

**Yard Waste Incineration
And Mulching Demonstration
Project Contract**

THIS CONTRACT, entered this ____ day of _____, 2013, by and between the Board of COUNTY Commissioners of Monroe COUNTY, Florida (hereafter “COUNTY” or “Board”), and Rudy Krause Construction, whose address is 26351 Old State Road, Ramrod Key, FL 33042 (hereafter “CONTRACTOR”).

WHEREAS, in order for the COUNTY to assess long-term options for its solid waste Project in the future, the COUNTY wishes to implement a local Yard Waste Incinerating and Mulching Demonstration Project (herein after referred to as “Project”) to determine the benefits of incinerating and mulching yard waste in Monroe County; and

WHEREAS, the CONTRACTOR has agreed to exclusively provide the services to implement the project and to provide data for the COUNTY to review and depend on to determine the long term benefits, issues and possible reductions in overall disposal cost to the COUNTY’s solid waste program;

WHEREAS, the Transfer station operator/haul out contractor has agreed to weigh and transport the yard waste from the Cudjoe and/or Long Key transfers station at the COUNTY’s direction and deliver it to the CONTRACTOR’s site at 26351 Old State Road, Ramrod Key, FL (hereinafter referred to as “Site”);

WHEREAS, it is of utmost importance that the yard waste is properly weighed to ensure accurate reporting/data collection of this demonstration project and because payment is made on a per unit basis, and therefore the weight of units hauled shall be recorded and verified by COUNTY staff at the COUNTY’s transfer station.

NOW THEREFORE IN CONSIDERATION OF the mutual promises contained herein, the parties agree as follows:

1. TERM OF CONTRACT:

This CONTRACT is effective upon the date as first written above. Services under this CONTRACT will commence within ninety (90) days, subject to the CONTRACTOR obtaining all permits and licenses required to perform services under this CONTRACT. The term of the “Project” shall be for a period of 24 months beginning from the date of the permit issued by the Florida Department of Environmental Protection,

2. DEFINITIONS:

- a. **Ash** formed by incineration of the inorganic constituents of the waste, and may take the form of solid lumps or ash flakes
- b. **Collector** - the collector of yard waste for the Lower Keys
- c. **COUNTY** - Monroe County, Florida.
- d. **Hauler** - Waste Management, Inc. (also referred to as “WM”)

Haag-Rhonda 12/4/13 1:34 PM
Deleted: effective

Haag-Rhonda 12/4/13 1:35 PM
Deleted: the Contract

Haag-Rhonda 12/4/13 1:36 PM
Deleted: . .

- e. **Incinerating-** to ash using a self-contained a waste treatment process that involves the combustion of organic substances contained in yard waste materials refractory walled air curtain burner
- f. **Mulching/grinding-** to mechanically grind yard waste into a mulch product
- g. **Site** - CONTRACTOR's location at 26351 Old State Road, Ramrod Key, FL.
- h. **Yard trash processing facility** - CONTRACTOR's location at 26351 Old State Road, Ramrod Key, FL
- i. **Yard Waste** or vegetative waste - any vegetative matter generated from the yard and landscaping maintenance and shall include materials such as tree and shrub trimmings, grass clippings, palm fronds, small and medium sized tree branches and other matter usually produced as refuse in the care of lawns, landscaping and yards. Some oversized vegetative waste may be included. Regular Vegetative Waste shall not be commingled with Garbage, Rubbish, or Bulk Trash.

3. AMOUNT OF CONTRACT/AVAILABILITY OF FUNDS.

A. The COUNTY shall pay to the CONTRACTOR \$60 per ton to incinerate and mulch/grind yard waste, up to a maximum of 15,000 tons per year. The amount of this CONTRACT shall not exceed Nine Hundred Thousand Dollars (\$900,000) per year, and shall be inclusive of all expenses, including but not limited to, permitting, land costs, equipment costs, operational costs, administrative, repairs, and other costs.

~~B. The COUNTY's performance and obligation to pay under this CONTRACT is contingent upon an annual appropriation by the Board. If funds cannot be obtained or cannot be continued at a level sufficient to allow for continued payment for services specified herein, this CONTRACT may be terminated immediately at the option of the Board by written notice of termination delivered to the CONTRACTOR. The Board shall not be obligated to pay for any services or goods provided by the CONTRACTOR after the CONTRACTOR has received written notice of termination, unless otherwise required by law.~~

4. PAYMENT:

A. Payment will be made monthly, based on services rendered at the amount set forth above, as hereinafter set forth. The CONTRACTOR will only be authorized to seek payment for processed yard waste. Payment requests will be submitted to the Board via the Clerk's Finance Office. The COUNTY shall only pay for services performed under this CONTRACT. Request for payment by the CONTRACTOR shall be in the form of a pay request, providing an estimate of materials processed and summarizing the tonnage received and process for the period of the pay request, with supporting documentation attached. The pay request shall contain a notarized certification statement. The CONTRACTOR's final invoice must be received within thirty days after the termination date of this CONTRACT.

B. After the Clerk of the Board examines and approves the request for payment, the Board shall submit payment to the CONTRACTOR. However, the total of said payments in the aggregate sum shall not exceed the annual total amount shown in Article 3 of this CONTRACT.

Haag-Rhonda 12/4/13 1:41 PM
 Deleted: 10

Haag-Rhonda 1/10/14 10:34 AM
 Deleted: Six

Haag-Rhonda 1/10/14 10:34 AM
 Deleted: 6

Haag-Rhonda 12/4/13 1:44 PM
 Formatted: Strikethrough

Haag-Rhonda 12/4/13 1:45 PM
 Deleted: periodically

5. SCOPE OF SERVICES:

- A. STAFFING AND OPERATION: The CONTRACTOR shall provide all staffing, equipment, and supplies necessary to operate the yard waste incineration and mulching demonstration project. The Site shall have the operational features and equipment necessary to maintain a clean and orderly operation; an effective barrier to prevent unauthorized entry and dumping into the Site; dust and litter control methods; and fire protection and control provisions. If the Site ceases operation, all material shall be removed from the Site and recycled, or disposed of pursuant to the requirements of Chapter 62-701, F.A.C. Any remaining processed material shall be used in accordance with the requirements of Rule 62-709.320, F.A.C. or disposed of pursuant to the requirements of Chapter 62-701, F.A.C.
- B. PERMITS AND LICENSES: The CONTRACTOR shall obtain, at this own expense, all permits and licenses required by law in order to operate services under this CONTRACT and maintain the same in full force and effect. The CONTRACTOR shall be the applicant for all permits and licenses required and all licenses/permits will be held in the name of the CONTRACTOR, not the COUNTY. The CONTRACTOR shall cooperate with the Florida Department of Environmental Protection (DEP) and follow all local and state laws, regulations and procedures, and conditions of DEP licenses or permits, including but not limited to 62-709.320, F.A.C. General Provision for Registrations of yard trash processing facilities. The CONTRACTOR shall also comply with code and standards of the National Fire Protection Association (NFPA), including but not limited to Code NFPA 31.
- C. EQUIPMENT: The CONTRACTOR shall have on hand at all times and in good working order such equipment as shall permit the CONTRACTOR to adequately and efficiently perform the contractual duties specified in this CONTRACT. Upon execution of this CONTRACT and annually thereafter, the CONTRACTOR shall provide a list of the equipment to be used by the CONTRACTOR to provide services relating to this CONTRACT. All equipment shall be kept in good repair, appearance and in a sanitary, clean condition at all times. The CONTRACTOR shall have available reserved equipment or have the equipment serviced so that it can be put into service within 15 days in the occurrence of any breakdown. Such reserve equipment shall correspond in size and capacity to the equipment used by the CONTRACTOR to perform the contractual duties. The CONTRACTOR will follow the operating manual and all safety requirements for the "Self Contained Refractory Walled Air Curtain Burner S-300 Series" (Attached as **Exhibit "A"**). The COUNTY shall NOT be responsible for the replacement of any Equipment or purchase of new Equipment necessary to perform CONTRACTOR's services required hereunder. The COUNTY shall NOT pay for the rental of any new Equipment used during the maintenance, repair or replacement of the Equipment. If the COUNTY terminates this CONTRACT for cause or convenience, the COUNTY shall NOT be responsible for any equipment costs.
- D. HOURS OF OPERATIONS: The hours of operation of the Site shall be adequate to accommodate the delivery of yard waste from the haulers/collector and at a minimum

from 8 a.m. and 5p.m. Monday through Saturday and otherwise in compliance with all DEP permits, rules and regulations. Incineration will be limited to Monday through Friday from 9.a.m. to 5 p.m. and in compliance with all DEP permits, rules and regulations.

Hours of operation may be adjusted only upon mutual written consent of the COUNTY and the CONTRACTOR in the form of a CONTRACT amendment approved by both parties.

E. PROCESSING OF MATERIALS: The CONTRACTOR shall exclusively accept all yard waste from the Lower Keys and/or from the middle Keys, at the COUNTY's option, up to a maximum 15,000 tons per year. The COUNTY shall provide a minimum of 10,000 tons per year.

F. The CONTRACTOR shall accept the yard waste "as is" from the COUNTY'S Hauler or Collector, and shall not have the right to reject any load from being delivered to the site. However, if the content of the materials delivered to the site is contaminated more than industry standard allows, the CONTRACTOR shall set aside the materials on site and shall notify the COUNTY of excessive amounts of contaminants. The COUNTY shall notify the Hauler or Collector of the contamination issue, who shall remove the contents at no charge to the CONTRACTOR. The CONTRACTOR understands that a certain amount of contamination is unavoidable, and the CONTRACTOR shall use his best efforts to remove all contaminants from the yard waste before processing. The COUNTY shall use its best efforts to provide clean yard trash with minimal contamination. The CONTRACTOR shall incinerate the yard waste on Site and shall employ the best available control technology. The CONTRACTOR may also perform grinding of the yard waste. If the CONTRACTOR is unable to accept Yard Waste at the Site, then the CONTRACTOR must notify the COUNTY and Hauler/Collector immediately. The COUNTY, in conjunction with the Hauler/Collector, will make efforts to temporarily divert any deliveries of Yard Waste to the Site, unless the Site is non-operational as declared by DEP or if the permit becomes invalid, and then all deliveries will cease as required by law. The CONTRACTOR will be responsible for bearing any costs related to delayed or diverted loads due to the CONTRACTOR's inability to process the incoming materials.

G. The CONTRACTOR shall make every effort to determine a use for the ash, and shall report on the use or resale of the ash in the reports. Such use is important and must be accurately monitored in order for the COUNTY to receive credits for its' use as a recycled materials. The CONTRACTOR shall also report on the use and/or sale of mulch or compost. The CONTRACTOR may keep all proceeds from the sale of any products related to this demonstration project, but must report on the proceeds and use in the reports.

H. REPORTS: On a quarterly basis, CONTRACTOR shall provide the Solid Waste Administrator and the Sustainability Manager or designees with copies of reports of all costs associated with the project, the tonnage of each material processed, the sale of any

Haag-Rhonda 12/4/13 1:40 PM

Deleted: 10

Haag-Rhonda 12/4/13 1:39 PM

Deleted: 4

Haag-Rhonda 12/4/13 1:40 PM

Deleted: .

Haag-Rhonda 12/4/13 1:52 PM

Deleted: The CONTRACTOR shall accept the yard waste "as is" from the COUNTY's hauler or Operator, and shall not have the right to reject any load. The COUNTY shall not be responsible for the content of the materials delivered to the site, including the amount of materials that may not be yard trash that may be mixed in. The CONTRACTOR shall use his best efforts to remove all contaminants from the yard waste before processing

Haag-Rhonda 1/10/14 10:48 AM

Deleted: The CONTRACTOR

Haag-Rhonda 1/10/14 10:48 AM

Deleted: i

Haag-Rhonda 1/10/14 10:49 AM

Deleted: are included in any load, and t

Haag-Rhonda 12/4/13 1:54 PM

Deleted: '

products and the list of customers. Documents and reports submitted to DEP will be provided to the COUNTY upon request.

I. HURRICANE OR OTHER NATURAL DISASTER: In the event of a hurricane or other natural disaster, the CONTRACTOR shall ensure that the facility is clean and secured and that all debris is processed as the capability of the equipment allows. In the event of a hurricane or other natural disaster the CONTRACTOR may be utilized to incinerate additional yard waste or debris, generated from the hurricane or other natural disaster, at no more than the rate as set forth above. The COUNTY will work with the CONTRACTOR to identify temporary storage areas for such disaster-related debris. The CONTRACTOR will process the COUNTY's debris on a priority basis above all other entities.

Haag-Rhonda 12/4/13 1:55 PM
Deleted: and that all debris is processed

Haag-Rhonda 1/10/14 10:51 AM
Deleted: .

Haag-Rhonda 12/4/13 1:56 PM
Deleted: , and will not process other debris unless
. written approval is received by the COUNTY

J. COMPLAINTS:

All complaints shall be reported to the COUNTY. All complaints received by the COUNTY will be forwarded daily to the CONTRACTOR by telephone or other electronic means. All complaints received by the CONTRACTOR shall be recorded on a form approved by the COUNTY. All complaints shall be attempted to resolved by the CONTRACTOR within forty-eight (48) hours after receipt by the CONTRACTOR. When a complaint is received on a Saturday or the day preceding a holiday, as specified in this CONTRACT, it shall be resolved by the CONTRACTOR no later than the next regular working day. If a complaint cannot be resolved within twenty-four (24) hours, the COUNTY shall be notified. Upon resolution, the CONTRACTOR shall notify the COUNTY of the action taken to resolve the complaint on the approved form. The CONTRACTOR shall provide the COUNTY with a full written explanation of the disposition of any complaint involving a claim of damage to private or public property as a result of actions of the CONTRACTOR's employees, agent, or sub-CONTRACTOR.

Haag-Rhonda 12/4/13 1:58 PM
Deleted: twenty-four (24)

6. NON-RELIANCE BY NON-PARTIES:

No person or entity shall be entitled to rely upon the terms, or any of them, of this CONTRACT to enforce or attempt to enforce or attempt to enforce any third-party claim or entitlement to or benefit of any service or program contemplated hereunder, and the COUNTY and the CONTRACTOR agree that neither the COUNTY nor the CONTRACTOR or any agent, officer, or employee of either shall have the authority to inform, counsel, or otherwise indicate that any particular individual or group of individuals, entity or entities, have entitlements or benefits under this CONTRACT separate and apart, inferior to, or superior to the community in general or for the purposes contemplated in the CONTRACT.

7. CONTRACTOR'S LICENSE:

The CONTRACTOR shall secure, maintain and pay all applicable fees for any permits and licenses necessary to operate the Yard Waste Incineration and Mulching Demonstration Project. It is the CONTRACTOR's responsibility to maintain all permits and licenses that may be required.

By signature hereon, the CONTRACTOR warrants that it is authorized by law to engage in the performance of the activities herein described, subject to the terms and conditions set forth in these contract documents. Proof of such licenses and approvals shall be submitted to the COUNTY upon request. The CONTRACTOR has, and shall maintain throughout the term of this contract, appropriate licenses and approvals required to conduct its business, and that it will at all times conduct its business activities in a reputable manner.

8. INDEPENDENT CONTRACTOR:

At all times and for all purposes, the CONTRACTOR, its agents and employees are strictly considered to be independent CONTRACTORS in their performance of the work contemplated hereunder. As such, the CONTRACTOR, its agents and employees shall not be entitled to any of the benefits, rights or privileges of COUNTY employees. The provider shall at all times exercise independent, professional judgment and shall assume professional responsibility for the services to be provided.

9. HOLD HARMLESS/INSURANCE AND BOND REQUIREMENTS:

A. The CONTRACTOR covenants and agrees to indemnify and hold harmless Monroe County Board of County Commissioners, and its employees from any and all claims, demand, costs or judgments against the COUNTY or its employees, which said for bodily injury (including death), personal injury, and property damage (including property owned by Monroe COUNTY) and any other losses, damages, and expenses (including attorney's fees) which arise out of, in connection with, or by reason of services provided by the CONTRACTOR or any of its Subcontractor(s) in any tier, occasioned by the negligence, errors, or other wrongful act of omission of the CONTRACTOR or its Subcontractors in any tier, their employees, or agents.

B. The extent of liability is in no way limited to, reduced, or lessened by the insurance requirements contained within this CONTRACT.

C. Prior to commencement of work governed by this contract, the CONTRACTOR shall furnish the Owner Certificates of Insurance indicating the minimum coverage limitations as indicated on the forms identified as VEHICLE LIABILITY INSURANCE REQUIREMENTS; GENERAL LIABILITY INSURANCE REQUIREMENTS; WORKERS' COMPENSATION INSURANCE REQUIREMENTS, INSURANCE REQUIREMENTS as shown in attached Exhibit "B," and all other requirements found to be in the best interest of Monroe COUNTY as may be imposed by the Monroe COUNTY Risk Management Department. Coverage shall be maintain throughout the life of the contract.

D. The Monroe County Board of County Commissioners shall be named as Additional Insured on all policies.

10. NON-WAIVER OF IMMUNITY:

Haag-Rhonda 12/4/13 1:32 PM
Deleted: AND POLLUTION LIABILITY

Haag-Rhonda 1/10/14 11:12 AM
Deleted: E. PERFORMANCE BOND: .

Haag-Rhonda 12/4/13 2:03 PM
Formatted: Strikethrough

Haag-Rhonda 1/10/14 11:12 AM
Deleted: Surety Company licensed to do business in the State of Florida and/or a clean irrevocable letter of credit issued by a bank within Monroe County to ensure the faithful performance of this CONTRACT and all obligations arising hereunder in the amount of \$1.2 Million. The clean irrevocable letter of credit or bond provided hereunder, each may be substituted for the other upon approval by the COUNTY. The form of this bond or letter of credit, and the Surety Company, shall be acceptable to the COUNTY attorney and shall be maintained during the term of this CONTRACT. The bond shall be endorsed to show the COUNTY, a political subdivision of the state of Florida; and shall also provide that bonds shall not be canceled, limited or non-renewed until after thirty (30) days written notice has been given to the COUNTY. Current performance bonds evidencing required coverage must be on file at all times.

Ch
req
1/1
Haag-Rhonda 12/4/13 2:03 PM
Formatted: Strikethrough

Notwithstanding the provisions of Sec. 786.28, Florida Statutes, the participation of the COUNTY and CONTRACTOR in this CONTRACT and the acquisition of any commercial liability insurance coverage, self-insurance coverage, or local government liability insurance pool coverage shall not be deemed a waiver of immunity to the extent of liability coverage, nor shall any contract entered into by the COUNTY be required to contain any provision for waiver.

11. NO PERSONAL LIABILITY:

No covenant or CONTRACT contained herein shall be deemed to be a covenant or CONTRACT of any member, officer, agent or employee of Monroe County in his or her individual capacity, and no member, officer, agent or employee of Monroe County shall be liable personally on this CONTRACT or be subject to any personal liability or accountability by reason of the execution of this CONTRACT.

12. NON-DISCRIMINATION:

COUNTY and CONTRACTOR agree that there will be no discrimination against any person, and it is expressly understood that upon a determination by a court of competent jurisdiction that discrimination has occurred, this CONTRACT automatically terminates without any further action on the part of any party, effective the date of the court order. COUNTY or CONTRACTOR agree to comply with all Federal and Florida statutes, and all local ordinances, as applicable, relating to nondiscrimination. These include but are not limited to: 1) Title VI of the Civil Rights Act of 1964 (PL 88-352) which prohibits discrimination on the basis of race, color or national origin; 2) Title IX of the Education Amendment of 1972, as amended (20 USC ss. 1681-1683, and 1685-1686), which prohibits discrimination on the basis of sex; 3) Section 504 of the Rehabilitation Act of 1973, as amended (20 USC s. 794), which prohibits discrimination on the basis of handicaps; 4) The Age Discrimination Act of 1975, as amended (42 USC ss. 6101- 6107) which prohibits discrimination on the basis of age; 5) The Drug Abuse Office and Treatment Act of 1972 (PL 92-255), as amended, relating to nondiscrimination on the basis of drug abuse; 6) The Comprehensive Alcohol Abuse and Alcoholism Prevention, Treatment and Rehabilitation Act of 1970 (PL 91-616), as amended, relating to nondiscrimination on the basis of alcohol abuse or alcoholism; 7) The Public Health Service Act of 1912, ss. 523 and 527 (42 USC ss. 690dd-3 and 290ee-3), as amended, relating to confidentiality of alcohol and drug abuse patient records; 8) Title VIII of the Civil Rights Act of 1968 (42 USC s. et seq.), as amended, relating to nondiscrimination in the sale, rental or financing of housing; 9) The Americans with Disabilities Act of 1990 (42 USC s. 1201 Note), as maybe amended from time to time, relating to nondiscrimination on the basis of disability; 10) Monroe COUNTY Code Ch. 13, Art. VI, prohibiting discrimination on the bases of race, color, sex, religion, disability, national origin, ancestry, sexual orientation, gender identity or expression, familial status or age; and 11) any other nondiscrimination provisions in any Federal or state statutes which may apply to the parties to, or the subject matter of, this CONTRACT.

13. PRIVILEGES AND IMMUNITIES:

All of the privileges and immunities from liability; exemptions from laws, ordinances, and rules; and pensions and relief, disability, workers' compensation, and other benefits which apply to the

activity of officers, agents, volunteers, or employees of the COUNTY, when performing their respective functions under this CONTRACT within the territorial limits of the COUNTY shall apply to the same degree and extent to the performance of such functions and duties of such officers, agents, volunteers, or employees outside the territorial limits of the COUNTY.

14. INSPECTION OF BOOKS AND FACILITIES/AUDIT/ACCOUNTING:

CONTRACTOR shall keep and maintain all books, records, and documents directly pertinent to performance under this CONTRACT in accordance with generally accepted accounting principles consistently applied. Each party to this CONTRACT or their authorized representatives shall have reasonable and timely access to such records of each other party to this CONTRACT for public records purposes during the term of the CONTRACT and for five (5) years following the termination of this CONTRACT. If an auditor employed by the COUNTY or Clerk determines that monies paid to the CONTRACTOR pursuant to this CONTRACT were spent for purposes not authorized by this CONTRACT, the CONTRACTOR shall repay the monies together with interest calculated pursuant to Sec. 55.03, FS, running from the date the monies were paid to CONTRACTOR.

In addition, the CONTRACTOR shall, at its expense, obtain an annual audit prepared by an independent Certified Public Accountant; the independent Certified Public Accountant shall directly provide the annual audit to the COUNTY as an intended recipient of the audit; said audit shall conform to generally accepted auditing standards and shall be submitted to the COUNTY within one hundred twenty (120) days following the close of the CONTRACTOR's fiscal year.

The CONTRACTOR shall also allow the COUNTY to inspect the CONTRACTOR's property, facilities or equipment at any reasonable time.

15. PUBLIC RECORDS:

The CONTRACTOR shall comply with the Public Records laws of the State of Florida, subject to any provisions providing exemption from disclosure. The COUNTY shall have the right to unilaterally cancel this CONTRACT upon violation of this provision by CONTRACTOR.

16. ATTESTATIONS:

CONTRACTOR agrees to execute such documents as the COUNTY may reasonably require, to include a Public Entity Crime Statement, an Ethics statement, and a Drug-Free Workplace Statement

17. BREACH OF TERMS BY CONTRACTOR:

The passing, approval, and/or acceptance by the Owner of any defect in the services furnished by the CONTRACTOR, shall not operate as a waiver by the COUNTY of strict compliance with the terms of this Contract, and specifications covering the services. COUNTY may immediately terminate the CONTRACT due to any violations by CONTRACTOR of statutes, rules or regulation governing services related to the incineration yard waste demonstration project as set

forth in the scope of service. Any other CONTRACTOR breach of this CONTRACT shall be governed by the article below on termination for cause.

The CONTRACTOR agrees that the County Administrator may designate representatives to visit the Site periodically to inspect the CONTRACTOR's implementation of the Project.

~~18. TERMINATION WITHOUT CAUSE:~~

~~The COUNTY may terminate this CONTRACT without cause by providing the CONTRACTOR with written notice of termination at least sixty (60) days prior to the date of termination.~~

Haag-Rhonda 12/4/13 2:08 PM
Formatted: Strikethrough

18. TERMINATION WITHOUT CAUSE:

The COUNTY may terminate this CONTRACT without cause by providing the CONTRACTOR with written notice of termination thirty (30) days prior to the date of termination. The COUNTY shall pay the CONTRACTOR the sum of One Hundred Fifty Thousand Dollars (\$150,000) if such termination is provided within the first thirty days of the effective date of the CONTRACT. This sum shall be reduced by \$6,250 every thirty (30) days afterwards, so that by month 24 the sum to be paid to the CONTRACTOR shall be zero dollars if the CONTRACT is terminated for convenience.

19. TERMINATION WITH CAUSE:

The COUNTY may terminate this CONTRACT for cause if the CONTRACTOR shall default in the performance of any of its obligations under this CONTRACT. Default shall include the occurrence of any one of the following events and same is not corrected to the satisfaction of the COUNTY within fifteen (15) days after the COUNTY provides the CONTRACTOR with written notice of said default:

- a. Failure to obtain and maintain the proper permit(s) and license(s).
- b. Failure to maintain the proper safety standards, including but not limited to those set forth in the operating Manual as shown in attached Exhibit "A"
- c. Breach of any other term, condition or requirement of this CONTRACT.
- d. Complaints from the surrounding community only if the CONTRACTOR is failing to follow the laws, statutes, CONTRACT or permit conditions or is improperly operating the equipment.
- d. ~~Complaints from the surrounding community~~ []

Haag-Rhonda 12/4/13 2:12 PM
Formatted: Strikethrough

20. COMPLIANCE WITH LAW:

In providing all services/goods pursuant to this CONTRACT, the CONTRACTOR shall abide by all statutes, ordinances, rules and regulations pertaining to, or regulating the provisions of, such services, including those now in effect and hereinafter adopted. Any violation of said statutes, ordinances, rules and regulations shall constitute a material breach of this CONTRACT and shall entitle the Board to terminate this contract immediately upon delivery of written notice of

Haag-Rhonda 12/4/13 2:18 PM
Formatted: Strikethrough

termination to the CONTRACTOR. The CONTRACTOR shall possess proper licenses to perform work in accordance with these specifications throughout the term of this contract.

21. SEVERABILITY:

If any term, covenant, condition or provision of this CONTRACT (or the application thereof to any circumstance or person) shall be declared invalid or unenforceable to any extent by a court of competent jurisdiction, the remaining terms, covenants, conditions and provisions of this CONTRACT shall not be affected thereby; and each remaining term, covenant, condition and provision of this CONTRACT shall be valid and shall be enforceable to the fullest extent permitted by law unless the enforcement of the remaining terms, covenants, conditions and provisions of this CONTRACT would prevent the accomplishment of the original intent of this CONTRACT. The Franchisor and Franchisee agree to reform the CONTRACT to replace any stricken provision with a valid provision that comes as close as possible to the intent of the stricken provision.

22. DISCLOSURE AND CONFLICT OF INTEREST:

The CONTRACTOR represents that it, its directors, principles and employees, presently have no interest and shall acquire no interest, either direct or indirect, which would conflict in any manner with the performance of services required by this contract, as provided in Sect. 112.311, et. seq., Florida Statutes.

Upon execution of this contract, and thereafter as changes may require, the CONTRACTOR shall notify the COUNTY of any financial interest it may have in any and all contracts with Monroe COUNTY.

23. FINANCIAL RESPONSIBILITY:

The CONTRACTOR shall not pledge the COUNTY's credit or make it a guarantor of payment or surety for any contract, debt, obligation, judgment, lien, or any form of indebtedness. The CONTRACTOR further warrants and represents that it has no obligation or indebtedness that would impair its ability to fulfill the terms of this contract.

24. MODIFICATIONS:

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

25. NOTICE REQUIREMENT:

Any notice required or permitted under this CONTRACT shall be in writing and hand delivered or mailed, postage prepaid, to the other party by certified mail, returned receipt requested, to the following:

FOR COUNTY:

Monroe COUNTY Administrator
1100 Simonton Street
Key West, FL 33040

Rhonda Haag,
Sustainability Program Manger
102060 Overseas Highway, Ste. 246
Key Largo, FL 33037 **and**

County Attorney
1111 12th St., Suite 408
Key West, FL 33040

FOR CONTRACTOR:

Rudy Krause
Rudy Krause Construction
26351 Old State Road
Ramrod Key, FL 33042
305-872-2100 (phone)
305-872-1286 (fax)

26. TAXES:

The COUNTY is exempt from payment of Florida State Sales and Use taxes. The CONTRACTOR shall **not** be exempted by virtue of the COUNTY's exemption from paying sales tax to its suppliers for materials used to fulfill its obligations under this contract, nor is the CONTRACTOR authorized to use the COUNTY's Tax Exemption Number in securing such materials. The CONTRACTOR shall be responsible for any and all taxes, or payments of withholding, related to services rendered under this CONTRACT.

27. GOVERNING LAWS:

This CONTRACT is governed by the laws of the State of Florida. Venue for any litigation arising under this CONTRACT must be in Monroe County, Florida. In the event of any litigation, the prevailing party is entitled to attorney's fees and costs.

28. ADJUDICATION OF DISPUTES OR DISCONTRACTS:

The parties agree that all disputes and disagreements shall be attempted to be resolved by meet and confer sessions between representatives of each of the parties. If no resolution can be agreed upon within thirty (30) days after the first meet and confer session, the issue or issues shall be

discussed at a public meeting of the Board of County Commissioners. If the issue or issues are still not resolved to the satisfaction of the parties, then any party shall have the right to seek such relief or remedy as may be provided by this CONTRACT or by Florida law.

29. PUBLIC ENTITY CRIME STATEMENT:

A person or affiliate who has been placed on the convicted vendor list following a conviction for public entity crime may not submit a bid on a contract to provide goods or services to a public entity, may not submit a bid on a contract with a public entity for construction or repair of a public building or public work, may not submit bids on leases of real property to public entity, may not be awarded or perform work as a CONTRACTOR, supplier, subcontractor, or consultant under a contract with any public entity, and may not transact business with any public entity in excess of the threshold amount provided in Section 287.017, F.S. for CATEGORY TWO for a period of 36 months from the date of being placed on the convicted vendor list. (CATEGORY TWO: \$25,000.00).

30. AUTHORIZED SIGNATORY:

The signatory for the CONTRACTOR, below, certifies and warrants that:

- (a) The CONTRACTOR's name in this CONTRACT is its full name as designated in its corporate charter.
- (b) He or she is empowered to act and contract for CONTRACTOR.

31. TITLE TO WASTE:

The CONTRACTOR shall hold title and ownership to all Vegetative Waste once delivered to the Site by the COUNTY's Hauler or Collector.

32. ASSIGNMENT AND SUBLETTING:

The CONTRACTOR shall not assign or dispose of the CONTRACT by sale, lease, mortgage or otherwise transfer it in any manner whatsoever without the express written consent of the COUNTY. The COUNTY shall have full discretion to approve or deny, with or without cause, any proposed assignment or assignment by the CONTRACTOR. Any assignment of this CONTRACT made by the CONTRACTOR without the express written consent of the COUNTY shall be null and void and shall be grounds for the COUNTY to declare a default of this CONTRACT and immediately terminate this CONTRACT by giving written notice to the CONTRACTOR, and upon the date of such notice this CONTRACT shall be deemed immediately terminated, and upon such termination all liability of the COUNTY under this CONTRACT to the CONTRACTOR shall cease, and COUNTY shall have the right to call the performance bond.

33. ENTIRE CONTRACT:

This CONTRACT constitutes the entire CONTRACT between the COUNTY and the CONTRACTOR for the services contemplated herein. Any amendments or revisions to this CONTRACT must be in writing and be executed in the same manner as this CONTRACT.

34. EXECUTION IN COUNTERPARTS:

This CONTRACT may be executed in any number of counterparts, each of which shall be regarded as an original, all of which taken together shall constitute one and the same instrument and any of the parties hereto may execute this CONTRACT by signing any such counterpart.

IN WITNESS WHEREOF the parties hereto have executed this CONTRACT on the day and date first written above in four (4) counterparts, each of which shall, without proof or accounting for the other counterparts, be deemed an original contract.

(SEAL)

Attest: AMY HEAVILIN, CLERK

BOARD OF COUNTY COMMISSIONERS
OF MONROE COUNTY, FLOIDA

By: _____
Deputy Clerk

By: _____
Mayor/Chairman

(SEAL)

Attest:

CONTRACTOR

By: _____
WITNESS

By: _____

Title: _____

Title: _____

By: _____
WITNESS

Title: _____

Exhibit "A"

OPERATING MANUAL
And all Safety Requirements for the
"Self-Contained Refractory Walled Air Curtain Burner S-300 Series

EXHIBIT "B"
INSURANCE REQUIREMENTS