

B. “Eastern” means defendant Eastern Environmental Services, Inc., a Delaware corporation with its headquarters in Mt. Laurel, New Jersey, and includes its successors and assigns, and its subsidiaries, divisions, groups, affiliates, directors, officers, managers, agents, and employees.

C. “Rights to Eastern’s RFP Proposal” means (1) all right, title and interest in the proposal submitted by Eastern to the New York City Department of Sanitation in response to the New York City Request for Proposals to Receive Solid Waste at a Marine Transfer Station, Procurement Identification No. 82797RR0014, dated June 16, 1997, and any amendments, revisions, or modifications thereto; (2) any intangible assets relating to that proposal, including any engineering, technical, or construction designs, plans or specifications, permit or land use applications, and any options, commitments or agreements of any type for the design, construction, permitting, lease or sale of any land, building or equipment, or to receive, transport store or dispose of waste; (3) at purchaser’s option, such technical assistance on that proposal as the purchaser reasonably may require from Eastern for a period of one hundred fifty days (150) after the purchase of the Rights to Eastern’s RFP Proposal; and (4) at purchaser’s option, airspace disposal rights for up to a twenty-year time period at Eastern’s Waverly, VA landfill, pursuant to which defendants will sell rights to dispose of up to 4,000 tons of average daily waste pursuant to any contract award under the New York City RFP, on the terms and conditions specified in the Waste Disposal Agreement, dated December 29, 1998, between Atlantic Waste Disposal, Inc. and Republic Services, Inc.

D. “Relevant Disposal Assets” means, with respect to each landfill or transfer station listed and described herein: (1) all tangible assets, including all fee and leasehold and renewal rights in the listed landfill or transfer station; the garage and related facilities; offices; and landfill- or transfer station-related assets including capital equipment, trucks and other vehicles, scales, power supply

equipment, interests, permits, and supplies; and (2) all intangible assets of the listed landfill or transfer station, including customer lists, contracts, and accounts, or options to purchase any adjoining property.

Relevant Disposal Assets, as used herein, includes each of the following properties:

1. Landfills

a. Allegheny County, Pennsylvania

Eastern's Kelly Run Sanitation Landfill, located at State Route 51 South, Elizabeth, Pennsylvania 15037, and known as the Kelly Run Landfill (and includes the waste disposal agreement between Chambers Development Company, Inc. and William H. Martin, Inc. and Eastern Environmental Services, Inc. and Kelly Run Sanitation, Inc., dated 1997);

b. Bethlehem/Allentown, Pennsylvania

Eastern's Eastern Waste of Bethlehem Landfill, located at 2335 Applebutter Road, Bethlehem, Pennsylvania 18015, and known as the Bethlehem Landfill; and

c. Chambersburg-Carlisle, Pennsylvania

Eastern's R&A Bender Landfill located at 3747 White Church Road, Chambersburg, Pennsylvania 17201, and known as the Bender Landfill.

2. Transfer Stations

New York, New York

- a. Eastern's PJ's Transfer Station located at 222 Morgan Avenue, Brooklyn, New York 11237 (also known as the Morgan Avenue Transfer Station);

- b. Eastern’s Atlantic Waste Transfer Station located at 110-120 50th Street, Brooklyn, New York 11232, also known as the Atlantic Transfer Station; and
- c. Waste Management’s Vacarro Transfer Station, located at 577 Court Street, Brooklyn, NY 11231 (also known as the Court Street Transfer Station); and Waste Management’s Gesuale Transfer Station, located at 38-50 Review Avenue, Queens, NY 11101 (also known as the Review Avenue Transfer Station), only one of which must be sold pursuant to the terms of the proposed Final Judgment.

E. “Relevant Hauling Assets“ means with respect to each commercial route or other hauling asset described herein: (1) all tangible assets, including capital equipment, trucks and other vehicles, containers, interests, permits, and supplies [except real property and improvements to real property (*i.e.*, buildings)]; and (2) all intangible assets, including hauling-related customer lists, contracts, and accounts.

Relevant Hauling Assets, as used herein, includes each of the following assets:

1. Scranton, Pennsylvania

Waste Management’s front-end loader truck (“FEL”) commercial routes servicing Luzerne and Lackawanna County, Pennsylvania;

2. Franklin/Adams/Cumberland Counties, Pennsylvania

Eastern’s FEL commercial routes servicing Franklin, Adams and Cumberland Counties, Pennsylvania;

3. Broward County, Florida

Eastern's FEL commercial routes servicing Broward County, Florida;

4. Dade County, Florida

Eastern's FEL commercial routes servicing portions of Dade County, Florida;

5. Hillsborough County, Florida

Eastern's Kimmins Recycling Corporation FEL commercial routes servicing the unincorporated (and grandfathered incorporated) areas of Hillsborough County, Florida solid waste service area, more specifically defined in RFP#C-277-96, Hillsborough County Board of County Commissioners documents 96-2393, as modified by 97-1913.

F. "Hauling" means the collection of waste from commercial customers and the transporting of the collected waste to disposal sites. Hauling, as used herein, does not include collection of roll-off containers.

G. "Waste" means municipal solid waste.

H. "Disposal" means the business of disposing of waste into approved disposal sites.

I. "Relevant Area" means the county in which the Relevant Hauling Assets or Relevant Disposal Assets are located, or with respect to the Rights to Eastern's RFP Proposal, New York, New York.

J. "Relevant State" means the state in which the Relevant Disposal Assets or Relevant Hauling Assets are located.

II.

OBJECTIVES

The Final Judgment filed in this case is meant to ensure defendants' prompt divestitures of the Relevant Disposal Assets, the Relevant Hauling Assets, and the Rights to Eastern's RFP Proposal for the purpose of establishing viable competitors in the waste disposal business or the commercial waste hauling business, or both, in the Relevant Areas to remedy the effects that plaintiffs allege would otherwise result from Waste Management's acquisition of Eastern. This Hold Separate Stipulation and Order ensures, prior to such divestitures, that the Relevant Disposal Assets and the Relevant Hauling Assets are independent, and with the exception of assets listed in Sections I (D)(2)(a) and (c), economically viable, and ongoing business concerns; that the Rights to Eastern's RFP Proposal remain independent and uninfluenced by Waste Management; and that competition is maintained during the pendency of the ordered divestitures.

III.

JURISDICTION AND VENUE

The Court has jurisdiction over the subject matter of this action and over each of the parties hereto, and venue of this action is proper in the United States District Court for the Eastern District of New York.

IV.

COMPLIANCE WITH AND ENTRY OF FINAL JUDGMENT

A. The parties stipulate that a Final Judgment in the form hereto attached hereto as Exhibit A may be filed with and entered by the Court, upon the motion of any party or upon the Court's own motion, at any time after compliance with the requirements of the Antitrust Procedures and Penalties Act (15 U.S.C. § 16), and without further notice to any party or other proceedings, provided that the

United States has not withdrawn its consent, which it may do at any time before the entry of the proposed Final Judgment by serving notice thereof on defendants and by filing that notice with the Court.

B. Defendants shall abide by and comply with the provisions of the proposed Final Judgment, pending the Judgment's entry by the Court, or until expiration of time for all appeals of any Court ruling declining entry of the proposed Final Judgment, and shall, from the date of the signing of this Stipulation by the parties, comply with all the terms and provisions of the proposed Final Judgment as though the same were in full force and effect as an order of the Court.

C. Defendants shall not consummate the transaction sought to be enjoined by the Complaint herein before the Court has signed this Hold Separate Stipulation and Order.

D. This Stipulation shall apply with equal force and effect to any amended proposed Final Judgment agreed upon in writing by the parties and submitted to the Court.

E. In the event (1) the United States has withdrawn its consent, as provided in Section IV(A) above, or (2) the proposed Final Judgment is not entered pursuant to this Stipulation, the time has expired for all appeals of any Court ruling declining entry of the proposed Final Judgment, and the Court has not otherwise ordered continued compliance with the terms and provisions of the proposed Final Judgment, then the parties are released from all further obligations under this Stipulation, and the making of this Stipulation shall be without prejudice to any party in this or any other proceeding.

F. Defendants represent that the divestitures ordered in the proposed Final Judgment can and will be made, and that defendants will later raise no claim of hardship or difficulty as grounds for asking the Court to modify any of the divestiture provisions contained therein.

V.

HOLD SEPARATE PROVISIONS

Until the divestitures required by the Final Judgment have been accomplished:

A. Defendants shall preserve, maintain, and with the exception of assets listed in Sections I (C) and (D)(2)(a) and (c), operate the Relevant Disposal Assets, the Relevant Hauling Assets, and the Rights to Eastern's RFP Proposal as independent competitive businesses, with management, sales and operations of such assets held entirely separate, distinct and apart from those of defendants' other operations. Defendants shall not coordinate the marketing of, or negotiation or sales by, any Relevant Disposal Asset, Relevant Hauling Asset, or Rights to Eastern's RFP Proposal with defendants' other operations. Within twenty (20) days after the filing of the Hold Separate Stipulation and Order, or thirty (30) days after the entry of this Order, whichever is later, defendants will inform plaintiffs of the steps defendants have taken to comply with this Hold Separate Stipulation and Order.

B. Defendants shall take all steps necessary to ensure that (1) the Relevant Disposal Assets and Relevant Hauling Assets will be maintained and, with the exception of assets listed in Sections I (D)(2)(a) and (c), operated as independent, ongoing, economically viable and active competitors in the waste disposal business or waste hauling business, or both, in the Relevant Area; (2) management of the Relevant Disposal Assets, Relevant Hauling Assets, or the Rights to Eastern's RFP Proposal will not be influenced by Waste Management; and (3) the books, records, competitively sensitive sales, marketing and pricing information, and decision-making concerning the Relevant Disposal Assets, Relevant Hauling Assets, and Rights to Eastern's RFP Proposal will be kept separate and apart from defendants' other operations. Waste Management's influence over the Relevant Disposal Assets, Relevant Hauling Assets, and the Rights to Eastern's RFP Proposal shall be limited to that necessary to

carry out Waste Management's obligations under this Hold Separate Stipulation and Order and the Final Judgment.

C. Defendants shall use all reasonable efforts to maintain and increase the sales and revenues of the Relevant Disposal Assets [with the exception of assets listed in Sections I (D)(2)(a) and (c)] and the Relevant Hauling Assets, and shall maintain at 1998 or at previously approved levels, whichever are higher, all promotional, advertising, sales, technical assistance, marketing and merchandising support for the Relevant Disposal Assets and Relevant Hauling Assets.

D. Defendants shall provide sufficient working capital to maintain the Relevant Disposal Assets [with the exception of assets listed in Sections I (D)(2)(a) and (c)] and the Relevant Hauling Assets as economically viable, and competitive ongoing businesses.

E. Defendants shall take all steps necessary to ensure that the Relevant Disposal Assets [with the exception of assets listed in Sections I (D)(2)(a) and (c)] and the Relevant Hauling Assets are fully maintained in operable condition at no lower than their current capacity or sales, and shall maintain and adhere to normal repair and maintenance schedules for the Relevant Disposal Assets and Relevant Hauling Assets.

F. Defendants shall not, except as part of a divestiture approved by plaintiffs in accordance with the terms of the proposed Final Judgment, remove, sell, lease, assign, transfer, pledge or otherwise dispose of any of the Relevant Disposal Assets, Relevant Hauling Assets, or the Rights to Eastern's RFP Proposal.

G. Defendants shall maintain, in accordance with sound accounting principles, separate, accurate and complete financial ledgers, books and records that report on a periodic basis, such as the last business day of every month, consistent with past practices, the assets, liabilities, expenses, revenues and income of the Relevant Disposal Assets and Relevant Hauling Assets.

H. Except in the ordinary course of business or as is otherwise consistent with this Hold Separate Stipulation and Order, defendants shall not hire, transfer, terminate, or otherwise alter the salary agreements for any Waste Management or Eastern employee who, on the date of defendants' signing of this Hold Separate Stipulation and Order, either: (1) works at a Relevant Disposal Asset or Relevant Hauling Asset, or (2) is a member of management referenced in Section V(I) of this Hold Separate Stipulation and Order.

I. Until such time as the Relevant Disposal Assets and Relevant Hauling Assets are divested pursuant to the terms of the Final Judgment, the Relevant Disposal Assets and Relevant Hauling Assets of Waste Management and Eastern shall be managed by Donald Chappel. Mr. Chappel shall have complete managerial responsibility for the Relevant Disposal Assets and Relevant Hauling Assets of Waste Management and Eastern, subject to the provisions of this Order and the Final Judgment. In the event that Donald Chappel is unable to perform his duties, defendants shall appoint, subject to the approval of the United States, after consultation with the Relevant States, a replacement within ten (10) working days. Should defendants fail to appoint a replacement acceptable to the United States, after consultation with the Relevant States, within ten (10) working days, the United States shall appoint a replacement.

J. Until such time as the Rights to Eastern's RFP Proposal are divested pursuant to the terms of the Final Judgment, the Rights to Eastern's RFP Proposal shall be managed by Donald Chappel, who shall have complete managerial responsibility for the Rights to Eastern's RFP Proposal, subject to the provisions of this Hold Separate Stipulation and Order, the Final Judgment, any such other written agreement between the defendants and both the United States *and* the State of New York. In the event that Donald Chappel is unable to perform his duties, the United States and the State of New York jointly shall appoint a replacement.

K. Defendants shall take no action that would interfere with the ability of any trustee appointed pursuant to the Final Judgment to complete the divestitures pursuant to the Final Judgment to purchasers acceptable to the United States, after consultation with the Relevant State, or in the case of the Rights to Eastern's RFP Proposal and the Gesuale or Vaccaro transfer stations, acceptable to both the United States *and* the State of New York.

L. This Hold Separate Stipulation and Order shall remain in effect until consummation of the divestitures contemplated by the Final Judgment or until further order of the Court.

Dated: December 30, 1998.

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O R D E R

IT IS SO ORDERED by the Court, this _31_ day of December, 1998.

_____/s/_____
United States District Judge