

FIRST AMENDMENT TO DISPOSAL AGREEMENT  
AND SETTLEMENT AGREEMENT

THIS FIRST AMENDMENT to that certain Disposal Agreement dated December 27, 1988, between the City of Vancouver, a municipal corporation of the State of Washington ("City"), Clark County, a municipal subdivision of the State of Washington ("County"), and Eichner Brothers Land Reclamation Corp., a Washington corporation ("LBLR" or "Company") and that certain Settlement Agreement dated June 21, 1990, between City, County, the Washington Utilities and Transportation Commission ("WUTC"), Company and its affiliates, The Disposal Group, Inc. d/b/a Twin City Sanitary and Vancouver Sanitary Service, and Buchmann Sanitary Service, Inc. ("Affiliates"), is made effective as of the 27th day of July, 1996.

RECITALS

A. Company is the owner and operator of the Leichner Landfill (hereinafter the "Site"), a sanitary landfill which served incorporated and unincorporated Clark County.

B. On March 29, 1988, City and County entered into a Solid Waste Reduction and Disposal Agreement to direct the flow of solid waste, provide funding for landfill closure, and to establish and fund a landfill reserve fund (now called the Financial Assurance Reserve Fund, the "FARF") to be possessed and administered by Clark County.

C. City, County and Company entered into a certain Disposal Agreement on December 27, 1988 (the "Disposal Agreement"). The Disposal Agreement provided for the continuation and funding of the FARF with the supervision, monitoring and control of the FARF being the responsibility of County. The FARF was established with separate accounts, intended to fully fund the anticipated costs of mandated closure, post-closure and environmental compliance as well as self-insurance for environmental liability for the Site.

D. Pursuant to the authority set forth in Chapters 35.21 and 36.58 of RCW and in accordance with the Settlement Agreement recorded under Cause Numbers TG-2152, 2153 and 2154 between City, County, WUTC and Company and Affiliates, dated June 21, 1990 (the "Settlement Agreement"), City and County approved the disposal rates to be charged to ratepayers in City and County to fund the FARF. The Settlement Agreement was incorporated into and made a part of administrative orders entered in WUTC Rate Setting Proceedings in Cause Nos. TG-2152, 2153, and 2154. Such rates were based, in part, upon the Revised Closure and Remedial Action Budget ("RCRAB") included as part of the Settlement Agreement.

E. The Settlement Agreement modifies the terms and conditions set forth in the Disposal Agreement to the extent it sets forth funding obligations of the parties and requires, among other things, that excess moneys existing after the issuance of a post-closure certificate in the FARF be used to reduce future tipping fees in County and City.

F. The Settlement Agreement contemplated the possibility of a shortfall in funding of the closure and post-closure activities and anticipated construction of a ground water extraction and treatment system required at the Site once it ceased generating revenue. Pursuant to the terms of the Settlement Agreement, if Company and Affiliates generated less revenue than projected in the RCRA for closure and post-closure and construction of a ground water extraction and treatment system, and subject to specified reductions and set-offs, Company and Affiliates would contribute up to \$1.3 Million (the "Contribution"). The parties now agree as of the date of the execution of this Agreement, a determination has been made under the terms and provisions of the Settlement Agreement that there is not currently a shortfall in funding as contemplated by the provisions of the Settlement Agreement and by virtue of the requirements contained in a Consent Decree dated June 25, 1996 (the "Consent Decree") as agreed to by LBLR and the Washington State Department of Ecology ("Ecology") and the requirement to contribute \$1.3 Million under the provisions of the Settlement Agreement is hereby extinguished except as provided in Section 10 below.

G. Following the completion of waste disposal at the Site on December 31, 1991, County funded the FARF for a portion of the anticipated operation and maintenance ("O&M") costs for remedial action activities from surcharges imposed on the disposal of waste disposed of at the Site.

H. Company and Ecology did enter into an Interim Order pursuant to which samplings from ground water were taken from new wells located at points of compliance at the Site to assist Ecology in making the determination that ground water extraction and treatment is not now indicated at the Site.

I. Company, with the participation of County and City, has negotiated with Ecology, pursuant to the Model Toxics Control Act ("MTCA"), the Consent Decree, a site cleanup action plan ("CAP") and scope of work ("SOW"). Company, County, and City have addressed a number of issues with respect to ownership and control of the funds contained in the FARF that are necessary for Company to financially assure compliance with the Consent Decree. By executing the Consent Decree, Company agrees to carry out remedial action at the Site. It is the parties' current anticipation that the remedial actions will consist of continuing monitoring of

ground water at the site, maintenance of the landfill gas control and monitoring systems, maintenance of the final cover and storm water control systems. The Consent Decree will require Company to perform remedial action and incur compliance expenses, including Ecology oversight costs.

J. The Consent Decree pursuant to WAC 173-340-440(6) will upon its execution require that Company provide assurance acceptable to Ecology of Company's ability to meet the financial obligations attendant with the implementation of the Consent Decree, including the payment of the oversight expenses of Ecology.

K. From its inception through December 31, 1992, LBLR treated the FARF as an asset on its books and records. County has always possessed, controlled and managed the FARF and County and City have never agreed to treatment of it as an asset of LBLR. On December 31, 1992, LBLR agreed with County and City that LBLR should not treat the FARF as its asset for tax purposes. Therefore, this Amendment is intended to address the financial assurance requirement that will be required under the Final Consent Decree by clarifying the management, use and disposition of the funds in the FARF and the obligation to cover any shortfall in funding that may arise out of the implementation of the Consent Decree.

L. Notwithstanding the foregoing, and given the pending sale of certain assets of The Disposal Group, Inc., Buchmann Sanitary Service, Inc. and Diamond Fabrication and Welding, Inc. to Browning Ferris Industries of Washington, Inc. ("BFI of Washington"), and Company, Affiliates and BFI of Washington agree to make or cause to be made certain payments to the FARF as hereinbelow set forth.

**NOW, THEREFORE, IN CONSIDERATION OF COMPANY'S COMMITMENT TO REMEDIATE THE SITE IN COMPLIANCE WITH THE CONSENT DECREE AND THE MUTUAL COVENANTS AND PREMISES CONTAINED HEREIN, THE PARTIES AGREE AS FOLLOWS:**

1. Recitals True and Correct. The recitals set forth above are true and correct and by this reference made a part of this Amendment.

2. Purpose. The purpose of the FARF account is to provide funds to carry out closure, post-closure and remedial actions at the site required by Ecology and the Southwest Washington Health District ("SWHD") in the past and future including but not limited to actions required under the Final Consent Decree and to provide funds to satisfy environmental claims.

3. FARF Ownership. Except for funds pledged or deposited by Company or BFI of Washington pursuant to Section 10 below and/or

funds from PLP litigation pursuant to Section 11 below deposited by Company as intended by the parties, moneys in the FARF as of January 1, 1993, interest earned thereon, and any additional revenues generated by City or County or received for the purpose of meeting the obligations for closure, post-closure, environmental compliance or environmental liability shall be an asset of County and shall be disbursed from the FARF by County pursuant to the terms and conditions of the Disposal Agreement, this Amendment, the Consent Decree, and the Settlement Agreement.

In the event that the Internal Revenue Service seeks to impose federal income tax (including interest and/or penalties) on any funds or accumulations contained in the FARF, Company, County and City agree that these funds shall be paid from the following in order of priority and availability:

- (a) First, from funds received from cost recovery actions or settlement with potential liable/responsible parties as set forth more specifically in Section 11 of this Agreement;
- (b) Second, from funds paid into any account pursuant to Section 10 of this Agreement; and
- (c) Third, from other FARF funds generally.

Company agrees that it will not file an amended Federal Income Tax Return declaring the FARF income as income of Company or its affiliates. Company agrees that it will not otherwise file an amended income tax return without the consent of County or City which consent shall not be unreasonably withheld.

Company will promptly notify County and City of any claim or proceeding to impose an income tax liability on LBLR on account of funds contained in the FARF.

The parties to this Agreement hereby agree to vigorously defend against any claim by the Internal Revenue Service for any taxes (including penalties and interest) due and owing with such cost of defense being paid for by the FARF.

By entering into this Agreement, Clark County does not waive any claims which it may have against any individual or entity related to the payment of taxes on the FARF earnings.

4. Consent Decree Performance. At any time during the performance of the required activities under the Consent Decree, including the implementation of closure, post-closure and environmental clean up activities at the Site, Ecology or SWHD may give notice to Company, with copies to City and County, of

Company's failure to comply with any requirement, term or provision of such orders. If Company fails to comply with any such requirement, term or provision within thirty (30) days, Ecology or SWHD shall give notice of such failure to City and County, whereupon City and County may take such steps as are necessary to effect compliance with such orders. If County or City fail to effect compliance with such orders within thirty (30) days of said notice, then Ecology may proceed, in a reasonable manner, to exercise its legal authority to address releases of hazardous substances at the Site. If Ecology so proceeds and seeks reimbursement of its related costs, County shall reimburse Ecology for expenses incurred in performing actions required by the Final Consent Decree from the FARF to the extent funds are available, and in the event the FARF has insufficient funds, Company, City and County agree to investigate all alternatives to fully meet such obligations.

5. Insurance litigation Proceeds. Company, City and County acknowledge that the proceeds of the insurance company litigation referenced in Section 12 of the Settlement Agreement, Truck Insurance Exchange and Mid-Century Insurance Company v. Elmer Leichner, et al., Clark County Superior Court Cause No. 872023757, were paid to the FARF and distributed first to pay or reimburse for all attorney fees and costs associated with the litigation and second to U.S. National Bank on account of the pledge of such funds thereto for security.

The parties acknowledge and agree that pursuant to the provisions of Section 12 of the Settlement Agreement, the amount due and owing repayment to the FARF by Company is Six Hundred Ten Thousand One Hundred Ninety-three and 52/100 Dollars (\$610,193.52). Notwithstanding anything contained in the Settlement Agreement to the contrary, the parties agree that as part of the transaction for the sale of assets of Affiliates to BFI of Washington, pursuant to the terms and provisions of that Asset Purchase Agreement by and between The Disposal Group, Inc., Buchmann Sanitary Service, Inc. and Diamond Fabrication and Welding, Inc. and BFI of Washington dated October 18, 1995, and an amendment thereto dated as of the closing of that transaction, BFI of Washington shall pay the FARF the amount of \$610,193.52 as follows:

The principal amount shall bear interest at the rate of 8.75% per annum from and after August 1, 1995. Commencing August 1, 1996, and payable on the same day of each year thereafter, BFI of Washington shall make an annual payment of \$50,000.00 plus an amount equal to any interest accrued to date to the FARF, as set forth in the schedule attached hereto as Exhibit "B." From each payment shall first be deducted interest to date of payment and the balance shall be applied to principal.

BFI of Washington shall have the right to repay this obligation at any time without penalty. Provided, that in the event that BFI of Washington pays the entire principal balance of \$610,193.52 plus interest thereon at the rate of 5.5% per annum from August 1, 1995, within thirty (30) days of the closing of the sale of The Disposal Group, Inc.'s assets to BFI of Washington, then all other interest which may have accrued shall be forgiven and such payment shall be considered a full satisfaction of this obligation.

6. Environmental Services Agreement. Company has entered into an Environmental Services Agreement ("ESA") with EMCON Northwest ("Project Manager") which has been approved and consented to by City and County to manage remaining closure, post-closure activity and long-term O&M activity at the Site.

7. Payment of Expenditures From and Management of FARF. Recognizing that Company will not have operating revenue sufficient to advance the funds required to comply with the Consent Decree and post-closure permit issued by SWHD and thereafter seek reimbursement from the FARF, County will pay such expenditures as are delineated on the Revised Environmental Compliance Budget (RECB") attached hereto as Exhibit "A" and incorporated herein, and as it may be revised from time to time by the parties. County will make such payments in accordance with the following procedures:

7.0.1. Authorized Representative. Company may appoint an authorized representative to obtain disbursements from the FARF in accordance with this First Amendment and the Disposal Agreement. The authorized representative shall be EMCON Northwest unless changed by mutual agreement of Company, County and City.

7.0.2. Invoicing. As of the date of the execution of this Agreement, all payments to vendors and LBLR due and owing from the FARF are current. On a monthly basis, Company or its authorized representative shall submit to County's Designated Representative invoices and supporting documentation ("Invoices") for all services performed or materials, equipment or supplies purchased during the preceding invoice period pursuant to the RECB. For each invoice submitted, Company or its authorized representative shall provide a reference to the appropriate expense category under the RECB, a reasonably detailed description of the expenses and/or Services provided, including for labor services, the hours expended and the names of personnel or

Subcontractors who provided the services. Each submittal shall also contain a summary of the invoices submitted, summary total with remaining balance for each budget category for which a disbursement is requested, a check made out to each service provider or supplier for the invoices submitted and a total of the amount to be disbursed from the FARF for the invoice period.

Notwithstanding the foregoing, fees for professional services in regard to this Agreement and the Consent Decree not covered by the Environmental Services Agreement shall be paid or rendered directly to LBLR upon receipt by County of statements therefore, in compliance with the procedures set forth herein. Provided, such fees shall not be incurred for nonroutine services nor shall the fees exceed the total amount of \$5,000.00 per annum. Any exception to this limitation shall be allowed only if approved and budgeted by the Oversight Committee as provided in Section 7.0.6 of this Agreement prior to the provision of such services.

7.0.3. Records. Company and its authorized representative shall maintain accurate records verifying all labor, materials, supplies and other items provided and expenses incurred under this Agreement. Upon County's request, Company shall promptly provide any and all records and time details that reasonably relate to the performance and payment of Services.

7.0.4. Budget; Quarterly Review. City, County, and Company acknowledge that the RECB is an estimate of the actual expenses which the parties believe will be necessary to complete the SOW, CAP and the Consent Decree and comply with the post-closure permit requirements and that variances may occur in actual expenses. The parties also acknowledge that it is the intent of this Agreement that those providing services hereunder be compensated from the FARF on a time-and-materials basis for costs and expenses that (1) are reasonably in conformance with the RECB and (2) are legal and costs incurred in relation to this Agreement, the Disposal Agreement, the Settlement Agreement and the Consent Decree. Accordingly, County, without further process, may approve payment from the Contingency Category for monthly invoices that will result in the exceedence of an approved RECB category,

provided that the exceedence does not result in an exceedence of the category by more than fifteen percent (15%) or in excess of funds remaining in contingency. To ensure that the RECB is adjusted and made current with actual and revised estimates of expenses, the RECB shall be subject to semi-annual review by the Oversight Committee as referenced in Section 7.0.6 below. If, as a result of such review, revisions are made to the RECB, the revised RECB shall replace Exhibit "A" attached hereto.

7.0.5. Payment. Unless disputed by County as provided herein, or in the Disposal Agreement, County shall disburse from the FARF directly to Company or its authorized representative the full amount due under each Invoice no later than thirty (30) calendar days of the date the Invoice was received. If City or County in good faith dispute whether any expenses set forth in the Invoices are reasonably in conformance with the RECB or are supported by appropriate documentation as provided in Section 7.0.2, City or County shall, within thirty (30) calendar days of the date of the Invoice, give notice to Company in writing of the reasons it believes such expenses are not in conformance with the RECB or this agreement and County shall pay only that portion of the bill which is not then in dispute and refer the disputed amount to the Oversight Committee. In the event that the refusal to pay was unreasonable, County shall be required to pay from the FARF any and all interest and penalties arising from underpayment of billings by the FARF.

7.0.6. Oversight Committee.

A) Oversight Committee Established. There is hereby established a permanent Oversight Committee to oversee management of the Site and the FARF and compliance with the Consent Decree. This Committee shall include the following participants:

- (a) A member of the Leichner family;
- (b) Company's authorized representative as referenced in Section 7.0.1 above;
- (c) Company's legal counsel;



- (d) The Director of Public Works for County or the Director's designee;
- (e) County staff person assigned the day to day responsibility to manage the FARF fund and landfill activity;
- (f) Legal counsel for County;
- (g) A designated representative by City; and
- (h) City legal counsel.

SWHD, WUTC and Ecology shall each have the right to designate a representative to the Oversight Committee that may attend all or any of the meetings thereof. Notice shall be given to SWHD, WUTC and Ecology of any and all meetings in order that each agency may make a determination as to whether to send a representative.

Subject to the limitations set forth in Section 7.0.2 of this Agreement, County shall pay from the FARF each parties' professional fees incurred in participating on the Oversight Committee.

- B) Meetings of the Committee. The Oversight Committee shall meet not less than semi-annually to fulfill its functions and responsibilities as hereinbelow set forth. Notwithstanding the foregoing, any member of the Committee may call a meeting on ten (10) working day's notice to address any issue of concern. An individual member calling a meeting shall use all reasonable efforts to schedule the meeting at the convenience of the Committee members. Any Committee member may participate in any meeting by conference call.
- C) Functions and Responsibilities of Oversight Committee. The Oversight Committee shall have responsibility for all activity regarding the Site including but not limited to the following:
  - (a) Review and resolve any disputes regarding payments due from the FARF;

- (b) Review of the status of the FARF fund, its investment activity and current account balances;
- (c) Review of technical compliance issues regarding the Consent Decree;
- (d) Resolution of any disputes regarding payment of vendors for activity related to the Site; and
- (e) Authority to authorize partial releases of the FARF funds (not sooner than 15 years from the effective date of the Consent Decree) if prudent under existing circumstance with the proviso that any funds released to County as hereinbelow set forth shall be utilized seventy percent (70%) to reduce all components of the tipping fee paid by the "G" certificated hauler and any County or any city (other than Camas or Washougal) contracted hauler (excluding self-hauls or hauls from outside County) and thirty percent (30%) to support the implementation of the Clark County Solid Waste Management Plan.

If the Oversight Committee cannot reach consensus on any issues to which it is responsible, then either the Leichner family representative or the Director of Public Works or City representative may request arbitration pursuant to the provisions of Section 12 as hereinbelow set forth.

8. In the Event of Insufficient Funds. Notwithstanding the terms and conditions of the Disposal Agreement, the Settlement Agreement and this First Amendment hereto, Company, City and County hereby agree that if moneys available in the FARF (including funds in any accounts established pursuant to Sections 10 and 11 of this Agreement) as provided for in the Disposal Agreement, the Settlement Agreement and this First Amendment (other than the self-insurance reserve account) are insufficient to meet the obligations of Company as set forth in the Consent Decree and any other obligations imposed by Ecology, then Company, City and County shall investigate all alternatives to fully meet such obligations.

9. Excess funds. Excess money remaining in the FARF after compliance with the Consent Decree (including O&M of the remedial

facilities if required), and any additional Ecology requirements, and after closure and post-closure, as well as satisfaction of any third-party claims for environmental liability, shall be utilized seventy percent (70%) to reduce all components of the tipping fee paid by the "G" certificated hauler and contracted haulers for County and/or cities in Clark County (except Camas and Washougal) and thirty percent (30%) to support the implementation of the Clark County Solid Waste Management Plan. The parties agree that it is their preference that the above-mentioned seventy percent (70%) of the excess FARF funds will be utilized by the County to reduce future tipping fees by offsetting future tipping fee increases at transfer stations designated by the county.

If the County determines that it is not practical to utilize the above-mentioned seventy percent (70%) of the excess FARF funds to offset future tipping fee increases, then those funds shall be utilized to effectuate a pass through/credit to ratepayers as follows. A percentage of the seventy percent (70%) excess funds which is equal to the percentage of the number of customers then being served by the Affiliates' transferee or its successor(s), compared to the total number of customers countywide, shall be provided to Affiliates' transferee or its successor(s). Thereafter distribution shall be made only to the then existing ratepayers through a credit on the ratepayers bills. The Affiliates' transferee or its successor(s) shall file a one-page tariff supplement with the WUTC, subject to WUTC review and approval, and the supplement will include an expiration date and a prorata distribution of the credit over a proposed time period for the then current ratepayers. Should the Affiliates' transferee or its successor(s) no longer be regulated by the WUTC, the credit shall still occur, and shall be overseen by the then applicable governmental or non-governmental authority. The County shall have the right, on reasonable notice, to demand and receive an accounting from the Affiliates' transferee or its successor(s) of the treatment of the excess FARF funds provided to Affiliates' transferee or its successor(s) and to inspect the books and records of Affiliates' transferee or its successor(s) to verify said accounting. The balance of the seventy percent (70%) excess funds shall be made available by the County for distribution to the remaining ratepayers within the county and cities within the county except for those within the cities of Camas and Washougal. All parties agree that it is the intent of this distribution mechanism to have no effect on Affiliates' transferee or its successor(s)' costs of operation or revenue margin, and that the parties will cooperate to ensure that this intent is met. Any excess funds distributed to the Affiliates' transferee or its successor(s) shall not constitute income for any purpose.

10. Pledge of Prior Revenue Margin/Contribution to Shortfall.  
For purposes of resolving any dispute regarding Affiliates'

obligation to pay creditors' claims pursuant to Affiliates' Chapter 11 Bankruptcy Proceeding and in order to satisfy any obligation Affiliates may have with respect to revenue shortfalls as referenced in Section 6 of the Settlement Agreement (the \$1.3 Million contribution) and O&M costs as referenced in Section 7 of the Settlement Agreement, the parties agree as follows:

- A) County's Claim No. 33 filed in Affiliates' Bankruptcy Proceeding No. 95-31806T shall be amended and reduced to an amount of \$400,000.00.
- B) This claim shall be paid on or before the third disbursement to creditors in the above-referenced Chapter 11 Bankruptcy Proceeding.
- C) County and Affiliates shall seek creditor and Bankruptcy Court approval to have this claim paid in the amount of \$400,000.00 in exchange for forbearance on receipt of payment in earlier disbursements. Obtaining court approval of the payment of the claim in the amount of Four Hundred Thousand (\$400,000.00) Dollars shall be a condition precedent to the closing of the sale of certain assets of Affiliates to BFI of Washington.
- D) Company agrees with consent of County to invest the payment made pursuant to this Section in a separate interest bearing/investment account as directed by Affiliates with appropriate documentation to ensure access to such funds by County for the purpose stated herein. County shall incur no liability to Company for the financial performance of this investment account. Pursuant to Section 3, Company may use that amount of funds necessary to pay federal income tax on the interest and accumulations of this fund if so required and the FARF, County and City shall have no liability for such tax. County shall have no other obligation with respect to payment of any taxes owing on this investment account.
- E) Except as set forth in Section 10(D) above, the funds contained in this account can only be utilized after expenditure of all other funds in the FARF except those retained for the self-insurance reserve account.
- F) Those funds contained in this account can be released to Company and, if BFI of Washington has made a contribution as herein provided, prorata to Company and BFI of Washington according to their relative contributions, if not expended upon the earlier of receipt of a final post-closure certificate for the Site from Ecology and/or SWHD or fifteen (15) years from the effective date of the

Consent Decree so long as such release is approved by the Oversight Committee herein referenced. Such approval shall be given by the Oversight Committee if the condition of the Site when compared to conditions of the time of the entry of the Consent Decree is status quo or better.

G) Standby Guarantees. In the event that County has not received payments of at least \$315,000.00 on its Claim No. 33 within one (1) year of the closing date of the sale of certain assets of Affiliates to BFI of Washington, then Company, Affiliates and BFI of Washington agree as follows:

(a) Company and Affiliates shall pay that amount necessary to provide County with payment of \$250,000.00 on said claim to be held as provided for in this Section 10;

(b) BFI of Washington shall pay that amount necessary, up to \$65,00.00, to provide County with payment of \$315,000.00 on said claim when combined with amounts received on said claim, including amounts paid pursuant to Section 10.G (a), to be held as provided for in this Section 10.

Company and Affiliates' standby guarantee shall be secured through the granting of a perfected security interest in a cash account or certificate of deposit in the minimum amount of \$250,000.00 to be held as mutually agreed upon by County and Company. The granting of the security interest must be accomplished as a condition precedent to the closing of the sale of Affiliates to BFI of Washington. This requirement of the granting of a perfected security interest may be waived by County between the execution of this Agreement and the closing of the sale of certain assets of Affiliates to BFI of Washington if County is satisfied that Claim 33 will be paid in full on the first disbursement to creditors in the Chapter 11 proceeding entitled In re The Disposal Group, Inc. No. 95-31806T.

BFI of Washington's standby guarantee shall be reflected in the guarantee that is issued by BFI of Washington upon execution of this Agreement.

In the event that there are sufficient funds in the bankruptcy estate of Affiliates to make a disbursement on County's Claim No. 33 after Company and Affiliates and/or

BFI of Washington have made payments as called for in this Section 10(G), then the proceeds of such disbursement shall be distributed as follows:

- 1) First, to reimburse Company and Affiliates the principal sum it paid pursuant to Section 10(G)(a) hereof;
  - 2) Second, to reimburse BFI of Washington the principal sum it paid pursuant to Section 10(G)(b) hereof;
  - 3) Third, to pay County interest on \$315,000.00 of its claim, at the rate provided for by the Bankruptcy Rules, from the date of closing until the date it received payment from Company, Affiliates and BFI of Washington pursuant to Sections 10(G)(a) and (b), together with an amount to pay County the principal balance of its claim together with interest thereon from the date of closing until paid;
  - 4) Fourth, to pay Company and Affiliates interest on the amount it paid pursuant to Section 10(G)(a) at the rate provided for by the Bankruptcy Rules, from the date it made payment pursuant to Section 10(G)(a); and
  - 5) Fifth, to pay BFI of Washington interest on the amount it paid pursuant to Section 10(G)(b), at the rate provided for by the Bankruptcy Rules, from the date it made payment pursuant to Section 10(G)(b).
- H) Except as set forth in this Section, the parties agree that Company shall have no further obligation to pay all or any portion of the \$1.3 Million potential contribution referenced in Section 6 of the Settlement Agreement as reflected in County's Claim No. 33 filed in Bankruptcy Court Cause No. 95-31806T and shall have no obligation to fund any O&M remedial action costs pursuant to Section 7 of the Settlement Agreement.

11. PLP litigation. The parties hereby agree that Company and/or Affiliates, pursuant to Section 7 of the Settlement Agreement, may pursue cost recovery actions against potentially liable/responsible parties.

Company and Affiliates agree not to pursue such actions against Clark County or any city now or in the future located within Clark County.

If cost recovery is pursued, the Oversight Committee created herein shall review and approve a litigation plan and budget for costs and disbursements which shall thereafter be advanced by the FARF. Attorney fees shall only be paid out of the proceeds of recovery pursuant to a Contingent Fee Agreement to be entered into between Company and its legal counsel.

The net recovery after payment of contingent attorney fees and approved costs and disbursements shall be deposited in a segregated account within the FARF and invested pursuant to the provisions of this Agreement and in accordance with State law. Upon the earlier of receipt of a certificate of completion of post-closure pursuant to Washington Administrative Code provision 173-304-407(7)(e) or fifteen (15) years, the Oversight Committee may release all or a portion of the funds, fifty percent (50%) to County and fifty percent (50%) to Company. In the event of such release, that portion of the funds disbursed to County shall be utilized as set forth in Section 7.0.6(C)(e) of this Agreement.

12. Arbitration. Any controversy or issue arising from the terms of this Agreement shall be determined by arbitration in the following manner:

- A) Either party may, by written notice to the other within ten (10) days after a controversy has arisen that is subject to this Agreement, appoint an arbitrator who shall be an attorney duly licensed and in good standing to practice law in the State of Washington. The other party shall, by written notice, within ten (10) days after receipt of such notice by the first party, appoint a second arbitrator, who shall be an attorney duly licensed and in good standing to practice law in the State of Washington, and in default of such second appointment the first arbitrator shall be sole arbitrator.
- B) When two arbitrators have been appointed as provided for above, they shall, if possible, agree on a third arbitrator and shall appoint him or her by written notice signed by both of them and a copy mailed to each party to this Agreement within ten (10) days after such appointment.
- C) In the event fifteen (15) days shall elapse after the appointment of the second arbitrator without notice of appointment of the third arbitrator as provided for

above, then either party, or both, may in writing, within twenty (20) days after the original appointments, request \_\_\_\_\_ of \_\_\_\_\_, City of \_\_\_\_\_, County of \_\_\_\_\_, State of \_\_\_\_\_, to appoint the third arbitrator.

- D) On appointment of three arbitrators as provided for above, such arbitrators shall hold an arbitration hearing at Vancouver, Washington, within sixty (60) days after such appointments. At the hearing, the laws of evidence of the State of Washington shall apply, and the three arbitrators shall allow each party to present that party's case, evidence, and witnesses, if any, in the presence of the other party, and shall render their award, including a provision for payment of costs and expenses of arbitration to be paid by one or both of the parties to this Agreement, as the arbitrators deem just.
- E) The award of the majority of the arbitrators shall be binding on the parties to this Agreement although each party shall retain the right to appeal any questions of law arising at the hearing, and judgment may be entered on such award in any court having Jurisdiction.
- F) The prevailing party shall be entitled to costs and reasonable attorney fees. Such costs and fees shall not be paid from the FARF.

13. Except as modified by this Amendment, the provisions of the Disposal Agreement and the Settlement Agreement, shall remain in full force and effect. In case of any conflict between the terms of the Disposal Agreement as modified, the Settlement Agreement, this Amendment, the terms set forth herein and those of the Consent Decree shall control.

Approved as to form

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

Bronson Potter  
Senior Civil Deputy  
Prosecuting Attorney

CLARK COUNTY

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



Approved as to form:

CITY OF VANCOUVER

By: Ted H. Gathe  
Ted H. Gathe, City Attorney

Royce E. Pollard  
Royce E. Pollard, Mayor

Attest:

LEICHNER BROTHERS LAND  
RECLAMATION CORP.

H.K. Shorthill  
H.K. Shorthill, City Clerk  
By: ~~Judith Hoggatt, Deputy~~

Craig Leichner  
By: Craig Leichner, President

THE DISPOSAL GROUP, INC.

Mark Leichner  
By: Mark Leichner, President

BUCHMANN SANITARY SERVICE, INC.

Mark Leichner  
By: Mark Leichner, President

This Agreement is executed by Browning-Ferris Industries of Washington, Inc. only for the purpose of acknowledging its agreement to perform the obligations imposed upon it and accept the benefits conferred to it by Sections 5, 9, 10 and 12.

BROWNING-FERRIS OF WASHINGTON, INC.

John Guest  
By: (Vice Pres.) JOHN GUEST

STAFF OF THE WASHINGTON UTILITIES  
AND TRANSPORTATION COMMISSION

Ann E. Rendahl  
Ann E. Rendahl  
Assistant Attorney General

PAGE ONE

LEICHER LANDFILL, CLARK COUNTY, WASHINGTON  
ANNUAL POST CLOSURE BUDGET

	ANNUAL BUDGET	LABOR -Field	LABOR -Office	REIMB	ANALYTICAL	MAINT./REPAIR	EQUIPMENT REPLACEMENT	RENTALS	UTILITIES	1994 COSTS	1995 COSTS
<b>O&amp;M, MONITORING, and REPORTING</b>											
GW Monitoring	\$80,000	\$22,000	\$18,000	\$8,000	\$30,000					\$64,491	\$67,724
SW Monitoring	\$46,000	\$25,000	\$15,000	\$1,000	\$7,000					\$50,761	\$50,184
LFG Flare Source Testing	\$20,000	\$2,500	\$3,000		\$14,500					\$2,884	\$14,297
LFG System O & M	\$25,000	\$22,500	\$5,000	\$2,500						\$25,918	\$37,801
LFG Condensate Permit	\$5,000		\$5,000							\$15,219	\$6,722
Maintenance, Repair, etc.	\$103,000	\$22,000				\$50,000	\$28,000	\$13,400	\$0,600	\$24,150	\$62,053
Port Closure Management	\$10,000		\$8,500	\$1,500						\$6,985	\$0
Monthly Progress Reports	\$10,000		\$9,000	\$1,000						\$3,419	\$14,287
CAP Project Management	\$10,000		\$8,500	\$1,500						\$5,339	\$12,653
	<u>\$311,000</u>	<u>\$94,000</u>	<u>\$65,000</u>	<u>\$13,500</u>	<u>\$67,500</u>	<u>\$90,000</u>	<u>\$28,000</u>	<u>\$13,400</u>	<u>\$8,600</u>	<u>\$178,248</u>	<u>\$285,501</u>
<b>OTHER COSTS</b>											
ECOLOGY Oversight	\$10,000										
Legal Fees	\$7,500										
Solid Waste Permit Fee	\$2,600										
NPDES Permit Fee	\$5,000										
Real Estate Taxes	\$5,500										
	<u>\$31,500</u>	<u>\$0</u>	<u>\$0</u>	<u>\$0</u>	<u>\$0</u>	<u>\$0</u>	<u>\$0</u>	<u>\$0</u>	<u>\$0</u>	<u>\$0</u>	<u>\$0</u>

Principal Balance \$610,193.42  
 Stated Interest Rat 0.0875  
 Beginning Period 08/01/95  
 First Payment Due 08/01/96  
 Accrued Interest 53,391.92

	<u>INTEREST</u>	<u>PRINCIPAL</u>	<u>BALANCE</u>	<u>TOTAL PAYMENT</u>
			610,193.42	
08/01/96	0.00	50,000.00	560,193.42	103,391.92
08/01/97	49,016.92	50,000.00	510,193.42	99,016.92
08/01/98	44,641.92	50,000.00	460,193.42	94,641.92
08/01/99	40,266.92	50,000.00	410,193.42	90,266.92
08/01/00	35,891.92	50,000.00	360,193.42	85,891.92
08/01/01	31,516.92	50,000.00	310,193.42	81,516.92
08/01/02	27,141.92	50,000.00	260,193.42	77,141.92
08/01/03	22,766.92	50,000.00	210,193.42	72,766.92
08/01/04	18,391.92	50,000.00	160,193.42	68,391.92
08/01/05	14,016.92	50,000.00	110,193.42	64,016.92
08/01/06	9,641.92	50,000.00	60,193.42	59,641.92
08/01/07	5,266.92	50,000.00	10,193.42	55,266.92
08/01/08	891.92	10,193.42	0.00	11,085.34
	299,453.09	610,193.42		

EXHIBIT B