

MEMORANDUM

Agenda Item No. 8(L)(6)

TO: Honorable Chairman Jean Monestime
and Members, Board of County Commissioners

DATE: January 21, 2015

FROM: R. A. Cuevas, Jr.
County Attorney

SUBJECT: Resolution approving a Settlement Agreement in the amount of \$33,668 with the Philip Services Site PRP Group to resolve current and future liabilities associated with disposal of 33,668 pounds of waste at the Thermalkem Facility in Rock Hill, South Carolina

The accompanying resolution was prepared by the Public Works & Waste Management Department and placed on the agenda at the request of Prime Sponsor Commissioner Juan C. Zapata.



R. A. Cuevas, Jr.
County Attorney


RAC/cp

Memorandum



Date: January 21, 2015

To: Honorable Chairman Jean Monestime
and Members, Board of County Commissioners

From: Carlos A. Gimenez
Mayor 

Subject: Settlement of Liabilities for Disposal of 33,668 Pounds of Hazardous Waste at the Philip Services Site in Rock Hill, South Carolina

Recommendation

It is recommended that the Board approve execution of the Settlement Agreement in the amount of \$33,668.00 with the Philip Services PRP Group in substantially the form attached hereto to resolve the current and potential future liabilities associated with the clean-up of the Philip Services Corporation facility resulting from disposal in 1989 of 33,668 pounds of characteristic hazardous waste by Dade County Public Works Department, the progenitor agency of the Miami-Dade County Public Works and Waste Management Department (PWWM).

Scope

This item has a countywide impact.

Fiscal Impact/Funding Source

The fiscal impact is a one-time payment of \$33,668.00 to settle the claim as a Small Party Generator. Funds are available in the solid waste enterprise fund and will not represent a significant impact to the fund.

Track Record/Monitor

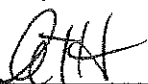
The Philip Services PRP Group is a unique entity created for the sole-purpose of negotiating with the enforcement agencies to resolve the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA) liabilities of the Potentially Responsible Party (PRP) Group members for this site. Therefore, it has no performance record with the County. The contract will be monitored by Lee Casey, Senior Division Director of the Technical Services and Environmental Affairs Division of the PWWM.

Background

The North Dade Landfill has been in operation since 1952. The landfill accepted all types of waste until 1981. Landfilling operations ceased in early 1982. The site reopened for disposal of trash only in 1985. Regulations governing disposal of municipal solid waste and hazardous waste were not well developed until the 1980s. During the preparation of the engineering design for redevelopment and closure of part of the North Dade Landfill, a pond filled with drums suspected of containing hazardous waste was discovered. Based on information available at the time, it appears that the drums had been accepted and placed in an onsite pond in 1972, prior to adoption of current hazardous waste regulations. In 1989, as part of the planned construction, Dade County Public Works Department (predecessor of the current Miami-Dade County Public Works and Waste Management Department) closely coordinated with the FDEP (formerly FDER) and properly removed and shipped the drums to ThermalKem in Rock Hill, South Carolina, a fully permitted and licensed hazardous waste

treatment, storage, and disposal facility. Philip Services Corporation subsequently purchased the ThermalKem facility.

Philip Services Corporation subsequently declared bankruptcy. The corporation reorganized and as part of a bankruptcy settlement, funds were placed in a bankruptcy custodial account managed by a court appointed trustee. The South Carolina Department of Health and Environmental Control (SCDHEC) and the United States Environmental Protection Agency are beneficiaries of the account. However, the funds in the account are insufficient to fully remediate the site, which is now contaminated. Under CERCLA, the County, one of 1,160 other potentially responsible parties (PRPs) that contributed waste to the site, is jointly and severally liable for past and future clean-up costs not covered by the bankruptcy custodial account. There is strict liability in CERCLA matters such that Miami-Dade County has joint and several liability for a third party's failure to properly dispose of the County's waste. Clean-up costs are currently estimated at \$36 million dollars. Due to the relatively small amount of waste delivered to the site by the County in comparison with other PRPs, the Philip Services PRP Group is offering an opportunity to settle the County's liability for this waste as a Small Party Generator. The settlement amount is one dollar (\$1) per pound of waste. This settlement will fully resolve the current liability and will protect the County from potential future additional costs due to cost overruns associated with remediation, legal and administrative costs, and costs associated with defending suits brought by the Group or the State of South Carolina in enforcement actions relating to disposal of the waste.



Alina T. Hudak
Deputy Mayor



MEMORANDUM

(Revised)

TO: Honorable Chairman Jean Monestime
and Members, Board of County Commissioners

DATE: January 21, 2015

FROM: 
R. A. Cuevas, Jr.
County Attorney

SUBJECT: Agenda Item No. 8(L)(6)

Please note any items checked.

- "3-Day Rule" for committees applicable if raised
- 6 weeks required between first reading and public hearing
- 4 weeks notification to municipal officials required prior to public hearing
- Decreases revenues or increases expenditures without balancing budget
- Budget required
- Statement of fiscal impact required
- Ordinance creating a new board requires detailed County Mayor's report for public hearing
- No committee review
- Applicable legislation requires more than a majority vote (i.e., 2/3's _____, 3/5's _____, unanimous _____) to approve
- Current information regarding funding source, index code and available balance, and available capacity (if debt is contemplated) required

Approved _____ Mayor
Veto _____
Override _____

Agenda Item No. 8(L)(6)
1-21-15

RESOLUTION NO. _____

RESOLUTION APPROVING A SETTLEMENT AGREEMENT IN THE AMOUNT OF \$33,668 WITH THE PHILIP SERVICES SITE PRP GROUP TO RESOLVE CURRENT AND FUTURE LIABILITIES ASSOCIATED WITH DISPOSAL OF 33,668 POUNDS OF WASTE AT THE THERMALKEM FACILITY IN ROCK HILL, SOUTH CAROLINA; AND AUTHORIZING COUNTY MAYOR OR COUNTY MAYOR'S DESIGNEE TO EXECUTE SETTLEMENT AGREEMENT ON BEHALF OF MIAMI-DADE COUNTY

WHEREAS, this Board desires to accomplish the purposes outlined in the accompanying memorandum, a copy of which is incorporated herein by reference,

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF COUNTY COMMISSIONERS OF MIAMI-DADE COUNTY, FLORIDA, that this Board finds it is in the best interest of Miami-Dade County to approve the Settlement Agreement with the Philip Services Corp PRP Group in the amount of \$33,668.00 for current and future liabilities associated with disposal of 33,668 pounds of waste at the ThermalKem Facility in Rock Hill, South Carolina, in substantially the form attached hereto and made a part hereof, and authorizes the County Mayor or County Mayor's designee to execute the Settlement Agreement on behalf of Miami-Dade County, Florida.

The foregoing resolution was offered by Commissioner _____, who moved its adoption. The motion was seconded by Commissioner _____ and upon being put to a vote, the vote was as follows:

Jean Monestime, Chairman

Esteban L. Bovo, Jr., Vice Chairman

Bruno A. Barreiro

Jose "Pepe" Diaz

Sally A. Heyman

Dennis C. Moss

Sen. Javier D. Souto

Juan C. Zapata

Daniella Levine Cava

Audrey M. Edmonson

Barbara J. Jordan

Rebeca Sosa

Xavier L. Suarez

The Chairperson thereupon declared the resolution duly passed and adopted this 21st day of January, 2015. This resolution shall become effective upon the earlier of (1) 10 days after the date of its adoption unless vetoed by the County Mayor, and if vetoed, shall become effective only upon an override by this Board, or (2) approval by the County Mayor of this Resolution and the filing of this approval with the Clerk of the Board.

MIAMI-DADE COUNTY, FLORIDA
BY ITS BOARD OF
COUNTY COMMISSIONERS

HARVEY RUVIN, CLERK

By: _____
Deputy Clerk

Approved by County Attorney as
to form and legal sufficiency.



David Sherman

**PHILIP SERVICES CORPORATION SUPERFUND SITE
CASH OUT AND REOPENER SETTLEMENT AGREEMENT**

This Cash Out and Reopener Settlement Agreement (hereinafter "Agreement"), dated as of November 7, 2013, is entered into between those Philip Services Site PRP Group members identified on Exhibit A (as may from time to time be amended pursuant to this Agreement) and each Smaller Party Generator (defined below) who elects to participate in the settlement and complies with the provisions required by this Agreement. The purpose of this Agreement is to provide each Smaller Party Generator with an opportunity to resolve claims for Response Costs in connection with the Philip Services Site.

I. DEFINITIONS

A. "Philip Services Site" or "Site" shall mean the facility at 2324 Vernsdale Road, Rock Hill, South Carolina formerly operated by Philip Services Corporation and other companies, along with any areas where contamination released from the facility has come to be located. The former operations at the Philip Services Site are further described in **Section II.1** below.

B. "PRPs" shall mean potentially responsible parties that allegedly sent hazardous substances to the Philip Services Site.

C. "Philip Services Site PRP Group" or "PRP Group" shall mean the PRPs identified on Exhibit A. In response to the State of South Carolina's threats of litigation, these PRPs have formed an unincorporated association joined by a PRP Group Organization Agreement. Exhibit A may be amended from time to time to (i) delete any Smaller Party Generators that become Settling Smaller Party Generators and (ii) add any PRPs that join the PRP Group after the date of this Agreement by executing the PRP Group Organization Agreement.

D. "Smaller Party Generator" shall mean any PRP that sent 1,000,000 pounds or less of hazardous substances to the Philip Services Site as determined by review of hazardous waste manifests dating from between 1980 and 1999 documenting the delivery of hazardous substances to the Philip Services Site.

E. "Settling Smaller Party Generator" shall mean any Smaller Party Generator who executes this Agreement.

F. "Cash Out Settlor" shall mean any Settling Smaller Party Generator who elects to be a Cash Out Settlor pursuant to Section III.7 of this Agreement and makes the appropriate Cash Out Settlement Payment.

G. "Reopener Settlor" shall mean any Settling Smaller Party Generator who elects to be a Reopener Settlor pursuant to Section III.7 of this Agreement and makes the appropriate Reopener Settlement Payment. Only Settling Smaller Party Generators contributing 100,001 to 1,000,000 pounds of hazardous substances to the Philip Services Site may elect to be Reopener Settlers.

H. "Cash Out Settlement Payment" shall mean the amount of money to be paid by a Cash Out Settlor pursuant to the provisions of this Agreement. Cash Out Settlers who contributed 500 pounds or fewer of hazardous substances shall pay \$500; Cash Out Settlers who were members of the PRP Group as of July 15, 2011 and who contributed 501 to 30,000 pounds shall pay \$1.00 per pound of hazardous substances sent to the Philip Services Site (subject to a credit for amounts previously paid-in to the PRP Group); Cash Out Settlers who were not members of the PRP Group as of July 15, 2011 and who contributed 501 to 50,000 pounds shall pay \$1.00 per pound of hazardous substances sent to the Philip Services Site; Cash Out Settlers who were members of the PRP Group as of July 15, 2011 and who contributed 30,001 to

100,000 pounds shall pay \$0.75 per pound of hazardous substances sent to the Philip Services Site (subject to a credit for amounts previously paid-in to the PRP Group); Cash Out Settlers who were not members of the PRP Group as of July 15, 2011 and who contributed 50,001 to 100,000 pounds shall pay \$0.75 per pound of hazardous substances sent to the Philip Services Site; and Cash Out Settlers who contributed 100,001 to 1,000,000 pounds shall pay \$0.60 per pound of hazardous substances sent to the Philip Services Site (subject to a credit for amounts, if any, previously paid-in to the PRP Group). Each Smaller Party Generator's signature page to this Agreement lists the Cash Out Settlement Payment for such Smaller Party Generator (without reflecting a credit for amounts, if any, previously paid-in to the PRP Group), assuming that such Smaller Party Generator does not have information indicating that it sent more hazardous substances to the Philip Services Site than is listed on its signature page.

I. "Reopener Settlement Payment" shall mean the amount of money to be paid by a Reopener Settlor pursuant to the provisions of this Agreement. Reopener Settlers who contributed 100,001 to 1,000,000 pounds shall pay \$0.45 per pound of hazardous substances sent to the Philip Services Site (subject to a credit for amounts, if any, previously paid-in to the PRP Group). The signature page to this Agreement for each Smaller Party Generator who is eligible to become a Reopener Settlor lists the Reopener Settlement Payment for such Smaller Party Generator (without reflecting a credit for amounts, if any, previously paid-in to the PRP Group), assuming that such Smaller Party Generator does not have information indicating that it sent more hazardous substances to the Philip Services Site than is listed on its signature page.

J. "Settlement Payment" shall mean, with respect to each Settling Smaller Party Generator, the Cash Out Settlement Payment or the Reopener Settlement Payment paid by such party pursuant to this Agreement.

K. "Remedial Action" shall be defined as provided for in CERCLA, 42 U.S.C. § 9601(24). For purposes of this Agreement, the term "Remedial Action" shall also include any and all past, present, and future work undertaken to investigate, monitor, or assess the extent of contamination of soil, surface water, groundwater, or other media at the Site, to determine what remedy is appropriate, or to implement, operate, and maintain the approved remedy.

L. "Response Costs" shall mean all past, present, and future costs incurred with respect to the Remedial Action or any removal action at the Philip Services Site, including, without limitation, the cost of work to support, evaluate, or perform any remedial investigation/feasibility study ("RI/FS") to determine the extent of soil, groundwater and/or other contamination and appropriate remedy for the Site, the cost of the final remedy adopted to address contamination at the Site, enforcement activities related thereto, and the costs incurred by governmental agencies for contractors and oversight work. The Site will be remediated pursuant to CERCLA; however, in the event that the remediation at the Site is conducted under any other law(s) or regulation(s), Response Costs shall also include any costs incurred under such other law(s) or regulation(s).

M. "Covered Costs" shall mean (i) any and all Response Costs whether incurred as a result of injunction or otherwise, and (ii) any and all past, present, or future fines, penalties, attorneys' fees, litigation costs, expenses, claims, or damages associated with the performance of the RI/FS or Remedial Action at the Site.

N. "Covered Matters" shall be defined as provided in Sections III.1 and III.2 of this Agreement.

II. FACTUAL BACKGROUND

1. The PRPs listed on Exhibit A, the Smaller Party Generators and other PRPs have been identified on hazardous waste manifests as having sent hazardous waste and/or hazardous substances to the Philip Services Site. The manifests are uniform shipment records required under federal and state law to be used for transportation and disposal of hazardous wastes. The Philip Services Site was most recently used as a hazardous waste treatment, storage and disposal facility operating by incineration. The Site was also used for solvent distillation and recycling and drum storage. The Site was owned or operated by Philip Services Corporation (1995 and after), ThermalKEM (1987-1995), American NuKEM (1986-1987), Stablex South Carolina, Inc. (1983-1986), and two companies operated by Walter and Peggy Neal, Quality Drum Company and Industrial Chemical Company (1966-1983). The dates of ownership and operation provided are believed to be accurate, but are not material to this settlement. Site operators also used the trade names "PSC" and "Petro-Chem."

2. The State of South Carolina has, up to this date, paid most Response Costs incurred with respect to the Site from a fund established by Philip Services Corporation in its 2003 settlement with the State of South Carolina. That fund, however, will be insufficient to cover a large portion of the costs of remediation and Site cleanup. The State of South Carolina has threatened to sue the companies that allegedly arranged to dispose hazardous waste or hazardous substances at the Philip Services Site. The State of South Carolina seeks to have these alleged arrangers for disposal contribute toward the State's unreimbursed past Response Costs and to have these parties perform the future Remedial Actions at the Site.

3. The parties listed on Exhibit A, who are all alleged generators of hazardous waste or hazardous substances sent to the Philip Services Site, have formed a PRP Group and have incurred Response Costs. The PRP Group has, among other things: (a) gathered Site manifests

and transformed them into an interim waste-in database, (b) collected and analyzed records concerning prior environmental work at the Site, (c) presented the findings of that analysis to the State of South Carolina, (d) assisted the State of South Carolina in making the Remedial Action at the Site more cost-efficient and effective, and (e) undertaken work to design the Remedial Action.

4. The PRP Group is negotiating a final remedy for the Site and a judicially approved consent decree with the State of South Carolina. The PRP Group anticipates the State of South Carolina will provide a covenant not to sue and contribution protection to all PRP Group members and to all Settling Smaller Party Generators. Under the expected consent decree, the PRP Group will perform the Remedial Action, and the consent decree will refer to PRP Group members as "Performing Parties." Settling Smaller Party Generators will be referred to in the expected consent decree as "Non-Performing Parties", will have no obligation to perform future Remedial Action at the Site, and will receive contribution protection from the State of South Carolina.

5. It is expected that the consent decree will be lodged in federal court, along with a complaint, for judicial approval and entry by the court following a public comment period. As a judicially approved settlement, the consent decree will be judicially enforceable and establish the PRP Group's right to sue other PRPs for contribution in accordance with the provisions of CERCLA as interpreted by the U.S. Supreme Court.

6. Each of the Smaller Party Generators allegedly arranged for the disposal of no more than 1,000,000 pounds of hazardous substances at the Site.

7. This Agreement provides the Smaller Party Generators an opportunity to resolve fully their liability to the PRP Group for Response Costs and other Covered Costs for the Philip

Services Site, subject to the exclusions and reopeners contained in this Agreement, and avoid prolonged and complicated litigation costs.

III. OBLIGATIONS OF THE PARTIES

1. Covered Matters

The matters covered by this Agreement for all Settling Smaller Party Generators who sign this Agreement and pay their respective Settlement Payment are as follows: all past, present, and future claims, liabilities, contribution, demands, and/or other proceedings for all Covered Costs related to the Philip Services Site.

2. Not Covered Matters

This Agreement does not cover claims for personal injury, diminution of value of property, natural resource damages, criminal liability, punishment or fines, or other matters that are not specifically covered by this Agreement.

3. Covenant Not to Sue

Each Settling Smaller Party Generator shall pay its respective Settlement Payment and send such payment in accordance with Sections III.15 and III.16 below. The PRP Group members on Exhibit A covenant not to sue such Settling Smaller Party Generator with respect to the Covered Matters, and such Settling Smaller Party Generator covenants not to sue any other Settling Smaller Party Generator or any PRP Group members on Exhibit A for contribution under CERCLA with respect to the Covered Matters.

4. Assignment of Claims for Response Costs

Each Settling Smaller Party Generator assigns to the PRP Group any rights, entitlements, causes of action and claims it may have against former Philip Services Site owners, operators, arrangers for treatment or disposal, or any other party for Covered Costs.

5. **Consent Decree and Contribution Protection**

The Philip Services Site PRP Group members identified in Exhibit A shall negotiate with the State of South Carolina for a judicially approved settlement agreement or consent decree that (a) provides a covenant not to sue and contribution protection to both PRP Group members and Settling Smaller Party Generators, and (b) creates no obligation upon Settling Smaller Party Generators to perform any Remedial Action or incur any Response Costs at the Site other than the Settlement Payment. (Hereinafter, such a settlement agreement or consent decree will be referred to as an "Acceptable Consent Decree.") The cost of negotiating, drafting and entering the Acceptable Consent Decree will not be charged to any Settling Smaller Party Generator. Each Settling Smaller Party Generator shall cooperate and execute the Acceptable Consent Decree to the extent necessary to lodge and obtain an Acceptable Consent Decree.

If no Acceptable Consent Decree is judicially approved and entered by December 31, 2017, the Settling Smaller Party Generator may request refund of its Settlement Payment, along with the *pro rata* amount of interest earned (if any), less taxes and administration expenses paid (if any), on such Settlement Payment while in escrow, and upon such refund the covenant not to sue and assignment of claims set forth above in Sections III.3 and III.4 shall have no effect; provided, however, that the right to seek a refund of the Settlement Payment shall terminate upon the judicial approval and entry of an Acceptable Consent Decree.

6. **Escrow of Smaller Party Settlement Payments**

The Settlement Payments sent by Settling Smaller Party Generators to the PRP Group shall be held in an escrow account, pending the judicial approval and entry in a United States District Court of the Acceptable Consent Decree described in Section III.5. At the discretion of the PRP Group, the funds may be held in an interest-bearing or non-interest-bearing account.

Reasonable fees and costs to administer the escrow fund shall be paid out of funds in the escrow account.

7. Election Available to Certain Settling Smaller Party Generators

To the extent a Settling Smaller Party Generator is eligible to be a Reopener Settlor, such party shall indicate on its signature page to this Agreement whether it elects to be a Cash Out Settlor or a Reopener Settlor. If it elects to be a Cash Out Settlor, the Settling Smaller Party Generator shall pay to the PRP Group its Cash Out Settlement Amount. If it elects to be a Reopener Settlor, the Settling Smaller Party Generator shall pay to the PRP Group its Reopener Settlement Amount and shall, in addition to all other provisions of this Agreement, be subject to the reopener described in Section III.9. Only Settling Smaller Party Generators contributing more than 100,000 pounds of hazardous substance to the Site are eligible to become Reopener Settlers. Any Settling Smaller Party Generator is eligible to become a Cash Out Settlor.

8. Reopeners and Exclusions Applicable to all Settling Parties

The PRP Group members reserve, and this Agreement is without prejudice to, all rights against the Settling Smaller Party Generators with respect to all matters not expressly included within the covenant not to sue set forth in Section III.3 above. Notwithstanding any other provision of this Agreement, the PRP Group reserves all rights against Smaller Party Generators with respect to:

- a. Liability for failure to meet a requirement of this Agreement;
- b. Liability for damages for injury to, destruction of, or loss of natural resources, and for the costs of any natural resource damage assessments;
- c. Liability based upon ownership or operation of the Philip Services Site;

d. Liability based on any transportation, treatment, storage, or disposal of hazardous substances (or arrangement for same) undertaken by a Settling Smaller Party Generator after the date it signed this Agreement; and/or

e. The reopener set out in Section III.13 below.

9. Reopeners and Exclusions Applicable to Reopener Settlers

Notwithstanding any other provision of this Agreement, the PRP Group reserves, and this Agreement is without prejudice to, all rights against the Reopener Settlers with respect to past, present, and future claims, liabilities, contribution, demands, and/or other proceedings for Covered Costs related to the Philip Services Site to the extent, and only to the extent, such Covered Costs exceed Forty Million Dollars (\$40,000,000), in aggregate.

10. No Admission

Participation in this Agreement shall not be considered to be an admission of any facts, allegations, or liability with respect to the Site. The parties entering into this Agreement specifically deny any liability and are participating in this Agreement solely to resolve a disputed claim without litigation. Payments made under this Agreement are not in whole or in part a fine, penalty, or monetary sanction of any kind.

11. Scope

Except as otherwise provided specifically in this Agreement, nothing in this Agreement is intended to be, nor shall it be construed as, a release, indemnity or covenant not to sue, for any claim or cause of action, past or future, in law or in equity, (i) which any PRP Group member or any Settling Smaller Party Generator may have against any other person, firm, corporation, or any other entity not a signatory to this Agreement or (ii) which any person, firm, corporation, or any other entity not a signatory to this Agreement may have against any PRP Group member or

any Settling Smaller Party Generator. For the avoidance of doubt, the PRP Group members shall have no obligation to indemnify any Settling Smaller Party Generator against claims with respect to the Covered Matters or any other matters.

12. Successors or Assigns

This Agreement is binding upon and inures to the benefit of PRP Group members, Settling Smaller Party Generators, and each of their subsidiaries, affiliates, representatives, parents, bankruptcy trustees, successors-in-interest, predecessors-in-interest, and assigns, and their respective directors, officers, employees, principals, agents, and shareholders; provided, however, that succession or assignment by a Settling Smaller Party Generator shall only convey rights and obligations pertaining to the shipments of hazardous wastes and hazardous substances that comprise the amount listed for that Settling Smaller Party Generator on its signature page to this Agreement.

13. Transactions with Certain Waste Brokers; Discovery of New Information

Upon entering this Agreement, each Settling Smaller Party Generator shall disclose to the PRP Group, to the best of the Settling Smaller Party Generator's knowledge, all shipments by the Settling Smaller Party Generator of hazardous substances and/or hazardous waste to Laidlaw, Inc., Laidlaw Environmental Services, Inc., GSX Services, Inc., Ecoflo, Inc., or Advanced Environmental Technology Corporation, or any of their affiliates (each, a "Waste Broker"), during the period from 1980 to 1999. If the PRP Group, at any time, reasonably determines based upon either (a) documents kept in the ordinary course of business by a Waste Broker or (b) other reliable information derived from a Waste Broker that hazardous substances and/or hazardous wastes generated by the Settling Smaller Party Generator were shipped to the Site by a Waste Broker, or if the PRP Group otherwise discovers reliable information that additional

hazardous substances and/or hazardous wastes generated by the Settling Smaller Party Generator were shipped to the Site, the PRP Group may add the amount of any such shipment to the Settling Smaller Party Generator's waste-in set forth on its signature page to this Agreement. If such an increase in the Settling Smaller Party Generator's waste-in would require an increase of \$10,000 or more in its Settlement Payment, then the Settling Smaller Party Generator shall promptly pay to the PRP Group such increased Settlement Payment amount attributable to the increase in the Settling Smaller Party Generator's waste-in. If the Settling Smaller Party Generator does not make the additional payment within thirty (30) days after written demand by the PRP Group, or if the corrected waste amount causes the Settling Smaller Party Generator to no longer qualify as a Smaller Party Generator, the PRP Group shall have the right, but not the obligation, to either (a) rescind this Agreement with respect to the Settling Smaller Party Generator upon written notice and return of any monies paid by the Settling Smaller Party Generator or (b) bring an action in a court of competent jurisdiction to collect such increased Settlement Payment amount attributable to the increase in the Settling Smaller Party Generator's waste-in volume, at which time such Settling Smaller Party Generator may contest the addition by the PRP Group of such additional waste-in.

14. Certification

Each Settling Smaller Party Generator shall provide with its signature to this Agreement the certification found on the attached signature page, signed by an authorized representative of the Settling Smaller Party Generator. Such certification is incorporated by reference and is made a part of this Agreement.

15. Payments, Execution of Agreement, and Notices

Each party to this Agreement shall sign this Agreement on a separate signature page which will be attached to this Agreement. Signature pages, Settlement Payments, and other submissions and notices required by this Agreement shall be sent to:

Philip Services Site PRP Group
c/o ABC, Inc.
Attn: Randy C. Smith
30 Purgatory Road, P.O. Box 310
Mont Vernon, NH 03057

All Settlement Payments made pursuant to this Agreement shall be made payable to the "Philip Services Site Smaller Party Escrow Account."

16. Effective Date

This Agreement shall be effective with respect to each Settling Smaller Party Generator on the later of the date such Settling Smaller Party Generator submits the signature page and Settlement Payment required by this Agreement.

17. Confidentiality

Except for the purpose of seeking to obtain insurance coverage or any disclosure required by law, the parties agree to maintain as confidential both the existence and terms of this Agreement; provided, however, the PRP Group may disclose to the State of South Carolina, the United States and the Site trustee the names of the parties who sign this Agreement but shall maintain the terms and amounts paid in this Agreement as confidential information. Except to the extent otherwise required by law, if it is necessary for any party to share the terms of this Agreement with a person not a party, the person to whom the Agreement is disclosed shall also agree in writing to this confidentiality provision.

18. Choice of Law; Venue

This Agreement shall be interpreted according to the laws of the State of South Carolina without reference to its conflict of laws rules. The parties consent to and agree that the federal and state courts of the State of South Carolina shall have the sole and exclusive jurisdiction over matters arising in connection with the terms of this Agreement, waive any objection to the jurisdiction or venue of any of these courts, and agree to accept service of process in any district where a defendant is found, resides, transacts business, or has appointed an agent for the service of process.

[Signatures appear on the following pages.]

**On behalf of, and as authorized by vote by, the
MEMBERS OF THE PHILIP SERVICES SITE
PRP GROUP:**

BY: _____
William W. Toole
Common Counsel, Philip Services Site PRP Group

Date

**SETTLING SMALLER PARTY GENERATOR SIGNATURE PAGE TO
PHILIP SERVICES CORPORATION SUPERFUND SITE
CASH OUT AND REOPENER SETTLEMENT AGREEMENT**

Dade Co Public Works is a Smaller Party Generator contributing to the Philip Services Site 33668 pounds of hazardous substances. By its signature below, such Settling Smaller Party Generator accepts and agrees to the foregoing Philip Services Corporation Superfund Site Cash Out and Reopener Settlement Agreement and hereby elects to be a:

CASH OUT SETTLOR and pay a Cash Out Settlement
Payment of **\$33668.00**

Pursuant to Section III.I4 of the Agreement, the Settling Smaller Party Generator signing below also certifies that it has conducted an investigation regarding its shipments to the property and facility at 2324 Vernsdale Road, Rock Hill, South Carolina (which operated under the names Philip Services Corporation, Petro-Chem, PSC, ThermalKEM, American NuKEM, Stablex, Quality Drum Company, and Industrial Chemical Company), including any shipments to the Site via any Waste Broker, and the volume set forth above is, to the best of its information and belief, accurate.

If, for any reason, the representations made in this certification are not accurate or become inaccurate as a result of newly discovered information, the Settling Smaller Party Generator shall promptly provide the corrected information to the PRP Group's designated representative, Randy Smith.

If the corrected volume would require an increase of \$10,000 or more in the Settling Smaller Party Generator's Settlement Payment set forth above and the Settling Smaller Party Generator does not then make the additional payment within thirty (30) days after written demand by the PRP Group, or if the corrected waste amount causes the Settling Smaller Party Generator to no longer qualify as a Smaller Party Generator, the PRP Group shall have the right, but not the obligation, to either (a) rescind this Agreement with respect to the Settling Smaller Party Generator upon written notice and return of any monies paid by the Settling Smaller Party Generator or (b) bring an action in a court of competent jurisdiction to collect such increased Settlement Payment amount attributable to the increase in the Settling Smaller Party Generator's waste-in volume, at which time such Settling Smaller Party Generator may contest the addition by the PRP Group of such additional waste-in.

PRP Name: Dade Co Public Works

Legal Name: _____
(if different from PRP name)

Date: _____

By: _____
(signature required)

Name: _____
(print name)

Title: _____
An Officer of the Settling Smaller Party
Generator Authorized to Legally Bind the
Settling Smaller Party Generator to This
Agreement

**PHILIP SERVICES CORPORATION SUPERFUND SITE
EXHIBITS TO CASH OUT AND REOPENER SETTLEMENT AGREEMENT**

EXHIBIT A: List of PRP Group Members

ALSO IN PACKET:

- Manifest(s) and Transactional Summary
- Invoice for Settlement Payment

CD 2

Work Party List Settlement Agreement

Philip Services Site

Group Members (Work Party List)

ABB Power & Related Parties
Abbott Pharmaceuticals PR. LTD. & Related Parties
Air Products & Chem & Related Parties
Akzo Nobel & Related Parties
Alcoa & Related Parties
Alpha Metals Inc.
American Woodmark Corporation
Arkema Inc. & Related Parties
Armor Environmental Services Inc.
Ashland Inc & Related Parties
Avon Products & Related Parties
BASF Corporation & Related Parties
Bayer Corp. & Related Parties
Bayer Cropscience & Related Parties
BF Goodrich & Related Parties
Boeing Company, The & Related Parties
BP Amoco & Related Parties
Bristol Meyer & Related Parties
Carolina Solvents
CBS Records & Related Parties
Chemical Waste Management, Inc. & Related Parties
Chemtron Corporation
Chevron Environmental & Related Parties
Ciba-Geigy Corporation, by Ciba Specialty Chemicals Corp. & Related Parties
Clariant & Related Parties
Clean Earth & Related Parties
Clean Harbors & Related Parties
CNA Holdings, Inc. & Related Parties
Cognis Corporation & Related Parties
Colgate-Palmolive Company & Related Parties
Continental Airlines, Inc. & Related Parties
Cosan Chemical Company Inc.
Danaher & Related Parties
Dow Corning & Related Parties
Duke Power & Related Parties
Eastman Chemical Co. & Related Parties
EI Dupont & Related Parties

Unilever & Related Parties
Union Carbide & Related Parties
United Technologies & Related Parties
Univar USA Inc & Related Parties
Valspar Corp. & Related Parties
Westvaco Corp & Related Parties
WM Barr Company Inc.
Wyeth Holdings Corporation, & Related Parties

Request for Taxpayer Identification Number and Certification

Give form to the requester. Do not send to the IRS.

Print or type
 See Specific Instructions on page 2.

Name (as shown on your income tax return) A.E.C., Inc.	
Business name, if different from above d/b/a/ Philip Services Site PRP Group	
Check appropriate box: <input type="checkbox"/> Individual Sole proprietor <input checked="" type="checkbox"/> Corporation <input type="checkbox"/> Partnership <input type="checkbox"/> Other <input type="checkbox"/> <input type="checkbox"/> Exempt from backup withholding	
Address (number, street, and apt. or suite no.) 30 Purgatory Road	Requester's name and address (optional)
City, state, and ZIP code Mont Vernon, NH 03057	
List account number(s) here (optional)	

Taxpayer Identification Number (TIN)

Enter your TIN in the appropriate box. The TIN provided must match the name given on Line 1 to avoid backup withholding. For individuals, this is your social security number (SSN). However, for a resident alien, sole proprietor, or disregarded entity, see the Part I Instructions on page 3. For other entities, it is your employer identification number (EIN). If you do not have a number, see *How to get a TIN* on page 3.

Note: If the account is in more than one name, see the chart on page 4 for guidelines on whose number to enter.

Social security number								
OR								
Employer identification number								
0	2	0	3	6	4	2	9	5

Certification

Under penalties of perjury, I certify that:

1. The number shown on this form is my correct taxpayer identification number (or I am waiting for a number to be issued to me), and
2. I am not subject to backup withholding because: (a) I am exempt from backup withholding, or (b) I have not been notified by the Internal Revenue Service (IRS) that I am subject to backup withholding as a result of a failure to report all interest or dividends, or (c) the IRS has notified me that I am no longer subject to backup withholding, and
3. I am a U.S. person (including a U.S. resident alien).

Certification Instructions. You must cross out item 2 above if you have been notified by the IRS that you are currently subject to backup withholding because you have failed to report all interest and dividends on your tax return. For real estate transactions, item 2 does not apply. For mortgage interest paid, acquisition or abandonment of secured property, cancellation of debt, contributions to an individual retirement arrangement (IRA), and generally, payments other than interest and dividends, you are not required to sign the Certification, but you must provide your correct TIN. (See the Instructions on page 4.)

Sign Here	Signature of U.S. person	Date 8/31/05
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Purpose of Form

A person who is required to file an information return with the IRS, must obtain your correct taxpayer identification number (TIN) to report, for example, income paid to you, real estate transactions, mortgage interest you paid, acquisition or abandonment of secured property, cancellation of debt, or contributions you made to an IRA.

U.S. person. Use Form W-9 only if you are a U.S. person (including a resident alien), to provide your correct TIN to the person requesting it (the requester) and, when applicable, to:

1. Certify that the TIN you are giving is correct (or you are waiting for a number to be issued),
2. Certify that you are not subject to backup withholding, or
3. Claim exemption from backup withholding if you are a U.S. exempt payee.

Note: If a requester gives you a form other than Form W-9 to request your TIN, you must use the requester's form if it is substantially similar to this Form W-9.

For federal tax purposes you are considered a person if you are:

- An individual who is a citizen or resident of the United States,
- A partnership, corporation, company, or association created or organized in the United States or under the laws of the United States, or

• Any estate (other than a foreign estate) or trust. See Regulations sections 301.7701-6(a) and 7(a) for additional information.

Foreign person. If you are a foreign person, do not use Form W-9. Instead, use the appropriate Form W-8 (see Publication 515, Withholding of Tax on Nonresident Aliens and Foreign Entities).

Nonresident alien who becomes a resident alien. Generally, only a nonresident alien individual may use the terms of a tax treaty to reduce or eliminate U.S. tax on certain types of income. However, most tax treaties contain a provision (known as a "saving clause.") Exceptions specified in the saving clause may permit an exemption from tax to continue for certain types of income even after the recipient has otherwise become a U.S. resident alien for tax purposes.

If you are a U.S. resident alien who is relying on an exception contained in the saving clause of a tax treaty to claim an exemption from U.S. tax on certain types of income, you must attach a statement to Form W-9 that specifies the following five items:

1. The treaty country. Generally, this must be the same treaty under which you claimed exemption from tax as a nonresident alien.
2. The treaty article addressing the income.
3. The article number (or location) in the tax treaty that contains the saving clause and its exceptions.

Philip Services Site

INVOICE

Inv. No.: 14080639
Date: August 11, 2014

Remit To:
Philip Services Site PRP Group
Attn: Randy C. Smith
30 Purgatory Road, P.O. Box 310
Mont Vernon, NH 03057-0310

(603) 673-0004 (603) 672-0004 (F)
randycsmith1@cs.com

Dade County Public Works
Attn: Legal Dept.
111 NW First St., Suite 2810
Miami, FL 33010

RE: PRP: Dade Co Public Works
Vol: 33668 Pounds

Philip Services Site Small Party Settlement

This invoice is for the Cash Out offer from the Philip Services Site PRP Group in accordance with the Philip Services Corporation Superfund Site Cash Out and Reopener Settlement Agreement.

CASH OUT SETTLEMENT

Total Due: \$33668.00

Please Make Check Payable to: Philip Services Smaller Party Settlement
Payment Due: September 26, 2014

Wire Transfer:

Bank of America
500 Amherst Street
Nashua, NH 03061

ABA: 011400495
Account Name: Philip Services Smaller Party Settlement
Account No: 003880195006