equal to the lesser of one and one-half percent (1 ½%) per month or the maximum lawful rate on all amounts unpaid.~~

d) Upon default, thirty (30) days after receipt, this agreement shall become immediately due and payable in full on demand. Customer, one and all, waive all demands for payment, presentations for payment, notice or intent to accelerate maturity, and notice of protest.

If this agreement is collected through an attorney for probate, bankruptcy or other proceedings, then Customer shall pay reasonable attorney's fees, court costs, interests and other applicable fees.

5. TERM: This Agreement shall be binding upon execution by the parties hereto. This Agreement shall be for an initial term of three years to commence on the Service Agreement Date and shall terminate upon the expiration of the Initial Term; provided, however, that the term of this Agreement shall automatically be renewed for successive periods of the same duration as the Initial Term without further action of the parties unless cancelled by Customer on the anniversary date of the applicable term by notifying the Company at least sixty (60) days prior to such date. The company may terminate this Agreement without cause upon thirty (30) days notice to Customer but termination with or without cause by the Company shall not release Customer from the obligation to make payment for all amounts due under this Agreement. The Company may terminate or suspend this Agreement immediately upon the failure of the Customer to pay for services rendered within the payment terms or in the event of any other breach by Customer as may be reasonably determined by the Company. In lieu of terminating this Agreement, the Company may require the Customer to pay a security for all services on a prepaid basis. Upon termination of the Agreement for any reason, the Company shall have the right to enter upon the Customer's property and to remove the Equipment from the Customer's premises at any time. Repossession of the Equipment may be accomplished without judicial process and without prior notice, and the Customer agrees to waive the benefit of any laws in favor of the Customer requiring judicial process. If Customer is not in breach of any provisions of this Agreement, Customer may terminate this Agreement before the expiration of the term in consideration for which Customer shall pay and the Company shall accept as liquidated damages, and not as a penalty, a sum equal to the amount of fees and charges charged to the Customer, and all Recyclable Material revenues received by company for the six (6) month period immediately preceding Customer's request for termination of this Agreement. If a six (6) month period has not been established, liquidated damages shall be defined as six times the expected monthly fees, charges and Recyclable Material revenues. Customer and the Company acknowledge and agree that the Company's actual damages for an early termination of this Agreement would be impossible to accurately estimate or calculate and the amount stated in this paragraph as liquidated damages is a fair and reasonable pre-estimate of the probable loss that the Company would sustain in the event of an early termination by the Customer.

6. TITLE: The Equipment is and, throughout the term hereof, shall be considered as being owned by the Company and leased to the Customer. The Company retains all ownership rights, title and interest to the Equipment. The Company may file a Financing Statement using the terms "Lessor" and "Lessee", or like terms and the Customer authorizes the Company to execute on its behalf any such Financing Agreement, Continuation Statement, or U.C.C. filing. In the event it is determined for any reason that the transaction contemplated by this Agreement is other than a lease transaction, the Customer hereby grants a security interest in and to the Equipment covered by this Agreement, and hereby authorizes the Company to execute on Customer's behalf any and all Financing or Continuation Statements as may be required to perfect and keep perfected its security interest under the Uniform Commercial Code. Title to all Proper Waste Materials including recyclable materials, shall transfer to the Company when such waste is loaded into or on to the truck. Title to materials deposited in the Equipment other than Proper Waste Materials shall remain at all times with Customer and Customer shall be responsible for all liabilities that result, including any fines or penalties.

7. CHANGES IN SERVICE: Changes in services provided by the Company or in the fees and charges paid by the Customer may be made by oral or written agreement of the parties, and the continuing actions and practices of the parties with respect to such changes shall constitute the consent and agreement of the parties to such changes. If the Customer relocates to a location within the service area of the Company, the Company shall continue the service, and this Agreement will serve as a continued Service Agreement. If the Customer feels the Company's quality of service is not satisfactory, Customer must notify the Company in writing of any dissatisfaction, and the Company agrees to solve any reasonable concern within a reasonable period of time.



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Customer may change the level of service during the term of this Agreement and charges will be adjusted accordingly, provided, however, that this service adjustment must be in congruence with volume of waste generated. The Company will maintain exclusive rights to collect and dispose of all Proper Waste Materials including Recyclable Material.

8. PREMISIS: Customer shall prepare an adequate and fully accessible site for location of the Equipment on the Customer's premises and shall provide such utilities as shall be necessary for operation of the Equipment on-site. Customer shall provide and hereby grants the Company complete and adequate access and right-of-way to the Equipment on Customer's premises, which access and right-of-way shall bear the weight and operation of the Company's vehicles, machinery and other equipment. The Company shall have no obligation or liability for operation or passage of such vehicles, machinery and equipment (including the Equipment) on Customer's premises, and Customer hereby releases the Company from and disclaims all rights, claims and demands with respect to such operation or passage of vehicles, machinery and equipment by the Company, provided however, nothing herein shall be construed to release the Company from responsibility for acts of gross negligence or willfulness on the part of the Company's employees in the operations of such vehicles and equipment on the Customer's premises outside of said right-of-way. The Company shall not be responsible for damage to curbs, paved or unpaved driving surfaces, or base structures resulting from service of an agreed location of the Equipment.

9. RELEASE AND INDEMNIFICATION: CUSTOMER AGREES TO AND SHALL INDEMNIFY, HOLD HARMLESS AND DEFEND THE COMPANY, ITS AFFILIATES, AND THEIR RESPECTIVE OFFICERS, AGENTS, EMPLOYEES, AGENTS AND THE HEIRS, EXECUTORS, SUCCESSORS AND ASSIGNS OF ANY AND ALL OF THEM (COLLECTIVELY, THE "INDEMNIFIED PARTIES") FROM AND AGAINST ALL CLAIMS, LOSSES, DAMAGES, CAUSES OF ACTION, SUITS AND LIABILITY OF EVERY KIND, INCLUDING ALL EXPENSE OF LITIGATION, COURT COSTS AND ATTORNEYS FEES, FOR INJURY TO OR DEATH OF ANY PERSON, OR FOR DAMAGE TO ANY PROPERTY ARISING OUT OF OR ATTRIBUTED TO, DIRECTLY OR INDIRECTLY, OR IN ANY WAY RELATED TO THIS AGREEMENT OR CUSTOMER'S PERFORMANCE OF ANY WORK OR OTHER ACTIVITIES RELATED HERETO, BUT ONLY TO THE EXTENT CAUSED IN WHOLE OR IN PART BY ANY NEGLIGENT OR WILLFUL ACT OR OMISSION OF CUSTOMER OR ANYONE DIRECTLY OR INDIRECTLY EMPLOYED BY CUSTOMER OR ANYONE FOR WHOSE ACTS CUSTOMER MAY BE LIABLE. NOTWITHSTANDING THE FOREGOING, TO THE FULLEST EXTENT PERMITTED BY LAW, CUSTOMER SHALL INDEMNIFY, HOLD HARMLESS AND DEFEND THE INDEMNITEES FROM AND AGAINST ALL CLAIMS, DAMAGES, LOSSES AND EXPENSES, INCLUDING, BUT NOT LIMITED TO, ATTORNEYS' FEES, ARISING OUT OF OR RESULTING FROM BODILY INJURY TO, OR SICKNESS, DISEASE OR DEATH OF, ANY EMPLOYEE, AGENT OR REPRESENTATIVE OF CUSTOMER OR ANY OF ITS SUBCONTRACTORS, REGARDLESS OF WHETHER SUCH CLAIM, DAMAGE, LOSS OR EXPENSE IS CAUSED, OR IS ALLEGED TO BE CAUSED, IN WHOLE OR IN PART BY THE NEGLIGENCE OF ANY INDEMNITEE, IT BEING THE EXPRESSED INTENT OF CUSTOMER AND ANY SUCH SUBCONTRACTOR(S) THAT IN SUCH EVENT CUSTOMER IS TO INDEMNIFY, HOLD HARMLESS AND DEFEND THE INDEMNITEES FROM THE CONSEQUENCES OF THEIR OWN NEGLIGENCE, WHETHER IT IS OR IS ALLEGED TO BE THE SOLE OR CONCURRING CAUSE OF THE BODILY INJURY, SICKNESS, DISEASE OR DEATH OF CUSTOMER'S EMPLOYEE OR THE EMPLOYEE OF ANY OF ITS SUBCONTRACTORS. THE INDEMNIFICATION OBLIGATIONS UNDER THIS PARAGRAPH SHALL NOT BE LIMITED BY ANY LIMITATION ON THE AMOUNT OR TYPE OF DAMAGES, COMPENSATION OR BENEFITS PAYABLE BY OR FOR CUSTOMER UNDER WORKERS' COMPENSATION ACTS, DISABILITY BENEFIT ACTS OR OTHER EMPLOYEE BENEFIT ACTS. CUSTOMER AGREES TO PROCURE ADEQUATE LIABILITY INSURANCE, COVERING ITS OBLIGATIONS UNDER THIS PARAGRAPH. THE INDEMNIFICATION SET FORTH IN THIS PARAGRAPH IS FOR THE DIRECT BENEFIT OF THE INDEMNIFIED PARTIES AND SHALL BE ENFORCEABLE BY EACH OF THEM ACTING ALONE OR TOGETHER.

10. MISCELLANEOUS: All provisions of this Agreement shall be binding upon and inure to the benefit of both parties and their respective successors and permitted assigns, and the warranties and indemnities contained herein shall survive the termination of the Agreement. None of the Customer's rights or obligations hereunder may be assigned or delegated without the prior written consent of the Company. Any provision hereof which is unenforceable under applicable law will be ineffective to the extent of such prohibition or unenforceability without invalidating the remainder thereof or the remaining provisions hereof and it is the intention of the parties hereto that, in lieu of such unenforceable provision, there be added as part of the Agreement, a provision as similar in terms as possible to the unenforceable provision which is enforceable. This Agreement is made and entered into in the State of Texas, shall be construed under the laws of the State of Texas and is fully performable in all Texas counties. Any notices required to be given by this Agreement may be given by mailing same, certified mail, return receipt requested, addressed to the Company or the Customer as shown on the reverse side of hereof. Any notice shall be deemed effective three (3) days after deposit in the United States Mail. Notice given in any other manner shall be effective only when received. Either party may change its address for notice by the above-described method. The Company shall not be deemed to have waived any of its rights or remedies hereunder unless such waiver is in writing and signed by the Company. This Agreement may not be amended except by a subsequent agreement of the parties, oral, written, or by continued acts of the parties.



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COMMERCIAL CONTAINER GUIDELINES

The following items can be placed in the Single Stream Recycling Container.
Items must be loose and NOT in bags

- Paper
 - Office paper
 - Magazines
 - Catalogs
 - Newspaper
 - Envelopes
 - File folders
 - Sticky notes
- Cardboard or Boxboard
 - Shipping boxes
 - Shoe Boxes
 - Cereal Boxes
 - Food Boxes
- Empty Containers made of Plastic, Metal, Aluminum, or Glass
 - Soda cans
 - Water bottles
 - Glass bottles
 - Soup cans
 - Plastic containers

The following is a list of items NOT allowed in trash OR recycling frontload or sideload containers.

- Construction Materials: i.e. concrete, wood, paint, solvents, thinners
- Furniture: i.e. couches, sofas, mattresses, box springs
- Appliances
- Air Conditioners, Refrigerators, or anything with Freon
- Oil, Oil rags or filters (unless drainer for at least 24 hours)
- Industrial or Hazardous Chemicals
- Tires
- Fluorescent Tubes or Light bulbs
- Medical Waste
- Herbicides or Pesticides
- Radioactive Materials
- Dirt, Sand, Landscape or Yard Waste
- Dead Animals
- Automotive Batteries
- Any items which will not fit inside the container
- Any items that would get stuck in the container
- Any items left outside of the container

Thank you for doing business with Texas Disposal Systems. For more information please contact us at (800) 375-8375 or visit our website at www.texasdisposal.com



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Company: Texas Disposal Systems

Customer:

TDS
Signature: Cory Bruce

Authorizing
Signature:

Name: Cory Bruce

Name:

Title: Sales Supervisor

Title: Customer

Date: ~~12/3/2021~~ 3/15/2022

Date Signed:

Attachment A to Service Agreement QUO-_____

- **Pricing:** Term of agreement and stated prices shall be for three (3) years from date of execution.
- **No Waiver of Sovereign Immunity or Powers:** Nothing in this agreement will be deemed to constitute a waiver of sovereign immunity or powers of Customer, the Williamson County Commissioners Court, or the Williamson County Judge.
- **Texas Law Applicable to Indemnification:** All indemnifications or limitations of liability or statutes of limitations shall be to the extent authorized under Texas law and shall follow Texas law without modifying the Customer's rights.
- **Termination for Convenience:** This agreement may be terminated at any time at the option of either party, without future or prospective liability for performance upon giving thirty (30) days written notice thereof. In the event of termination, The Customer will only be liable for its pro rata share of services rendered and goods actually received.
- **Texas Prompt Payment Act Compliance:** Payment for goods and services shall be governed by Chapter 2251 of the Texas Government Code. An invoice shall be deemed overdue the 31st day after the later of (1) the date Customer receives the goods under the contract; (2) the date the performance of the service under the contract is completed; or (3) the date the Williamson County Auditor receives an invoice for the goods or services. Interest charges for any overdue payments shall be paid by Customer in accordance with Texas Government Code Section 2251.025. More specifically, the rate of interest that shall accrue on a late payment is the rate in effect on September 1 of Customer's fiscal year in which the payment becomes due. The said rate in effect on September 1 shall be equal to the sum of one percent (1%); and (2) the prime rate published in the Wall Street Journal on the first day of July of the preceding fiscal year that does not fall on a Saturday or Sunday.
- **Mediation:** The parties agree to use mediation for dispute resolution prior to and formal legal action being taken on this Contract.
- **Venue and Governing Law:** Venue of this contract shall be Williamson County, Texas, and the law of the State of Texas shall govern.
- **Right to Audit:** Company agrees that Customer or its duly authorized representatives shall, until the expiration of three (3) years after final payment under this Agreement, have access to and the right to examine any and all books, documents, papers and records of Company which are directly pertinent to the services to be performed under this Agreement for the purposes of making audits, examinations, excerpts, and transcriptions. Company agrees that Customer shall have access during normal working hours to all necessary Company facilities and shall be provided adequate and appropriate workspace in order to conduct audits in compliance with the provisions of this section. Customer shall give Company reasonable advance notice of intended audits.