



**MEMORANDUM OF AGREEMENT  
ACMS, INC.  
JOINT USE OF SUMTER COUNTY SOLID WASTE FACILITY TO ACCESS  
CLASS I SOLID WASTE LANDFILL**

This Memorandum of Agreement (the "Agreement") made this 28<sup>th</sup> day of September, 2010, by and between the County of Sumter, State of Florida (the "County"), and ACMS, Inc., ("ACMS")

**WITNESSETH:**

**WHEREAS**, ACMS is the fee simple owner of certain real property located in Sumter County, Florida, described in Exhibit "A", attached hereto and incorporated herein (the "property"), and;

**WHEREAS**, on the 14<sup>th</sup> day of August 2007, ACMS received conditional use approval by the Board of County Commissioners (BOCC) for the development of an 80 acre construction and demolition landfill (C & D) facility (C2007-0001), and;

**WHEREAS**, on the 22<sup>nd</sup> day of January, 2008, ACMS, received operating permit approval by the BOCC for the operation of a Construction & Demolition Material Disposal Facility (OP2007-001) ("C&D Facility"), and;

**WHEREAS**, on the 22<sup>nd</sup> day of January, 2008, ACMS entered into a Memorandum of Agreement with the BOCC for the use of the Sumter County Solid Waste Facility to access a C&D Facility (the "CD Agreement"), and;

**WHEREAS**, ACMS property intended for use as a Construction and Demolition Landfill has been annexed into the City of Bushnell, and;

**WHEREAS**, ACMS is now seeking a permit for a Class I Solid Waste Landfill, and;

**WHEREAS**, an agreement is needed to supercede and replace the CD Agreement, and;

**WHEREAS**, ACMS and the County find that this Agreement evidencing cooperation in the operation of ACMS' Class I Solid Waste Landfill is in the best interest of both Parties.

**NOW THEREFORE**, in consideration of the foregoing, accepting the above WHEREAS clauses as true and with the intention that they will be legally bound, the Parties agree that the following terms and conditions shall apply to utilization of the SCSWF by Sumter County and ACMS:

1. Joint access shall be across the Sumter County Solid Waste Facility (SCSWF) scales.

2. The SCSWF and ACMS hours of operation shall be from 7:30 AM to 4:00 PM – Monday through Saturday.
3. Within 90 days of the end of the ACMS' first year of operation of the Class I Landfill, ACMS shall employ an Engineering Firm who will determine the following:
  - a. The maximum vehicular scale capacity per hour and the actual scale use at the time of the study.
  - b. The peak capacity and actual hour traffic volume.
  - c. The number, type of vehicles, and destination (end user) of traffic crossing the scales.
  - d. Peak hour vehicular traffic shall be weighted in the form of Equivalent Single Axle Loads (ESALs).

This data obtained shall be utilized to calculate the pro-rata share of ACMS and other end users, current and future.

4. At the County's discretion, improvements may be undertaken to upgrade CR 529 from C-470 south to the northeast property line of Exhibit "A", until such time as the road segment and contiguous right-of-way transitions to the control of the City of Bushnell. All end users shall reimburse the County, within 30 days of the County's invoicing of the pro rata share (as defined in #3) of the said CR 529 improvements. The County anticipates that a continuous 24 foot wide improved (paved) travel way designed to accommodate the traffic accessing the SCSWF will be needed.
5. ACMS shall be solely responsible for the improvement of the existing unimproved internal SCSWF roadway running along the west side of the facility commencing at the southerly limit defined in #4 above south to Class I Landfill facility entrance. The minimum improvement shall consist of a milled asphalt haul road no less than 24 feet wide. This improvement shall be completed before any site construction for the ACMS Class I Landfill commences. ACMS shall be solely responsible to maintain the aforementioned internal roadway.
6. This Agreement is subject to the following requirements and conditions:

ACMS shall improve the existing turn lane on C-470 to the County's satisfaction. The County shall not demand improvements inferior to or excess of what the independent Professional Engineering firm compensated by ACMS deems necessary to service the increased traffic volume generated by the Class I Landfill proposed by ACMS. ACMS is responsible for the full cost of this improvement.

As further consideration for use of the County's scale and scale house (said building that is immediately adjacent to the scales and addressed as

835 CR 529, Lake Panasoffkee, FL 33538), ACMS shall pay the County an annual rent of \$50,000.00 unless jointly used by County and ACMS at which time the annual rent shall be \$25,000 (exclusive of the point-to-point connectivity existing), due on the first business day of each calendar year. ACMS shall be responsible for all cleaning, maintenance, and utility costs of the scales and scale house. ACMS shall also maintain insurance coverage on the scale and scale house building sufficient to fund the replacement cost of each in the case of total loss, and shall carry liability insurance in an amount no less than \$2,000,000.00. ACMS will indemnify the County and defend same against any actions or judgments arising from ACMS' utilization of the County's scales and scale house building.

7. All questions, issues or disputes arising out of or under this Agreement, shall be governed by the laws of the State of Florida and State jurisdiction is hereby agreed by ACMS to be in only Sumter County, Florida, and Federal jurisdiction is hereby agreed by ACMS to be only in the Middle District of Florida and all Federal litigation shall be filed and litigated in Tampa, Hillsborough County, Florida. In the event suit is commenced to enforce this Agreement, costs of said suit including reasonable attorney fees in all proceedings, trials, investigations, appearances, appeals and in any bankruptcy proceeding or administrative proceeding shall be paid to the prevailing party by the other party.
8. The parties agree that this Agreement shall supercede and replace the CD Agreement as defined herein.
9. The effective date of this agreement shall be October 1, 2010 or Florida Department of Environmental Protection Permit Issuance Date for the ACMS Class I Landfill whichever comes later.

**IN WITNESS THEREOF**, the hands and seals of the parties on the date set forth above.

**ATTEST: BOARD OF COUNTY COMMISSIONERS, SUMTER COUNTY,  
FLORIDA**

\_\_\_\_\_  
Deputy Clerk

By: \_\_\_\_\_  
Doug Gilpin, Chairman

Approved as to form and content by the Sumter County Attorney

\_\_\_\_\_  
County Attorney

ACMS, INC.

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Charles S. Dean, President

## Exhibit "A"

Section 22, Township 20 S, Range 22 E: the E ½ of NW ¼; and NE ¼ of SW ¼; and W ½ of NE ¼ (less E 50 ft. of NW ¼ of NE ¼); and SE ¼ of NE ¼; and N ½ of SE ¼.

