

THE SOLID WASTE DISPOSAL AND HOST AGREEMENT

This SOLID WASTE DISPOSAL AND HOST AGREEMENT (the “Agreement”) is made and entered into between J BAR J LAND, INC., a Nebraska corporation (hereinafter the “Company”), and PERKINS COUNTY, NEBRASKA (hereinafter the “County”).

RECITALS:

- (a) The Company owns and is lawfully licensed and permitted to operate and maintain a landfill (the “Landfill”) for disposing of Acceptable Waste, all in accordance with the terms and conditions hereof. The Landfill is located near Grant, Nebraska, on property owned by the Company.
- (b) The Company and the County acknowledge the mutual benefits each will receive under this Agreement and therefore desire and intend to be bound by the terms set forth in this Agreement.

The Recitals above are incorporated into and expressly made a part of this Agreement by reference as though recited in full herein. In consideration of the foregoing recitals and the mutual obligations undertaken herein, the parties hereby agree as follows:

SECTION I – DEFINITIONS

1.01 Definitions. Each of the capitalized terms used in this Agreement shall have the meaning given to such terms as set forth below.

“ACCEPTABLE WASTE” means Solid Waste and any Special Waste approved from time to time for disposal by the Nebraska Department of Environment and Energy (“NDEE”), excepting, however, Unacceptable Waste and Hazardous Waste.

“AGREEMENT” means this Solid Waste Disposal and Host Agreement between the Company and the County including any written amendments, modifications or extensions hereto.

“ANNUAL REPORT” has the meaning specified in Section 5.01.

“CLERK” means the County Clerk of Perkins County, Nebraska.

“COMPANY” means J Bar J Land, Inc., a Nebraska Corporation, and its agents and successors in interest.

“COUNTY” means Perkins County, Nebraska.

“COUNTY INDEMNIFIED PARTIES” has the meaning specified in Section 6.01.

“EARNED HOST FEE” has the meaning specified in Section 5.02.

“EFFECTIVE DATE” has the meaning specified in Section 2.01.

“EVENT OF DEFAULT” has the meaning specified in Section 7.01.

“FORCE MAJEURE” shall mean any of the events described in Section 7.03.

“GUARANTEED SITE LIFE” has the meaning specified in Section 5.03.

“HAULER” means any person or entity engaging in the business of providing collection and transportation of solid waste for disposal at a landfill, or any individual hauler disposing of solid waste directly to the Landfill.

“HAZARDOUS WASTE” means (i) any material or substance which, by reason of its composition or characteristics, is regulated as a toxic or hazardous waste as defined in either the Solid Waste Disposal Act, 42 U.S.C. Section 6901, et seq., Section 6 (e) of the Toxic Substances Control Act, 15 U.S.C. Section 2605(e), or the Nebraska Environmental Protection Act, **Neb. Rev. Stat.** § 81-1501, et seq., as any may be replaced, amended, expanded or supplemented, or any laws of similar purpose or effect, and any rules, regulations or policies promulgated thereunder, or in the state laws, as replaced, amended, expanded or supplemented, or any laws with similar purpose or effect, and any rules, regulations, or policies promulgated thereunder; (ii) special nuclear or by-product materials within the meaning of the Atomic Energy Act of 1954; and (iii) any other material which any governmental agency or unit having appropriate jurisdiction shall determine from time to time is ineligible for disposal at the landfill whether by reason of being hazardous, harmful, toxic, dangerous or otherwise.

“JURISDICTION” means Perkins County, Nebraska.

“LANDFILL” means the J Bar J Landfill owned and operated by the Company and located approximately seven (7) miles north of Grant, Nebraska. Said landfill being the landfill physically located in the East Half (E ½) of the Northwest Quarter (NW ¼) of Section Thirty (30), Township Twelve (12) West, Range Thirty-Nine (39) West in Perkins County, NE and with any expansions thereto.

“LANDFILL EXPANSION AREA” means the area described as the “Proposed Landfill Expansion Area” on the site plan attached hereto as Exhibit “A” and incorporated herein by reference.

“MONTHLY REPORT” has the meaning specified in Section 5.01.

“LOCAL SITING APPLICATION” means the Application filed by J Bar J Landfill with the Perkins County Clerk on February 15th, 2024 and approved by the Perkins County Board of Commissioners on August 5th, 2024.

“NDEE” means the Nebraska Department of Environment and Energy.

“RECYCLABLE MATERIALS” means those materials or substances including but not limited to glass, plastic, paper products, tin, and aluminum, which can be recycled by an appropriately licensed recycling facility in or near Perkins County, Nebraska, subject to change based on market conditions.

“SOLID WASTE” means all materials or substances discarded or rejected as being spent, useless, worthless or in excess to the owners at the time of such discard or rejection, including but not limited to garbage, trash, rubbish, refuse, industrial, commercial and agricultural waste, sludge from air or water pollution control facilities or water supply treatment facilities, rubbish, ashes, incinerator residue, demolition and construction debris, but not including sewage and other highly diluted water-carried materials or substances and those in gaseous form.

“SPECIAL WASTE” means a solid waste, except waste which is regulated as a hazardous waste, which possesses physical, chemical, or biological characteristics that make it different from general household or construction and demolition waste, and which required special handling, treatment, or disposal-methodologies in order to protect public health, safety and the environment.

“TERM” has the meaning specified in Section 2.01.

“UNACCEPTABLE WASTE” means Hazardous Waste or any other portion of Solid Waste, the disposal of which:

- (a) May present a substantial endangerment to health or safety of the public or Company employees as determined by the Company;
- (b) Would cause applicable air quality or water effluent standards or other applicable standards or any air quality or water effluent or other permit issued to the Landfill to be violated by the normal operation of the Landfill; or
- (c) is not Acceptable Waste.

SECTION II – TERM AND TERMINATION

2.01 Commencement of Agreement and Term. This Solid Waste Disposal and Host Agreement shall become effective when the Company has received all Perkins County approvals to allow for an expansion of the Landfill as set forth in the Local Siting Application (“Effective Date”) and remain in effect until the end of the Landfill’s effective life (“Term”).

2.02 Automatic Termination of Agreement. Unless the parties agree otherwise in writing, this Agreement shall automatically terminate for any of the following reasons:

- (a) If legislation is enacted or a court of competent jurisdiction interprets a law so as to prohibit the continuation of this Agreement, or such law or court interpretation so materially adversely affects the business or interests of the County or

Company that the County or Company reasonably determine they can no longer continue conducting the business of the Company as presently contemplated;

- (b) If either the Company or County are found guilty of a serious criminal offense or are found liable for gross misconduct related to the operation of the Landfill or any Landfill Expansion Area, the party without the offense or misconduct shall have the option to terminate under this provision rather than termination being automatic;
- (c) If NDEE denies the Company's application under Title 132 to expand the Landfill into the Landfill Expansion Area, or should the Company confirm in writing to the County that it does not wish to proceed with seeking all permits for the Landfill Expansion Area; or
- (d) If the Company no longer has a valid license and/or permit of authority applicable to the services covered by this Agreement including, without limitation, a valid license and/or permit to accept and deposit Acceptable Waste at the Landfill.

Either party to this Agreement shall promptly notify the other party in writing of any event giving rise to automatic termination under this Section, provided that failure to give such notice shall not prevent this Agreement from automatically terminating upon the occurrence of such event. Once terminated, neither party to this Agreement shall have any further rights or obligations to the other pursuant to the provisions of this Agreement, except as set forth in this Agreement. Further, Company's indemnification obligations shall survive, unless otherwise provided herein, the termination or expiration of this Agreement for a period of two (2) years thereafter.

SECTION III – REPRESENTATIONS

3.01 Representations of the County. The County represents and warrants that:

- (a) The County is a body politic that is duly organized and existing in good standing under the laws of the state of Nebraska.
- (b) The County has the full power, authority and legal right to enter into and perform this Agreement and the execution, delivery and performance by the County (i) has the requisite approval of all governmental bodies, (ii) will not violate any judgment, order, law or regulation applicable to the County or any provisions for the County charter, and (iii) do not conflict with or constitute a default under any agreement or instrument to which the County is a party or by which the County may be bound or affected.

3.02 Representations by the Company. The Company represents and warrants that:

- (a) The Company is a corporation duly organized and existing in good standing under the laws of the State of Nebraska.

- (b) The Company has the corporate power, authority and legal right to enter into and perform this Agreement, and the execution, delivery and performance by the Company, (i) have the requisite approval of all governmental bodies, (ii) will not violate any judgment, order, law or regulation applicable to the Company or any provisions for the Company's articles or by-laws, and (iii) do not conflict with or constitute a default under any agreement or instrument to which the Company is a party or by which the Company may be bound or affected.

3.03 Representations of Authority. The individuals executing this Agreement represent and warrant that they are duly authorized to bind the Party on whose behalf they sign this Agreement including, with respect to the County, that all governmental action required for the County lawfully to enter into, perform and lawfully be bound by this Agreement has been taken.

SECTION IV – LANDFILL

4.01 Landfill Operating Standards. The Company shall operate the Landfill in compliance with all applicable local, state and federal laws, including the requirements of its license and/or permit issued by NDEE.

4.02 Inspection Rights. Any representative(s), as designated by the County, shall have the right and authority to inspect the Landfill during business hours or at any time if deemed an emergency.

4.03 Inspection Reports. The County shall have access to all inspection reports from NDEE, the Environmental Protection Agency, the Company or any other corporate or governmental entity tasked with oversight of or regulatory authority regarding the Landfill. A copy of said report shall be provided to the Clerk within 10 business days of written request.

4.04 Reports of Complaints. If the Company receives notice of violation of any rule, regulation, resolution, ordinance, or law, it shall provide a copy of such notice to the Clerk within fifteen (15) calendar days. If the Company or County receives a written complaint from any resident of Perkins County, it shall provide a copy of such complaint to the other party and keep a log of all such complaints. If the parties collectively receive more than fifteen (15) verified complaints from any three or more residents of Perkins County in any six (6) month period, the County may require the Company to attend a public hearing regarding operation of the Landfill and the Company's compliance with all rules, regulations, ordinances, and laws regarding operation of the Landfill.

4.05 Water Testing. Upon a Perkins County resident's written request, the Company shall conduct annual testing of well water of any private residential home in Perkins County, Nebraska, within one (1) mile of the Landfill. The expense of testing shall be the sole responsibility of the Company. The testing of the well water shall include, but not be limited to, indicator parameters as defined by NDEE. The results of said testing shall be made available to the County and the resident within (7) days of receiving the results. The Company shall not be obligated to complete water testing for any home where the homeowner has not provided

permission for the Company or their representative to enter upon such homeowner's property for testing and sampling purposes.

SECTION V - HOST AGREEMENT

5.01 Measurement of Waste Deliveries. The Company shall maintain and operate weighing facilities at the Landfill for the purpose of accurately measuring the amount of Acceptable Waste tonnage delivered to the Landfill in any given calendar month. The weighing facilities shall be certified on no less than an annual basis to the County. The Company will maintain, for a period of one (1) year following each month in which Acceptable Waste is delivered to the Landfill, appropriate records showing the weight date, and type of waste delivered by each vehicle delivering Acceptable Waste to the Landfill in such month. Copies of these records shall be delivered by Company to the Clerk on a monthly basis and shall be in a summary format, showing a breakout of the total waste taken by type of waste, as agreed to between the County and the Company, attached and incorporated as Exhibit "B" to this Agreement ("Monthly Report"). The Company shall further compile a summary of this information into an annual report, together with a certification of the Guaranteed Site Life of the Landfill, in accordance with paragraph 5.05 below ("Annual Report") to be delivered to the Clerk and the County no later than September 30 of each year. The form of the Annual Report is attached hereto as Exhibit "C." This information comprising all waste delivery data shall be kept strictly confidential by the County and may not be disclosed unless (i) the County brings an action for an accounting against the Company, (ii) there is a legal request for the information (e.g., subpoena or court order), or (iii) the information must be provided pursuant to Nebraska's Public Records Act. In the event of (ii) or (iii) the County shall give written notice to the Company before the County makes the disclosure to afford the Company the opportunity to take any action it deems necessary to keep such information confidential.

If the County disputes the Company's calculation of the Earned Host Fee for one or more months, the County shall notify the Company of such dispute in writing and set forth in detail the factual bases therefor. The Company's calculation of the Earned Host Fee for any given month shall become final and not subject to any dispute one (1) year after the date on which the Company submits payment therefor (as such payment is calculated by the Company), and the County irrevocably waives any and all rights and remedies it may have with respect to the calculation or payment of the Earned Host Fee for any given month after that one-year period expires.

5.02 Earned Host Fee. Commencing on the Effective Date of this Agreement, the Company shall collect a host fee of \$1.00/ton for all Acceptable Waste which is deposited in the Landfill or the Landfill Expansion Area (the "Earned Host Fee"). No Earned Host Fee or other amounts shall be collected or paid for Special Waste or any other waste material used as alternative daily cover, Unacceptable Waste or Hazardous Waste. The Earned Host Fee shall be paid monthly to the County and due and owing thirty (30) days following the end of each month. The Earned Host Fee encompasses any and all agreed upon fees to be paid by the Company to the County during the term of this Agreement other than any fees mandated by state and federal government.

5.03 Increase in Host Fee. Every Five (5) years on the anniversary of the Effective Date the Earned Host Fee shall increase by the greater of five percent (5%) or a percentage equal to the percentage increase in the Consumer Price Index for All Urban Consumers (the Midwest region, all items, with base 1982-84=100) published by the Bureau of Labor Statistics of the United States Department of Labor (“CPI”) during the expiring five year period. This shall be calculated by multiplying the then current Earned Host Fee by a fraction the denominator of which shall be the CPI for the month of the Effective Date and after the first adjustment the date of the most recent adjustment of the Earned Host Fee, and the numerator of which shall be the CPI for the month of the 5th anniversary of the Effective Date, or the most recent available figure. In the event that the CPI (or a successor or substitute index) is not available, a reliable government or other nonpartisan publication which evaluates the information previously used in determining the CPI will be used in lieu of the CPI. Increase in the Consumer Price Index (“CPI”). However, any such rate increases shall never result in the host fee exceeding the rate of \$2.00/ton.

5.04 Guarantee of Landfill Site Life. The Company guarantees to the County a Landfill Site Life of thirty (30) years from the Effective Date (“Guaranteed Site Life”). In the Annual Report, the Company shall certify to the County that the amount of Acceptable Waste received by the Company for the previous year does not conflict with the Guaranteed Site Life. If the Company is unable to make said certification, the Company shall within sixty (60) days of County’s receipt of the Annual Report, elect one of the following options:

- A. The Company shall, within thirty-six (36) months of electing this option, reduce the Company’s amount of out-of-jurisdiction waste to bring the site life back into compliance with the Guaranteed Site Life; or
- B. The Company shall compensate the County for the amount of Guaranteed Site Life lost in the previous year that is in conflict with the Guaranteed Site Life; or
- C. The Company can cause Acceptable Waste to be taken to an alternative location, at the Company’s expense, in order to extend the expected site life of the Landfill and ensure compliance with the Guaranteed Site Life.

SECTION VI – FURTHER AGREEMENTS

6.01 Company Indemnification. The Company agrees that it shall protect, indemnify, and hold harmless the County, and/or its officers, members, employees and agents (the “County Indemnified Parties”) from and against all liabilities, damages, claims, demands, judgments, losses, costs, expenses, suits, or actions and attorneys’ fees, and shall defend the County Indemnified Parties in any suit, including appeals, to the extent arising out of the negligence or willful misconduct of the Company or any of agents or employees in connection with its operation of the Landfill. The Company is not, however, required to reimburse or indemnify any County Indemnified Parties for loss of claim due to the negligence or willful misconduct of any County Indemnified Parties, and the County Indemnified Parties whose negligence or willful misconduct is adjudged to have caused such loss or claim shall reimburse the Company for the costs of defending any suit.

6.02 Cooperation Regarding Claims. If either party hereto shall receive notice or have knowledge of any claim, demand, action, suit or proceeding that may result in a claim for indemnification by such party against the other party pursuant to Section 6.01 such party shall, as promptly as possible, give the other party notice of such claim, demand, action, suit or proceedings, including a reasonably detailed description of the facts and circumstances relating to such claim, demand, action, suit or proceeding and a complete copy of all notices, pleadings, and other papers related thereto; provided that failure to promptly give such notice or to provide such information and documents shall not relieve the other party of any obligation of indemnification it may have under Section 6.01 unless such failure shall materially diminish the ability of such other party to respond to, or to defend the party failing to give such notice against, such claim, demand, action, suit or proceeding. The parties hereto shall consult with each other regarding and cooperate in respect of the response to and the defense of any such claim, demand, action, suit or proceeding, the party against whom indemnification is claimed shall, upon its acknowledgement in writing of its obligation to indemnify the party seeking indemnification, be entitled to assume the defense or to represent the interests of the party seeking indemnification in respect of such claim, demand, action, suit or proceeding, which shall include the right to select and direct legal counsel, and other consultants, appear in proceedings on behalf of such part and to propose, accept or reject offers of settlement.

6.04 Non-Discrimination. The Company and the County, in performing their respective duties under this Agreement, shall not discriminate against any worker, employee or applicant, or any member of the public, because of race, creed, color, religion, age, sex, national origin, or disability.

SECTION VII – DEFAULT AND REMEDIES

7.01 Event of Default. Each of the following shall constitute an Event of Default:

- (a) A party's failure to timely perform any material obligation under this Agreement; after the expiration of the applicable cure period set forth in Sections 7.02 or 7.03 below;
- (b) A party's being or becoming insolvent or bankrupt or ceasing to pay its debts as they mature or making an arrangement with or for the benefit of its creditors or consenting to or acquiescing in the appointment of a receiver, trustee or liquidator for any substantial party of its property, or (ii) a bankruptcy, winding up/ reorganization insolvency, arrangement or similar proceeding instituted by or against a party under the, laws of any jurisdiction, which proceeding has not been dismissed within thirty (30) days, or (iii) any action or answer by such party approving of, consenting to, or acquiescing in, any such proceeding, or (iv) the levy of any distress, execution or attachment upon the property of a party which shall substantially interfere with its performance hereunder.

7.02 Remedies. If, within, a period of thirty (30) days after a party gives written notice to the other party that an Event of Default has occurred and is continuing and the party in default has not remedied such Event of Default, then the party that is not in default may, but shall not be

obligated to, terminate this Agreement by giving written notice to the other party. This remedy shall be in addition to all other remedies that the parties may have at the law or in equity. Notwithstanding anything to the contrary in the preceding two sentences or in section 7.01, the County agrees that it may not and shall not declare an Event of Default based on any act or failure to act by the Company that falls within the jurisdiction of NDEE, provided that the Company cooperates with NDEE in resolving any issues within the jurisdiction of NDEE arising from or based on such act or failure to act; any notice of default delivered to the Company based on such an act or failure to act shall be deemed null and void *ab initio*.

7.03 Force Majeure. Notwithstanding anything to the contrary contained in this Agreement, neither the County nor the Company shall be liable to the other for any failure, or delay in performance of any obligation under this Agreement due to the occurrence of a Force Majeure event, as described below, and any such failure to delay shall not constitute an Event of Default under this Agreement.

“Force Majeure” means any act, event or condition, which is beyond the reasonable control of the party(ies) adversely affected thereby, that has had, or may reasonably be expected to have but requiring present action, a material adverse effect on the rights, performance of the provisions of this Agreement or the obligations of the parties under this Agreement, or a material adverse effect on the Landfill; or the ownership, possession or operation by the Landfill, by the Company. Such events shall include, but not be limited to, the following: an act of God, fire, explosion, act of terror or malicious destruction, flood, war, sabotage, labor strife, change in law or condemnation.

The party experiencing a Force Majeure event shall promptly notify the other party of such event and its estimated duration and impact or obligations under this Agreement. Additionally, such party shall provide prompt notice of the cessation of such Force Majeure event. Whenever such Force Majeure event occurs, the party claiming to be adversely affected thereby, as quickly as reasonably possible use best efforts to eliminate the cause therefore, and resume performance under this Agreement, provided however that nothing in this Agreement requires either Party to settle walkouts or strikes as a condition to invoking the Force Majeure provisions of this Agreement.

SECTION VIII – CONSTRUCTION AND OPERATION OF AGREEMENT

8.01 Relationship of the Parties. Except as otherwise expressly provided herein, the relationship of the Company to the County shall be that of a provider, and no party to this Agreement shall by virtue of this Agreement have any responsibility whatsoever with respect to services provided or contractual obligations assumed by the other party and nothing in this Agreement shall be deemed to constitute any party joint venturer, partner, agent or legal representative of the other party or to create any fiduciary relationship between or among the parties.

8.02 Notices. Any notices or communication required or permitted hereunder shall be in writing and sufficiently given if delivered in person, by facsimile, or sent by certified or registered mail, return receipt requested, postage prepaid, as follows:

If to the Company: J Bar J Land, Inc.
P.O. Box 714
Ogallala, NE 69153
Attn: Landfill Manager

With copies to: General Counsel
Waste Connections
3 Waterway Square Place, Suite 110
The Woodlands, TX 77380

If to the County: Perkins County Board of Supervisors
200 Lincoln Avenue
Grant, NE 69140

With a copy to: Perkins County Attorney
200 Lincoln Avenue
Grant, NE 69140

Changes in the respective addresses to which such notices may be directed may be made from time to time by any party by written notice to the other party.

8.03 Waiver. The waiver by either party of a default or a breach of any provision of this Agreement by the other party shall not operate or be construed to operate as a waiver of any subsequent default or breach. The making or the acceptance of a payment by either party with knowledge of the existence of a default or breach shall not operate or be construed to operate as a waiver or any default or breach.

8.04 Entire Agreement, Modification. The provisions of this Agreement shall constitute the entire agreement between the parties for the disposal of Solid Waste, superseding all prior agreements concerning the subject matter herein. Further, either party may request modifications to this agreement by notifying either party in writing at any time. The Company and the County are each bound and subjected to a material element of good faith in conducting negotiations to any modifications or other amendments.

8.05 Severability. In the event that any provision of this Agreement shall, for any reason, be determined to be invalid, illegal, or unenforceable in any respect, the parties hereto shall negotiate in good faith and agree to such amendments, modifications or supplements of or to this Agreement or such other appropriate actions as shall, to the maximum extent practicable in light of such determination, implement and give effect to the intentions of the parties as reflected herein, and the other provisions of this Agreement shall, as so amended, modified, or supplemented, or otherwise affected by such action, remain in full force and effect.

8.06 Construction. The language in all parts of this Agreement shall in all cases be construed as a whole according to its fair meaning, strictly neither for nor against any party hereto, and without implying a presumption that the terms thereof shall be more strictly construed against one party by reason of the rule of construction that a document is to be construed more strictly against the person who himself/herself or through his/her agent prepared

the same, it being agreed that representatives of both parties have participated in the preparation hereof, and both parties shall be deemed to have mutually drafted this Agreement.

8.07 Headings. Captions and headings in this Agreement are for ease of reference only and do not constitute a part of this Agreement.

8.08 Counterpart and Electronic Signatures. This Agreement may be signed in one or more counterparts all of which shall be deemed to be one and the same original, and transmission of a counterpart by electronic mail shall have the same force and effect as delivery of an original signature.

8.09 Applicable Law. This Agreement shall be governed by, construed and enforced pursuant to the laws of the State of Nebraska.

8.10 Amendments. This Agreement may not be amended, modified or extended, except as evidenced by a writing executed by the parties.

IN WITNESS WHEREOF, the parties hereof have executed this Agreement this day and year first above written.

[SIGNATURES ON FOLLOWING PAGES]

THE COMPANY:

J BAR J LAND, INC.

BY:

James M. Little, Senior Vice President
Engineering and Disposal

THE COUNTY:

PERKINS COUNTY, NEBRASKA

BY: _____
_____, Chairman
Perkins County Board of Supervisors

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