

LICENSE AGREEMENT

This LICENSE AGREEMENT (this “Agreement”) between the Baldwin County Commission (“the County”), with an address at 312 Courthouse Square, Suite 12, Bay Minette, Alabama 36507, and DONALD R. HARTMAN and JANICE G. HARTMAN, a married couple (“Hartman”).

WITNESSETH:

WHEREAS, the County is the owner of the real property described as tax parcel number 05-42-05-21-0-000-003.000 in Baldwin County, Alabama, which is also known as MacBride Landfill (the “Property”);

WHEREAS, Hartman desires to access the southernmost thirty (30) feet of the Property for the purpose of ingress and egress to a parcel of property Hartman owns adjacent to the westernmost 1,300 ft., approximately, of the Property’s southern boundary. Said parcel owned by Hartman is described as tax parcel number 05-42-05-21-0-000-004.000 (the “Adjacent Parcel”); and

WHEREAS, the County is willing to grant said access based upon the terms and conditions set forth herein.

NOW, THEREFORE, for good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties agree as follows:

1. Recitals. The above recitals and statements are incorporated as part of this Agreement as if fully set forth herein.

2. Grant of Revocable, Non-Exclusive and Temporary License to Hartman. Subject to the terms and conditions set forth herein, the County hereby grants to Hartman a revocable, non-exclusive and temporary license (the “License”) to enter upon the southernmost thirty (30) feet of the Property as is reasonably required for ingress and egress to the Adjacent Parcel. The Property shall be used for the sole purpose of ingress and egress to the Adjacent Parcel. No further development or use of the Property is permitted or allowed without the County’s prior written consent. The County retains the right to use the Property as it deems necessary. This License is granted to Hartman and is limited and specifically restricted to Hartman and its representatives (“Hartman Representatives”). Hartman shall have the Property surveyed and staked prior to performing any work thereon. All improvements constructed by Hartman shall be maintained by Hartman for any and all portions of the Property that are not County maintained.

3. Property. The real property subject hereto is limited to and sufficiently described as the southernmost thirty (30) feet of the Property and as shown on the Site Map and Vicinity Map attached hereto. Any exhibits referenced and attached hereto shall be incorporated herein as if fully set forth.

4. Condition of License Area: Assumption of Risk. Hartman accepts the Property in its “WHERE IS”, “AS IS”, condition and acknowledges that the County has made no representation or warranty to Hartman as to, and has no obligation for, the condition of the Property. Hartman assumes the risk of any latent or patent defects or problems that are or may be on the Property or the improvements thereon. Hartman agrees that the County shall not be liable for any personal or property damage, injury or loss on account of any such defects or problems. Hartman for itself and the Hartman Representatives waives and releases the County from any and all claims for injury to persons, including death, or damage to any property, whether real or personal, of Hartman or any Hartman Representatives in any way arising out of or related to the Property or Hartman’s work contemplated by this Agreement.

5. Compliance. Hartman and the Hartman Representatives shall comply, at Hartman’s expense, with all applicable laws, regulations, rules and orders, whether federal, state or local, and any regulation of any governmental body having jurisdiction over the Property with respect to Hartman’s work and activities thereon, regardless of when they become effective. Hartman, at their cost, shall obtain any applicable licenses or permits required by applicable laws and regulations for the use of the Property. Hartman shall not use, nor permit the use, of the Property for any purpose in violation of such laws, regulations, rules or orders. Hartman agrees not to use the Property in any fashion which may in any way damage or restrict the same for future use by the public in general as a public right-of-way. Furthermore, said usage as described herein, or the placement of said usage, shall not in any way alter the present or future rights of the County to move, relocate, amend, or otherwise change said travel way to any other location whatsoever. Hartman shall comply with the County’s safety and security policies deemed to be necessary by the County and with such reasonable rules and regulations as the County, or its agents, may impose from time to time by notice to Hartman, including without limitation keeping any gates on the Property locked except when unlocking for ingress and egress through such gates.

6. Public Property. Hartman acknowledges and consents that the Property is public in nature and that the usage hereunder is permissive. Hartman shall not obstruct or otherwise interrupt the use of the Property as a landfill or the rights of the general public, if any, to the Property. Hartman makes no claim of private ownership or other possessory interest in the Property subject hereto. Any work performed by Hartman, or any improvements made as a result of Hartman’s work, on the Property is considered to be a benefit to the general public, and Hartman makes no claim that such work or improvements are privately owned and waives all rights to claims that such work or improvements are private in nature. Hartman further represents and warrants that the County, nor any persons using said public access in conjunction with this License, may claim any personal rights in the subject property or any rights of adverse possession.

7. Indemnification. Hartman shall indemnify, defend and hold the County and its Commissioners, affiliates, employees, agents, representatives, contractors, subcontractors, Hartman and invitees (collectively, “the County Representatives”) harmless from and against any and all claims, demands, liabilities, damages, losses, judgments, costs, and expenses including, without limitation, attorneys’ fees and costs, for any and all personal injury (including death) and property damage of any kind or nature whatsoever, incurred by or imposed upon the County or any the County Representatives, as a result of any entry upon or activity conducted by Hartman or any Hartman Representative, or any act or omission by Hartman or any Hartman Representative,

or in any way arising out of or related to the Property or use contemplated by this Agreement. Hartman shall also assume the responsibility for any claims for damage done to any property due to the exercise, usage and/or presence of the use as a result of this License.

8. No Alteration. Except as expressly permitted by this Agreement, Hartman shall not make nor permit any uses alterations or additions to the Property without the County's prior written consent.

9. Removal and Completion Upon Termination. Upon the expiration or termination of this License, Hartman shall (a) peaceably deliver to the County the full possession of the Property; (b) remove all materials, equipment, debris, waste, staged fill materials and improvements placed thereon by Hartman or Hartman Representatives or resulting from work or use under this Agreement; and (c) repair any damage to the Property and restore the Property to its condition on the date of this Agreement. Should Hartman fail, within thirty (30) days after the date of the termination of this License, to make such removal, repair and restoration, the County may, at its option, remove said materials, equipment and improvements and complete said repair and restoration at the sole cost of Hartman. Hartman shall reimburse the County for such costs within thirty (30) days after request by the County.

10. Damage to Property. Hartman agrees to pay for any damage which may arise to buildings, fences, machinery, or other property of the County or any third party on or near the Property resulting from Hartman's use of or presence on the Property. Hartman shall reimburse any and all costs related to any and all corrections, changes or improvements deemed to be necessary by the County as a result of work performed pursuant to this Agreement or as a result thereof.

11. Standard of Operation; Expenses. Hartman shall conduct all of its operations in a safe and workmanlike manner. All work and activities which Hartman or Hartman Representatives perform at the Property shall be at Hartman's sole risk, cost and expense. All portions of the work performed or improvements installed by Hartman or its representatives pursuant to this Agreement shall be located and performed so as to cause minimum interference with the proper use of the rights of way and with the rights and reasonable convenience of property owners who own or occupy adjacent properties. If during the course of Hartman's construction, operation or maintenance of the project or improvements, there occurs a disturbance of the Property by Hartman or its representatives, Hartman shall, at Hartman's expense, replace and restore the same to a condition comparable to the condition it was in immediately prior to the disturbance to the satisfaction of the County and within the dates specified in any permits authorizing the work.

12. Responsibility. Hartman shall be responsible for compliance by Hartman Representatives with the terms of this Agreement and for all acts or omissions by Hartman Representatives on the Property.

13. No Assignment. Hartman shall not have the right to assign this Agreement or any rights or obligations hereunder without the County's prior written permission. Any attempted assignment shall be void. No assignment shall relieve Hartman of its liabilities and obligations herein.

14. Agency. It is neither the express nor the implied intent of the County or Hartman to create an agency relationship pursuant to this License; therefore, any actions of the parties shall not be considered or implied to create such agency.

15. No Waiver. The failure of the County or Hartman to insist upon a strict performance of any of the terms, conditions and covenants herein shall not be deemed a waiver of any subsequent breach or default in the terms, conditions and covenants herein contained.

16. Termination. It is understood and agreed that the County, in its absolute discretion, with or without cause, may terminate the License and permission herein granted to Hartman. Termination of the License and permission herein granted may be accomplished in writing, or orally. Once notice of termination is given by the County to Hartman, the permission herein granted shall immediately and automatically terminate, and Hartman shall have no further right, permission or authority to utilize the Property. All representations, assurances and indemnity obligations set forth in this Agreement shall survive termination or expiration of this Agreement.

19. Miscellaneous.

(a) This Agreement shall not be construed more strictly against one party than against the other merely by virtue of the fact that it may have been prepared by counsel for one of the parties. Both the County and Hartman have contributed substantially and materially to the preparation of this Agreement.

(b) This Agreement shall apply to and bind the successors and permitted assigns of the respective parties.

(c) This Agreement embodies the entire agreement and understanding of the parties, and there are no further or prior agreements or understandings, written or oral, in effect between the parties relating to the subject matter hereof.

(d) This Agreement may not be modified orally or in any manner other than by an agreement in writing signed by the parties or their respective successors or permitted assigns.

(e) The headings in this Agreement are for convenience of reference only and shall not limit or otherwise affect the meaning hereof.

(f) This Agreement may be executed in any number or counterparts, each of which shall be an original, but all of which together shall constitute one and the same instrument. This agreement may be delivered by facsimile transmission.

(g) This Agreement shall be construed in accordance with and governed by the laws of the State of Alabama, with proper venue for any action arising hereunder lying in Baldwin County.

(h) Hartman's obligations under this Agreement shall survive expiration or termination of this Agreement.

20. Financial Terms/Conditions. Hartman shall incur and absorb all financial responsibility that arises to complete the project and/or work contemplated by this Agreement and shall remain responsible for the duration of the Agreement. The County shall not incur any expense of the usage or maintenance described in this Agreement. These financial responsibilities shall lie solely with Hartman.

21. Terms of Maintenance Agreement. Any damage to the existing Property caused by periodic maintenance to the Property shall be the sole responsibility of Hartman to repair at Hartman's expense.

IN WITNESS WHEREOF, the parties have executed this Agreement as of the date of full execution by the County below.

DONALD R. HARTMAN:

_____/_____
/Date

State of Alabama)
County of Baldwin)

I, _____, a Notary Public in and for said County, in said State, hereby certify that _____, is the individual whose name is signed to the foregoing instrument, and who is known to me, acknowledged before me on this day that, being informed of the contents of the instrument, he/she executed the same with full authority to do so voluntarily and personally on the day the same bears date.

Given under my hand and official seal, this the ____ day of _____, 2021.

Notary Public

My Commission Expires: _____

JANICE G. HARTMAN:

_____/_____
/Date

State of Alabama)
County of Baldwin)

I, _____, a Notary Public in and for said County, in said State, hereby
certify that _____, is the individual whose name is signed to the
foregoing instrument, and who is known to me, acknowledged before me on this day that, being
informed of the contents of the instrument, he/she executed the same with full authority to do so
voluntarily and personally on the day the same bears date.

Given under my hand and official seal, this the ____ day of _____, 2021.

Notary Public

My Commission Expires: _____

THE COUNTY:

BALDWIN COUNTY, ALABAMA

ATTEST:

_____/_____
Wayne Dyess /Date
County Administrator

_____/_____
Joe Davis, III /Date
Chairman

State of Alabama)
County of Baldwin)

I, _____, a Notary Public in and for said County, in said State, hereby certify that Joe Davis, III and Wayne Dyess, as Chairman and County Administrator, respectively, of the Baldwin County Commission, and whose names are signed to the foregoing instrument, and who is known to me, acknowledged before me on this day that, being informed of the contents of the instrument, they executed the same with full authority to do so voluntarily on the day the same bears date.

Given under my hand and official seal, this the ____ day of _____, 2021.

Notary Public

My Commission Expires: _____