



- Irving has an available inventory of ground mulch product it will provide at no cost to Denton.
- Irving will provide ground mulch in excess of its needs to Denton.
- Irving will provide access to ground mulch at the Irving Hunter Ferrell Landfill.
- Irving will provide 60 percent of the existing ground mulch at the time of execution of this Agreement.
- Irving agrees to produce ground mulch each month and to make at least 50 percent of that ground mulch produced available for Denton.
- Irving will provide the equipment and manpower required to load the ground mulch into vehicles belonging to Denton.
- Denton will provide the vehicles and manpower required to transport the ground mulch from the City of Irving to the City of Denton.
- If at any point during the term of this Agreement Irving needs ground mulch and Denton has any excess ground mulch available, the cities agree that Irving will be allowed access to Denton's ground mulch provided that Irving provide the manpower and equipment to transport the ground mulch and Denton will provide the manpower and equipment to load the ground mulch.
- The cities agree to provide ground mulch at no cost to the other city.

#### **EMERGENCY SUPPORT (if needed)**

- Irving and Denton will provide appropriate assistance to one another when requested in accordance with Texas Gov't Code Chapters 791 and 418, as amended. This assistance can be in the form of access to each city's landfill, use of landfill type equipment, etc., and is hereby authorized by the governing bodies of the cities pursuant to Texas Gov't Code Chapters 791 and 418, as amended.
- Access to and use of either city's landfill will be done to accommodate natural disasters, unforeseen permit issues, etc. Each city agrees to pay the other the lowest wholesale rate per ton of waste hauled to the other's landfill.
- Use of each other's landfill type equipment will be allowed only when it will not impact the other's operations. Each city agrees to pay the other a negotiated per week rental rate for use of the equipment. The city "renting" the equipment is responsible for the transport of the equipment from one site to the other. Additionally, the renting city agrees to perform scheduled preventive maintenance while it has the equipment onsite. Each city will have a representative perform a walk-around inspection prior to rental to identify any pre-existing conditions. Should the renting city damage the piece of rental equipment, the renting city agrees to repair the rental equipment to its pre-damaged condition.

- The cities agree to consider any reasonable request from the other to address urgent or emergency situations.

**D. Apportionment of Liability:** Each party is responsible for the acts or omissions of its officials, employees and agents. In the event of joint and concurrent negligence, Irving and Denton agree that responsibility shall be apportioned comparatively without waiving any governmental immunity or defenses available to the parties under Texas law. This obligation shall be construed for the benefit of the parties hereto, and not for the benefit of any third parties nor to create liability for the benefit of any third parties.

**E. Limitations of Authority:**

- (1) Neither party may incur any debt, obligation, expense, or liability of any kind on behalf of the other party without the other's express written approval.
- (2) Under no circumstances shall either party be deemed an employee or agent of the other.

**2. Term:** Subject to prior termination or revocation of this Agreement as provided herein, the initial term shall be in full force and effect for a period of three years. This Agreement will automatically renew for a one-year period on the anniversary of each year, unless notice of termination is given as provided in this Agreement.

**3. Termination:** Termination of this Agreement is within the sole discretion of either party, with or without cause, upon 90 days' written notice to the other party.

**4. Compensation:** Each party agrees that services rendered under this Agreement are adequately compensated by the services received.

**5. Applicable Law:** This Agreement shall be governed by the laws of the State of Texas applicable to contracts made and performed therein.

**6. Venue:** Venue to enforce this Agreement shall lie exclusively in Dallas County, Texas.

**7. Waiver:** The failure of any party hereto to exercise the rights granted herein shall not in any event constitute a waiver of any such rights.

**8. Assignment:** Neither party may assign its interest in this Agreement without the written permission of the other party.

**9. Notice:** All notices required or permitted to be given pursuant to this Agreement shall be in writing and shall be considered properly given if sent by facsimile

transmission or mailed by certified mail, return receipt requested, postage prepaid, and addressed as follows:

**City of Denton**

To: A. Vance Kemler, General Manager  
1527 S. Mayhill Rd.,  
Denton, Texas 76208

**City of Irving**

To: Brenda A. Haney, Solid Waste Services Director  
110 E. Hunter Ferrell Road  
Irving, Texas 75060

Either party reserves the right to designate in writing to the other party any change of name, change of person, or address to which the notices shall be sent.

**10. Nondiscrimination:** Parties to this Agreement shall not discriminate on the basis of race, sex, national origin, disability, or religion.

**11. Current Revenues:** Each party paying for the performance of governmental functions or services in this Agreement must make those payments from current revenues available to the paying party.

**12. Entire Agreement:** This Agreement constitutes the entire agreement and understanding of the parties and may only be changed by written amendment executed by the parties.

**13. Severability:** In the event any provision of this Agreement shall be held invalid or unenforceable by any court of competent jurisdiction, such holding shall not invalidate or render unenforceable any other provision hereof.

**14. Force Majeure:** Neither of the parties to this Agreement shall be deemed in violation of the Agreement if prevented from performing any of the obligations hereunder by reason of strikes, boycotts, labor disputes, acts of God, acts of a public enemy, acts of superior governmental authority, riots, rebellion, sabotage, or any other circumstances for which it is not responsible or which is not in its control.

**15. Insurance:** Each party is self-insured and will obtain any additional insurance as is necessary to perform the obligations under this Agreement in accordance with Texas law.

**16. Relationship of Parties:** This Agreement is not intended to create, nor should it be construed as creating, a partnership, association, joint venture, or trust.

**17. Remedies:** No right or remedy granted herein or reserved to either party is exclusive of any other right or remedy provided or permitted by law or equity; but each shall be cumulative of every other right or remedy given hereunder. Nothing contained in this Agreement is intended to, and does not, waive any immunities afforded to the parties under federal or state law.

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**EXECUTED in multiple original counterparts effective as of the \_\_\_\_\_ day  
of \_\_\_\_\_ 2017.**

**City of Irving, Texas**

**By:** \_\_\_\_\_  
Beth Van Duyne,  
Mayor

**Date:** \_\_\_\_\_

**ATTEST:**

\_\_\_\_\_  
Shanae Jennings, City Secretary

**APPROVED AS TO FORM:**

\_\_\_\_\_  
Kuruvilla Oommen  
City Attorney

**City of Denton, Texas**

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

**Date:** \_\_\_\_\_

**ATTEST:**

\_\_\_\_\_  
\_\_\_\_\_

**Acknowledgment**

**THE STATE OF TEXAS   §  
                                     §  
COUNTY OF DALLAS   §**

BEFORE ME, the undersigned authority, a Notary Public in and for said County and State, on this day personally appeared \_\_\_\_\_, of the \_\_\_\_\_ known to me to be the person and officer whose name is subscribed to the foregoing instrument and acknowledged to me that the same was the act of the said \_\_\_\_\_, a governmental entity, that (s)he is duly authorized to perform the same by approval from the \_\_\_\_\_ of such and that (s)he executed the same as the act of the said governmental entity for purposes and consideration therein expressed, and in the capacity therein stated.

\_\_\_\_\_  
(Name)

**GIVEN UNDER MY HAND AND SEAL OF OFFICE this \_\_\_\_ day of \_\_\_\_\_, A.D., 20\_\_\_\_.**

\_\_\_\_\_  
Notary Public In and For the State of Texas

My Commission Expires:

\_\_\_\_\_

**Mayor's Acknowledgment**

**THE STATE OF TEXAS           §**  
  **§**  
**COUNTY OF DALLAS           §**

BEFORE ME, the undersigned authority, a Notary Public in and for said County and State, on this day personally appeared Beth Van Duyne, Mayor of the City of Irving, Texas, a municipal corporation, known to me to be the person and officer whose name is subscribed to the foregoing instrument and acknowledged to me that the same was the act of the said City of Irving, Texas, a municipal corporation, that she was duly authorized to perform the same by appropriate resolution of the City Council of the City of Irving and that she executed the same as the act of the said City for the purposes and consideration therein expressed, and in the capacity therein stated.

\_\_\_\_\_  
Beth Van Duyne, Mayor

**GIVEN UNDER MY HAND AND SEAL OF OFFICE this \_\_\_\_\_ day of**  
**\_\_\_\_\_, A.D., 20\_\_\_\_\_.**

\_\_\_\_\_  
Notary Public In and For the State of Texas

My Commission Expires:

\_\_\_\_\_