

**Delaware Solid Waste Authority
Southern Solid Waste Management Center
Construction of Cell 3 Disposal Area
Contract DSWA – 332**

AGREEMENT

THIS AGREEMENT made and entered into this ___ day of _____, 19___, by and between the Delaware Solid Waste Authority, hereinafter known as the Authority, Party of the First Part, and (fill in one)

a CORPORATION known as _____,
organized and existing under the laws of the State of _____;

a PARTNERSHIP known as _____,
consisting of the following partners: _____
_____;

an INDIVIDUAL _____,
trading as _____,
whose address is _____
City of _____, State of _____,

hereinafter called the Contractor, Party of the Second Part.

WITNESSETH, that the parties hereto for the consideration stated do mutually agree as follows:

ARTICLE I. Scope of Work. The Contractor agrees to furnish all labor, superintendence, transportation, materials, equipment, plant, and other utilities and facilities for; perform all work necessary for or incidental to; and to perform all other obligations imposed by this Contract for the Complete Work in connection with the Construction of the Cell 3 Disposal Area at the Southern Solid Waste Management Center, all in strict accordance with the Contract Documents, attached hereto or referred to herein, all of which are made a part hereof and designated as follows:

- | | | |
|---|---|-----------------------------|
| a. Notice to Bidders | f. Certification of Insurance | l. Equipment, Manpower, and |
| b. Bid Form | g. Hold Harmless Agreement | Projected Workload Form |
| c. List of Subcontractors Form
(Contract DSWA-332) | h. Drawings | m. Experience Record Form |
| d. Technical Specifications | i. Addenda, if any | n. Notice to Proceed |
| e. Performance/Payment Bond | j. Financial Statement | o. Bid Bond Form |
| | k. Construction Quality
Assurance Plan | |

The Specifications, and Drawings are more particularly designated as follows:

Specifications: "Technical Specification, Cell 3 Construction Project, Southern Solid Waste Management Center", by GeoSyntec Consultants, Columbia, Maryland, dated 1 June 1995

CQA Plan: „Liner System Construction Quality Assurance Plan, Cell 3 Construction Project, Southern Solid Waste Management Center, Sussex County, Delaware“, by GeoSyntec Consultants, Columbia, Maryland, dated 1 June 1995.

ARTICLE II. Time of Completion. The Contractor agrees that the work to be performed under this Contract shall commence within ten days of receipt of Notice to Proceed, that the work items identified in § 01000, 1.07 (A) of the Technical Specifications shall be completed within 304 calendar days from the date of issuance of Notice to Proceed, and that the work items identified in § 01000, 10.7 (B) of the Technical Specifications shall be completed within 457 calendar days from the date of issuance of Notice to Proceed.

ARTICLE III. The Contract Prices. The Authority will pay and the Contractor will receive and accept in full for performance of the Contractor's obligations hereunder the lump sum and/or unit prices for item or items set forth in the Contractor's bid; and in the manner as specified in the Contract Documents. The Contractor shall maintain books, records, documents, accounts and other evidence of costs in accordance with generally accepted accounting principles and practices consistently applied. The Authority or its designee, during the Contractor's normal business hours, shall have access to such books, records, documents, accounts and other evidences for the purpose of inspection, auditing and copying. The Contractor shall preserve and shall make such books, records, documents accounts and other evidences available to the Authority or its designee at no charge for a period of three (3) years upon the completion of Services under this Agreement. Notwithstanding anything to the contrary stated herein, the Authority shall have the right to inspect, audit and copy the books, records, documents, accounts and other evidence pertaining to Contract costs.

ARTICLE IV. Disposal of Contract. The Contractor shall keep the Contract under his own control, and shall not sublet, sell, transfer or assign by power of attorney or otherwise dispose of the Contract or any portion thereof or his right, title, or interest therein, to any person, firm, or corporation without the written consent of the Authority.

ARTICLE V. Liquidated Damages. The Contractor agrees that for each calendar day, that any work shall remain uncompleted after the time stipulated above and any extensions granted by the Authority, the Authority may deduct the amounts set forth in Part 1(P), Paragraph 3:38 Time for Completion and Liquidated Damages, of these Contract Documents, or as revised by Addendum thereof. Should the total amount chargeable as liquidated damages exceed the amount due or payable to the Contractor, then such excess shall be paid to the Authority by the

Contractor, or his Surety. Liquidated damages shall be compensation to the Authority for direct losses due to delay in completion only. Any other provable damages shall continue to be recoverable against the Contractor as the law may provide.

ARTICLE VI. Severability of Invalid Provisions. If any one or more of the covenants or agreements provided in this Agreement and Contract Documents should be declared contrary to law, then such covenant or covenants, agreement or agreements shall be deemed severable from the remaining covenants and agreements, and shall in no way affect the validity of any other provisions of this Agreement and Contract Documents.

IN WITNESS WHEREOF, the parties hereto have caused the signatures of their proper officers to be affixed thereto on the day and year first above written.

DELAWARE SOLID WASTE AUTHORITY

Attest:

By: _____
(Signature)

(Name Typed or Legibly Written)

By: _____ (Seal)
(Chief Operating Officer)

(Name Typed or Legibly Written)

trading as _____

CONTRACTOR

Attest:

By: _____
(Signature)

(Name Typed or Legibly Written)

By: _____ (Seal)
(Signature)

(Name Typed or Legibly Written)

**Delaware Solid Waste Authority
Southern Solid Waste Management Centre
Construction of Cell 3 Disposal Area
Contract DSWA – 332**

PERFORMANCE/PAYMENT BOND

KNOW ALL MEN BY THESE PRESENTS that we, _____,
as Principal (the “Principal”), and _____,
a corporation organized and existing under the laws of the _____ of _____
_____, as Surety (the “Surety”), are held and firmly bound unto the Delaware
Solid Waste Authority, as Obligee (the “Obligee”), as hereinafter set forth, in the full and just sum
of _____ Dollars
(\$ _____), lawful money of the United States of America, for the payment of which
sum we bind ourselves, our heirs, executors, administrators, successors, and assigns, jointly and
severally, firmly by these presents.

WITNESSETH THAT:

WHEREAS, the Principal heretofore has submitted to the Obligee a certain bid, dated
_____, 19__ (the “Bid”), to construct for the Obligee, in connection with Contract DSWA-
332, Sitework Construction of the Cell 3 Disposal Area for the Southern Solid Waste
Management Center, located in Sussex County, Delaware, pursuant to plans, specifications, and
other related documents constituting the Contract Documents, which are incorporated into the
Contract by reference (the “Contract Documents”).
and

WHEREAS, it also is a condition of the Contract Documents that this Bond shall be
furnished by the Principal to the Obligee; and

WHEREAS, under the Contract Documents, it is provided, entirely, that if the Principal
shall furnish this Bond to the Obligee and if the Obligee shall make an award to the Principal in
accordance with the Contract, then the Principal and the Obligee shall enter into an agreement
with respect to performance of such work (“Agreement”), for form of which Agreement is set
forth in the Contract Documents.

NOW, THEREFORE, the terms and conditions of this Bond are and shall be that if: (a)
the Principal well, truly and faithfully shall comply with and shall perform the Agreement for the
Work in accordance with the Contract Documents at the time and in the manner provided in the
Agreement and demands incurred in or related to the performance of the Agreement for the
Work by the Principal or growing out of the performance of the Agreement for the Work

by the Principal, and if the Principal shall indemnify completely and shall save harmless the Obligee and all of its officers, agents, and employees from any and all costs and damages which the Obligee and all its officers, agents, and employees may sustain or suffer by reason of the failure of the Principal to do so, and if the Principal shall reimburse completely and shall pay to the Obligee any and all costs and expenses which the Obligee and all of its officers, agents, and employees may incur by reason of any such default or failure of the Principal; (b) if the Principal shall remedy, without cost to the Obligee, all defects which may develop during the Period of one (1) year from the date of completion by the Principal and acceptance of the Obligee of the Work to be performed under the Agreement in accordance with the Contract Documents, which defects, in the sole judgement of the Obligee or its legal successors in interest, shall be caused by or shall result from defective or inferior materials or workmanship; and (c) if the Principal and any subcontractor of the Principal to whom any portion of the Work under the Agreement shall be subcontracted, and if all assignees of the Principal and of any such subcontractor, promptly shall pay or shall cause to be paid, in full, all money which may be due any claimant supplying labor or materials in the prosecution and performance of the Work in accordance with the Agreement and in accordance with the Contract Documents including any amendment, extension, or addition to the Agreement and/or to the Contract Documents for material furnished or labor supplied or labor performed, then this Bond shall be void; otherwise, this Bond shall be and shall remain in force and effect.

This Bond also shall be for the protection of claimants supplying labor or materials to the Principal or to any subcontractor of the Principal in the prosecution of the Work covered by the Agreement including any amendment, extension, or addition to the Agreement. The term "claimant", when used herein, shall mean any individual, firm, partnership, association, or corporation. The phrase "labor or materials", when used herein, shall include public utility services and reasonable rentals of equipment, but only for periods when the equipment rented is actually used at the site of the Work covered by the Agreement. The Provisions of this Bond shall be applicable whether or not the material furnished or labor performed enters into and becomes a component part of the public work contemplated by the Contract Documents and the Agreement.

The Principal and the surety agree that any claimant, who has performed labor or furnished material in the prosecution of the Work in accordance with the Agreement and in accordance with the Contract Documents for the Work, including any amendment, extension, or addition to the Agreement and/or to the Contract Documents, and who has not been paid therefor, in full, before the expiration of ninety (90) days after the day on which such claimant performed the last of such labor or furnished the last such materials for the payment is claimed, may institute an action upon this bond, in the name of the Claimant, in assumpsit, to recover any amount due to claimant for such labor or material, and may prosecute such action to final judgement and may have execution upon the judgement; provide, however, that: (a) any claimant who has a direct contractual relationship with any subcontractor of the Principal, but has no contractual relationship, express or implied, with the Principal, may institute an action upon this Bond only if such claimant first shall have given written notice to the Principal, within ninety (90) days from the date upon which such claimant performed the last of the labor or

furnished the substantial accuracy, the amount claimed, and the name of the person for whom the work was performed or to whom the material was furnished; (b) no action upon this Bond shall be commenced after the expiration of one (1) year from the day upon which the last of the labor was performed or materials were supplied, for the payment of which such action is instituted by the claimant; and (c) every action upon this Bond shall be instituted either in the appropriate court of the county where the Agreement is to be performed or of such other county as statutes shall provide, or in the United States District Court for the District in which the project, to which the Agreement relates, is situated, and not elsewhere.

The Principal and Surety agree that any alterations, changes and/or additions to the Contract Documents, and/or any alterations, changes and/or additions to the Work to be performed under the Agreement in accordance with the Contract Documents, and/or any alterations, changes and/or additions to the Agreement, and/or any giving by the Obligee of any extensions of time for the performance of the Agreement in accordance with the Contract Documents and/or any act of forbearance of either the Principal or the Obligee toward the other with respect to the Contract Documents and the Agreement, and/or the reduction of any percentage to be retained by the Obligee as permitted by the Contract Documents and by the Agreement, shall not release, in any manner whatsoever, the Principal and the Surety, or either of them, or their heirs, executors, administrators, successors and assigns, from liability and obligations under this bond; and the Surety, for value received does waive notice of any alterations, changes, additions, extensions of time, acts of forbearance and/or reduction of retained percentage.

IN WITNESS WHEREOF, the Principal and Surety cause this Bond to be signed, sealed, and delivered this ____ day of _____, 19__.

(Individual Principal)

Witness:

_____	_____ (SEAL)
Signature	(Individual) Signature
_____	_____
Name Typed or Legibly Written	Name Typed or Legibly Written

Trading and Doing Business as

Typed

(Partnership Principal)

(Name of Partnership) Typed

Witness:

Signature By _____ (SEAL)
(Partner) Signature

Name Typed or Legibly Written By _____
Name Typed or Legibly Written

Signature By _____ (SEAL)
(Partner) Signature

Name Typed or Legibly Written By _____
Name Typed or Legibly Written

Signature By _____ (SEAL)
(Partner) Signature

Name Typed or Legibly Written By _____
Name Typed or Legibly Written

Signature By _____ (SEAL)
(Partner) Signature

Name Typed or Legibly Written By _____
Name Typed or Legibly Written

(Corporation Principal)

(Name of Corporation) Typed

Attest:

(Assistant Secretary) Signature

By

(President) Signature

Name Typed or Legibly Written

By

Name Typed or Legibly Written

(CORPORATE SEAL)

or (if appropriate)

(Name of Corporation) Typed

Witness

Signature

*By

(Authoritative Representative) Signature

Name Typed or Legibly Written

By

Name Typed or Legibly Written

*Attach appropriate proof, dated as of the same date as the Bond, evidencing authority to execute in behalf of the corporation.

(Corporate Surety)

(Name of Corporation) Typed

Witness:

Signature

**By

(Authorized Representative) Signature

Name Typed or Legibly Written

By

Name Typed or Legibly Written

** Attach an appropriate Power of Attorney, dated as the same date as the Bond, evidencing the authority of the Attorney-in-Fact to act in behalf of the corporation.

(Power of Attorney)

**Delaware Solid Waste Authority
Southern Solid Waste Management Center
Construction of Cell 3 Disposal Area
Contract DSWA – 332**

HOLD HARMLESS AGREEMENT

KNOW ALL PERSONS BY THESE PRESENTS, that _____,
hereinafter called CONTRACTOR, has entered into a Contract with the Delaware Solid Waste
Authority, hereinafter called the AUTHORITY, dated _____, for Contract DSWA-332.

NOW, THEREFORE, in consideration of the award of said Contract to the
CONTRACTOR, as well as other good and valuable consideration, CONTRACTOR, intending to
be legally bound hereby, agrees to indemnify and save harmless the AUTHORITY and
ENGINEER and its officers and employees from and against all claims, damages, losses, and
expenses (including attorney's fees) arising out of or resulting from the performance of the Work,
provided that any such claim, damage, loss, or expense, including land, air, water or groundwater
pollution (a) is attributable to bodily injury, sickness, disease, or death, or to injury or destruction
of property (real or personal) including loss of use resulting therefrom and (b) is also caused in
whole or in part by any act or omission of the CONTRACTOR, any subcontractor, anyone
directly or indirectly employed or controlled by any one of them unless such claim, damage loss
or expense is caused by, results from, or arises out of, partially or solely, the negligence of the
AUTHORITY, or its officers and employees or others than the CONTRACTOR or its
subcontractors, agents, servants or employees.

In any and all claims against AUTHORITY or ENGINEER or any of its agents, officers,
or employees by any employee of the CONTRACTOR or any subcontractor or anyone directly or
indirectly employed by any of them or any one for whose acts any one or more of them may be
liable, the indemnification obligation of the CONTRACTOR hereunder shall not be limited in any
way by any limits on the amount or type of damages, compensation, or benefits payable by or for
the CONTRACTOR or any subcontractor under the Workmen's Compensation Act, or any
disability benefit acts or any other employee benefit act of the State of Delaware or any other
state.

CONTRACTOR

BY:

Signature

BY: _____

Name Typed or Legibly Written

Attest: _____

Signature

Name Typed or Legibly Written

Date: _____

(State of Delaware **BUSINESS LICENSE**)

This certificate is issued as a matter of information only and confers no rights upon you the certificate holder. This certificate is not an insurance policy and does not amend, extend, or alter the coverage afforded by the policies listed below.

**Delaware Solid Waste Authority
Southern Solid Waste Management Center
Construction of Cell 3 Disposal Area
Contract DSWA – 332**

CERTIFICATE OF INSURANCE

KNOW ALL PERSONS BY THESE PRESENTS, that _____
(Name of Insurance Company)

_____ hereby certifies that _____
(CONTRACTOR)

is insured through us, for Contract DSWA – 332, Construction of the Cell 3 Disposal Area at the Southern Solid Waste Management Center, located in Sussex County, Delaware, for the Delaware Solid Waste Authority.

The Company further certifies that the CONTRACTOR carries the following forms of insurance in accordance with the Contract Specifications:

<u>Type of Coverage</u>	<u>Minimum Limits</u>	<u>Policy Number</u> <u>Expiration Date</u>
1. Workmen's Compensation (including coverage under United States Longshoremen's and Harbor Workers Act, where applicable.	Coverage A Delaware Statutory (Broad Form All States Endorsement)	WC1-131-012905-665 6-1-96
Employer's Liability	\$ 100.000	
2. Comprehensive General (Public) Liability, including the following: a. Premises/Operations		TB2-131-012905-025 6-1-96
Bodily Injury	\$1,000,000 ea. occur. \$1,000,000 aggregate	TB2-131-012905-025 6-1-96
Property Damage	\$500,000 ea. occur. \$500,000 aggregate	

<u>Type of Coverage</u>	<u>Minimum Limits</u>	<u>Policy Number</u> <u>Expiration Date</u>
b. XCU coverage covering explosion, collapse, underground damage or blasting hazards where applicable.		TB2-131-012905-025 6-1-96
Bodily Injury	\$1,000,000 ea. occur. \$1,000,000 aggregate	
Property damage	\$500,000 ea. occur. \$500,000 aggregate	
c. Products – Completed Operations Coverage until two years after substantial completion to be provided by endorsement or issuance of separate policy of insurance in name of Owner.		
d. Contractual Liability insuring the Hold Harmless and Indemnification Agreement.		TB2-131-012905-025 6-1-96
Bodily Injury	\$1,000,000 ea. occur. \$1,000,000 aggregate	
Property Damage	\$500,000 ea. occur. \$500,000 aggregate	
e. Personal Injury Liability. full coverage 0% participation exclusion C deleted.	\$1,000,000 aggregate	TB2-131-012905-025 6-1-96
f. CONTRACTOR's Protective Liability (if subcontractors are employed).		TB2-131-012905-025 6-1-96
Bodily Injury	\$1,000,000 ea. person \$1,000,000 ea. occur.	
Property Damage	\$500,000 ea. occur. \$500,000 aggregate	

<u>Type of Coverage</u>	<u>Minimum Limits</u>	<u>Policy Number</u> <u>Expiration Date</u>
g. Delaware Solid Waste Authority and engineer as additional named insured (it is permissible to restrict endorsement in this regard limiting coverage to a designated premise or designating Contract).		TB2-131-012905-025 6-1-96
3. Automobile Liability		AS2-131-012905-035 6-1-96
Bodily Injury	\$500,000 ea. person \$1,000,000 ea. accident	
Property Damage or Combined Single Limit Bodily Injury/Property Damage	\$1,000,000 ea. accident \$1,000,000	
4. Owner's and Contractor's Protective Liability		
a. Bodily Injury and Property Damage Combined	\$1,000,000 ea. occur. \$1,000,000 aggregate	

The above information is hereby certified as true and correct by _____
(Name of Agent)
_____, a legal agent for _____
(Name of Company)

who also agrees in the event of cancellation or material changes of the insurance the Company agrees to give written notice to the party at whose request this certificate is issued thirty (30) days before the date of cancellation or material, this _____ day of _____ 19____ .

(Signature of Agent)

(Name of Agent, please type)

(Address of Agent)

(Telephone Number)

(SEAL)

THIS CERTIFICATE OF INSURANCE NEITHER AFFIRMATIVELY OR NEGATIVELY AMENDS, EXTENDS OR ALTERS THE COVERAGE EXTENDED BY THE POLICIES LISTED HERE.