

RESOLUTION NO. 2014- 313

A RESOLUTION BY THE BOARD OF COUNTY COMMISSIONERS OF ST. JOHNS COUNTY, FLORIDA, APPROVING THE TERMS, PROVISIONS, CONDITIONS, AND REQUIREMENTS OF AN INTERLOCAL AGREEMENT BETWEEN ST. JOHNS COUNTY, FLORIDA, AND THE CITY OF ST. AUGUSTINE, FLORIDA, AND AUTHORIZING THE COUNTY ADMINISTRATOR, OR DESIGNEE, TO EXECUTE THE AGREEMENT ON BEHALF OF ST. JOHNS COUNTY

WHEREAS, the County and the City of St. Augustine, Florida wish to provide cost-effective, environmentally sound, solid waste disposal services to the residents and businesses in their respective communities; and

WHEREAS, the County owns two Transfer Stations that the County uses to transport the County's Acceptable Waste to a Class I Landfill located outside of the County; and

WHEREAS, the City wishes to use the County's Transfer Stations to transport and dispose of the City's Acceptable Waste; and

WHEREAS, Sections 403.706(3), (8), and (12), Florida Statutes, encourage the City and the County to enter into Interlocal Agreements concerning the management of their solid waste; and

WHEREAS, Section 163.01, Florida Statutes, authorizes the County and the City to enter into Interlocal agreements; and

WHEREAS, the City and the County have negotiated the terms of this Agreement concerning the management and disposal of the City's Solid Waste; and

WHEREAS, the County has reviewed the terms, provisions, conditions, and requirements of the Interlocal Agreement (attached hereto, and incorporated herein).

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF COUNTY COMMISSIONERS OF ST. JOHNS COUNTY, FLORIDA, AS FOLLOWS:

Section 1. The above Recitals are hereby incorporated into the body of this Resolution, and are adopted as Findings of Fact.

Section 2. The Board of County Commissioners hereby approves the terms, provisions, conditions, and requirements of an Interlocal Agreement between St. Johns County, Florida, and the City of St. Augustine, Florida, and authorizes the County Administrator, or designee, to execute the Interlocal Agreement on behalf of St. Johns County.

Section 3. To the extent that there are typographical and/or administrative errors and/or omissions that do not change the tone, tenor, or concept of this Resolution, then this Resolution may be revised without subsequent approval of the Board of County Commissioners.

PASSED AND ADOPTED by the Board of County Commissioners of St. Johns County, Florida, this 4 day of November, 2014.

BOARD OF COUNTY COMMISSIONERS OF ST. JOHNS COUNTY, FLORIDA

By: 
John H. Morris, Chair

Attest: Cheryl Strickland, Clerk

By: 
Deputy Clerk

RENDITION DATE 11/6/14



INTERLOCAL AGREEMENT FOR
SOLID WASTE DISPOSAL SERVICES

This "Interlocal Agreement For Solid Waste Disposal Services" ("Agreement") is made and entered into this ____ day of _____, 2014 ("Effective Date") by and between St. Johns County ("County"), a political subdivision of the State of Florida, and the City of St. Augustine ("City"), a Florida municipal corporation.

RECITALS

WHEREAS, the County and the City wish to provide cost-effective, environmentally sound, Solid Waste disposal services to the residents and businesses in their respective communities; and

WHEREAS, the County owns two Transfer Stations that the County uses to transport the County's Acceptable Waste to a Class I Landfill located outside of the County; and

WHEREAS, the City wishes to dispose of the City's Acceptable Waste by delivering such Acceptable Waste to the County's Transfer Stations; and

WHEREAS, Section 163.01, Florida Statutes, authorizes the County and the City to enter into interlocal agreements; and

WHEREAS, Sections 403.706(3), (8), and (12), Florida Statutes, encourage the City and the County to enter into interlocal agreements concerning the management of their Solid Waste; and

WHEREAS, the City and the County have negotiated the terms of this Agreement concerning the management and disposal of the City's Solid Waste.

NOW, THEREFORE, in consideration of the mutual promises, covenants and agreements contained herein, and the mutual benefits provided hereunder, the receipt and sufficiency of which are hereby acknowledged, the City and the County agree that they shall be bound by and shall comply with the following provisions of this Agreement:

SECTION 1. DEFINITIONS

The definitions contained in Exhibit 1 (attached) shall govern the interpretation and construction of this Agreement.

SECTION 2. GENERAL SCOPE OF THE COUNTY'S SERVICES FOR THE CITY

Subject to the terms and conditions in this Agreement, the County shall be responsible for:

- (a) Weighing, inspecting, accepting, and disposing of the Acceptable Waste delivered to the County's Transfer Stations by or on behalf of the City;
- (b) Providing labor, services, supervision, materials, and equipment necessary to accomplish the County's work under this agreement;
- (c) Performing its work in accordance with the requirements of this Agreement and Applicable Law; and
- (d) Performing its work in exchange for the City's payment of the Service Fees.

SECTION 3. THE COUNTY'S RIGHTS AND RESPONSIBILITIES

3.1 Beginning on the Effective Date and continuing throughout the term of this Agreement, the County shall receive and accept the Acceptable Waste that is delivered to the County's Transfer Stations by the City, the City's agents or employees, or the City's Franchisees. The Transfer Stations shall receive deliveries of Acceptable Waste from the City between the hours of 7:00 a.m. and 6:00 p.m., Monday through Friday, and between the hours of 7:00 a.m. and 1:00 p.m. on Saturday. The hours of operation at the Transfer Stations may be changed by the County after providing reasonable advance notice to the City. Except as provided in Section 8, at least one (1) of the County's two (2) Transfer Stations shall be open to receive Acceptable Waste every day of the year, except | Sundays and Holidays.

3.2 When the City's delivery vehicles arrive at the Transfer Stations, the vehicles shall be weighed at the County's scale house. The County shall prepare a receipt (weight ticket) that shows the vehicle's identification number, the type of Solid Waste (e.g., garbage) in the vehicle, the weight of the

City's waste, and the date when the receipt was issued. The County shall retain its weight tickets and related records concerning the City's Solid Waste in accordance with the County's normal records retention policies. The County shall use its weight tickets and records to prepare reports that summarize the scale house data concerning the City's deliveries for each operating day, month, and year.

3.3 The County shall calibrate the scales at its scale houses at least once each year or as required by Applicable Law, whichever is more frequent. The City shall have the right to pay for more frequent calibrations should the City so desire.

3.4 The County and the City shall work together in a cooperative manner to resolve any questions concerning the accuracy of the County's scales and weight records. At any time the City may hire, at its expense, an independent third party to verify the accuracy of the County's scales and scale house records.

3.5 The County may inspect the loads in the City's vehicles at any time. The County may refuse to accept part or all of a load of Solid Waste if the County reasonably believes that the load contains Unacceptable Waste. If the City delivers Unacceptable Waste to a Transfer Station, the County may: (a) require the City to promptly remove the Unacceptable Waste at the City's expense; or (b) arrange for the removal of the Unacceptable Waste by a third party contractor, who shall bill the City for its services. In addition, the County may segregate and remove waste tires with the County's employees and then bill the City for the full cost of the County's services, based on the fees set forth in Exhibit 2 (attached). The County shall not segregate and remove other types of Unacceptable Waste unless the City provides its advance written authorization for the County to do so or unless such action is required pursuant to Applicable Law. In all cases, however, the City shall remain responsible and liable for the management and disposal of any Unacceptable Waste that the City delivers or causes to be delivered to the Transfer Stations. Further, under no circumstances will the County accept Hazardous Waste.

3.6 The County shall transfer and dispose of the Acceptable Waste that is delivered to the Transfer Station by the City and the County shall do so in compliance with all Applicable Law.

3.7 The County shall secure, renew, modify if necessary,

and pay for all permits, licenses, inspections, and other governmental approvals that are necessary for the County's activities under this Agreement.

3.8 The County may establish and enforce safety rules and regulations governing any Person that visits or uses the Transfer Stations. Such rules and regulations may be applied to the City's representatives, employees, Franchisees, and agents, but the rules shall be applied by the County in a fair, equitable, and non-discriminatory manner.

3.9 At its option, the County may provide assistance to any City vehicle that becomes incapacitated or otherwise unable to move while delivering Solid Waste to the Transfer Stations. In such circumstances, neither the County nor its agents shall have any liability for the damage, if any, that occurs to the disabled vehicle while the County or its agent is providing assistance to such vehicle.

SECTION 4. THE CITY'S RIGHTS AND RESPONSIBILITIES

4.1 Beginning on the Effective Date and continuing throughout the term of this Agreement, the City has the right and the obligation to deliver to the Transfer Stations all of the Acceptable Waste generated within the City. To the extent allowed by law, the City shall require its Franchisees to deliver all of the Acceptable Waste collected in the City to the Transfer Stations. However, the City is not required to deliver a minimum amount of Acceptable Waste to the Transfer Stations.

4.2 The City shall use its best efforts to ensure that Unacceptable Waste is not delivered to the Transfer Stations. In all cases, however, the City shall be responsible and liable for the management and disposal of any Unacceptable Waste that is delivered to the Transfer Stations by the City, its Franchisees and agents.

4.3 In order to facilitate complete and accurate invoicing and track responsibility for the delivery of Unacceptable Waste to the Transfer Stations by the City, the City shall, upon execution of this Agreement, provide to the County a list of all subcontractors, Franchisees and agents authorized by the City to deliver Solid Waste to the County's Transfer Stations under this Agreement. Once provided by the City, this list will be maintained by the County and adjusted by adding or removing subcontractors, Franchisees and agents as requested in writing by the City.

4.4 Solid Waste that is generated or collected outside of the City shall not be delivered to the Transfer Stations, unless the City has received prior authorization from the County to deliver such material. This provision does not prevent the City from delivering Solid Waste that is generated outside of the City but brought into the City by natural occurrence, such as a tropical storm event.

4.5 The City and its authorized agents shall have the right to observe the operations at the Transfer Stations at all reasonable times.

4.6 The City and its authorized agents shall have the right to inspect, copy, and audit, at the City's expense, all of the County's records concerning the Transfer Stations and this Agreement.

4.7 The City shall have no responsibility for the operation of the Transfer Stations, disposal of Solid Waste after delivery to the Transfer Stations, or the County's permit compliance obligations.

SECTION 5. SERVICE FEES

5.1 The City shall pay a Service Fee to the County for the management and disposal of the Acceptable Waste and Special Waste that is delivered to the Transfer Stations by or on behalf of the City and accepted by the County. The City also shall pay a Service Fee to the County for the management and disposal of any Unacceptable Waste that is delivered to the Transfer Stations by or on behalf of the City and accepted by the County, unless the City or an independent third party contractor removes the Unacceptable Waste pursuant to Sections 3.5(a) and (b), above.

5.2 The County shall submit a monthly invoice to the City for the Service Fees that are owed by the City under this Agreement. Each invoice shall be mailed to the City no later than the tenth (10th) day of the month following the month in which the County provided its services to the City. The City shall pay each invoice within thirty (30) days after the City receives the County's invoice.

5.3 Upon request, the County shall provide additional information or documents to support the County's invoices to the City. If there is a dispute concerning any portion of an

invoice, the City shall timely pay any undisputed amounts.

5.4 The County's current Service Fees are identified in Exhibit 2 to this Agreement. The Service Fees shall be set at levels that are sufficient to pay the costs incurred by the County for: (a) the transportation and disposal of the City's waste; (b) the operation of the Transfer Stations; and (c) providing and maintaining its Solid Waste management system. The Service Fees may be adjusted by the Board of County Commissioners from time to time at a duly noticed public meeting to account for changes in the costs experienced by the County when providing its Solid Waste services.

5.5 Once each year, the County shall adjust the Service Fees, upward or downward, to reflect the percentage change in the Consumer Price Index (CPI) that occurred during the preceding twelve (12) months. The CPI adjustments shall be based on the CPI index published by the United States Department of Labor, Bureau of Labor Statistics, for All Urban Consumers, South Urban Region (Series ID: CUUR0300SA0, CUUS0300SA0). The first CPI adjustment shall take effect on January 1, 2016. Each CPI adjustment thereafter shall take effect on the following January 1st. CPI adjustments shall be based on and reflect both increases and decreases in CPI.

5.6 The CPI adjustment shall reflect the percentage change in the CPI, measured from September 1st in the previous calendar year to August 31st of the calendar year in which the adjustment is calculated. The percentage change in the CPI shall be calculated by using the following formula:

PC equals CPI 1, divided by CPI 2, minus 1.0, multiplied by 100

Where:

PC is the percentage change in the CPI from one year to the next;

CPI 1 is the CPI index number for the most recent September (e.g., September 2014)

CPI 2 is the CPI index number for September in the year before CPI 1 (e.g., September 2013)

5.7 If the Service Fees are adjusted pursuant to Sections 5.4 or 5.5 above, the new rates shall take effect on the first

January 1 following the date of the rate adjustment. The County shall give at least thirty (30) days advance notice to the City before the County begins to charge the new rates to the City.

SECTION 6. TERM OF AGREEMENT.

This Agreement shall take effect and be binding upon the parties from the Effective Date until the date when this Agreement is terminated or expires. The initial term of this Agreement shall expire on December 31, 2021, unless the Agreement is terminated earlier. This Agreement shall be renewed and extended automatically, without any action by the parties, for two (2) additional terms of seven (7) years each, unless the City or the County provides written notice to the other party that it does not wish to renew this Agreement and such notice is delivered to the other party at least one hundred eighty (180) days before the end of the then current term of the Agreement.

SECTION 7. TERMINATION

7.1 Subject to the other provisions contained herein, either party may terminate this Agreement if the other party fails to perform any of its material obligations hereunder. Before a party may terminate this Agreement pursuant to this Section, the non-defaulting party shall give written notice to the other party that a default exists which will, unless corrected, constitute an event of default on the part of the defaulting party. The notice shall inform the defaulting party that this Agreement shall be terminated unless the default is cured within thirty (30) calendar days following the defaulting party's receipt of the notice. If a cure cannot reasonably be effected within thirty (30) days despite the exercise of due diligence, the time to cure the default shall be extended to include such additional time as is reasonably necessary to effect a cure, provided that the defaulting party exercises continuous diligent efforts to cure the default during the extended cure period. If the defaulting party fails to cure the default within the cure period, the non-defaulting party may terminate this Agreement for cause.

7.2 If this Agreement is terminated for cause by the County, the City shall have the right to continue to deliver Acceptable Waste to the Transfer Stations in accordance with the terms of this Agreement for a period of six (6) months after the County gives notice of the termination. If this Agreement is terminated for cause by the City, the City may discontinue its

deliveries of Acceptable Waste to the Transfer Stations on a date selected by the City; provided, however, such date shall be at least thirty (30) days after the date when the City delivered its notice of termination to the County, unless a federal or state agency having jurisdiction has directed the City to discontinue its deliveries sooner.

7.3 Either party may terminate this Agreement, without cause, by providing written notice of termination to the other party. However, if this Agreement is terminated without cause, the termination shall not take effect until at least twelve (12) months after the date when the notice of termination was delivered to the other party.

SECTION 8. FORCE MAJEURE EVENTS

Notwithstanding any other provision in this Agreement, neither the County nor the City shall be liable to the other for any failure or delay in performance of any obligation under this Agreement due to the occurrence of a Force Majeure event. As a condition precedent to the right to claim excuse of performance, the party experiencing a Force Majeure event shall:

- (a) Promptly notify the other party orally that a Force Majeure event has occurred; and
- (b) As soon as practical, but in no event more than ten (10) calendar days after the Force Majeure event, deliver to the other party an oral description of (1) the Force Majeure event, (2) its estimated duration and impact, if any, on the party's obligations under this Agreement, and (3) the measures that have been and will be implemented to eliminate the impacts of the Force Majeure event. A written description concerning these three (3) topics shall be delivered to the other party within twenty (20) calendar days after the Force Majeure event.

SECTION 9. NOTICES

Unless this Agreement expressly provides otherwise, each notice, request, approval, and other communication required or permitted by this Agreement will be valid only if it is (a) in writing (whether or not the applicable provision states that it must be in writing), (b) delivered in person or by telecopy,

commercial courier, or first-class, postage prepaid, United States mail (certified or registered), and (c) addressed by the sender to the intended recipient as follows:

With copies to:

(a) If to the County:

County Administrator
St. Johns County
500 San Sebastian Way
St. Augustine, Florida 32084
Telephone: 904/209-0530
Facsimile: 904/209-0531

(b) If to the City:

City Manager
City of St. Augustine
P.O. Box 210
St. Augustine, Florida 32085-0210
Telephone: 904/825-1006
Facsimile: 904/825-1096

A validly given notice, request, approval, statement, or other communication will be effective on the earlier of its receipt, if delivered personally or by telecopy or commercial courier, or the fifth day after it is postmarked by the United States Postal Service, if delivered by postage prepaid, United States mail. Each party promptly shall notify the other party of any change in its mailing address or telecopy number for notices.

SECTION 10. DISPUTE RESOLUTION, REMEDIES, AND VENUE

Each party shall have the right to file suit and seek judicial relief concerning the enforcement and interpretation of this Agreement. Each party shall have the right to seek any remedies available at law or in equity for the breach of this Agreement, including damages and specific performance. Any remedies provided in this Agreement are cumulative and supplemental to other remedies available at law and in equity. Venue for any civil litigation concerning this Agreement shall be exclusively in the state court in and for St. Johns County, Florida.

SECTION 11. WAIVER OF JURY TRIAL

THE PARTIES AGREE THAT ANY CLAIM FILED IN STATE COURT CONCERNING THE INTERPRETATION OR ENFORCEMENT OF THIS AGREEMENT SHALL BE HEARD BY A JUDGE, SITTING WITHOUT A JURY. THE COUNTY AND THE CITY HEREBY KNOWINGLY, VOLUNTARILY, PERMANENTLY, AND IRREVOCABLY WAIVE THEIR RIGHT TO A JURY TRIAL CONCERNING ANY SUCH CLAIM.

SECTION 12. SOVEREIGN IMMUNITY

Nothing in this Agreement shall be interpreted or construed to mean that the County or the City waives its common law sovereign immunity or the limits on liability set forth in Section 768.28, Florida Statutes.

SECTION 13. MUTUAL INDEMNIFICATION

Each party agrees that it shall indemnify and hold the other party harmless from and against any claims, suits, losses, liabilities, penalties, damages, costs, and expenses, including reasonable attorney's fees (collectively, "Claims"), arising out of or in connection with any breach or violation of any term or provision of this Agreement that it (i.e., the indemnifying party) causes or any negligent act or omission by it (i.e., the indemnifying party) or its agents or representatives. However, a party shall not be required to provide indemnification to the other party if such Claims were caused by the acts or omissions of the other party.

SECTION 14. NO THIRD PARTY BENEFICIARIES

This Agreement is not intended to create any third party beneficiaries. This Agreement shall not be construed to impose on the City or the County any liability or obligation to any subcontractor or third party.

SECTION 15. ENTIRE AGREEMENT

This Agreement records the entire understanding of the parties regarding the subjects addressed in it. This Agreement supersedes any prior agreement, understanding, or representation, oral or written, by them.

SECTION 16. CONSTRUCTION AND INTERPRETATION OF AGREEMENT

- (a) The parties are represented by counsel, they mutually participated in the drafting hereof, and they voluntarily waive any rule of law that would require any doubtful or ambiguous provisions contained herein to be construed against the party that physically prepared this Agreement.
- (b) The words "include" and "including" as used herein shall be deemed to be followed by the phrase "without limitation."
- (c) It is anticipated that one or more private companies will deliver the City's Solid Waste to the Transfer Stations for or on behalf of the City. Accordingly, whenever this Agreement refers to the delivery of Solid Waste or other material by the City, the Agreement shall be construed to mean delivery by or on behalf of the City, or delivery caused by or on behalf of the City, regardless of whether such language is expressly stated herein.
- (d) Words or phrases which are defined herein by reference to a statute, rule or regulation shall have the meaning ascribed to such word or phrases as of the Effective Date, without regard to subsequent changes in such statutes, rules or regulations.
- (e) In the event of any conflict between this Agreement and Applicable Law, the requirements of the Applicable Law shall govern.

SECTION 17. HEADINGS AND REFERENCES

The Section headings in this Agreement do not constitute a part of this Agreement and shall not affect its meaning or interpretation.

SECTION 18. EXECUTION OF COUNTERPARTS

The parties may execute this Agreement in counterparts. Each executed counterpart of this Agreement shall constitute an original document. All executed counterparts, together, shall constitute the same agreement.

SECTION 19. AMENDMENTS

This Agreement may be amended only by written instrument specifically referring to this Agreement and executed by both parties with the same formalities as this Agreement.

SECTION 20. ASSIGNMENTS

Neither party may assign, transfer, or otherwise vest in any other Person, its rights or obligations under this Agreement without the prior written consent of the other party. A party may withhold its consent to an assignment for any reason or no reason, in its sole and absolute discretion.

SECTION 21. SEVERABILITY

Whenever possible, each provision of this Agreement shall be construed and interpreted so that it is valid, lawful, and enforceable under Applicable Law. If a provision of this Agreement (or the application of it) is held by a court to be invalid, unlawful, or unenforceable under Applicable Law, that provision shall be deemed modified to the extent necessary to conform with Applicable Law or, if not modifiable, then it shall be deemed separable from the remaining provisions of this Agreement and, in either event, the remaining provisions of this Agreement shall remain unmodified and in full force and effect.

SECTION 22. WAIVER

A waiver of any provision of this Agreement shall be valid and effective only if it is in writing and signed by or on behalf of the party granting the waiver. Making any payment pursuant to this Agreement during the existence of a dispute shall not constitute a waiver of any claims or defenses of the party making such payment.

SECTION 23. EXHIBITS

The exhibits attached hereto are adopted and incorporated herein by this reference.

SECTION 24. FILING OF AGREEMENT

This Agreement shall be filed with the Clerk of the Circuit Court of St. Johns County, Florida, and the Clerk of the City.

SECTION 25. EFFECTIVE DATE

This Agreement shall take effect on the date (i.e., the "Effective Date") when it is signed and duly executed by the County and the City.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement as of the dates set forth below:

ST. JOHNS COUNTY, a political subdivision of the State of Florida, by and through its Board of County Commissioners

By: _____
John H. Morris , Chairman

Executed on behalf of St. Johns County on this ____ day of _____, 2014.

Attest:

Cheryl Strickland, Clerk of the Circuit Court of St. Johns County

CITY OF ST. AUGUSTINE

By: _____
Joe Boles, Mayor

Executed on behalf of the City of St.
Augustine on this ____ day of _____,
2014.

Attest:

Allison Ratkovic, City Clerk

Acceptable as to form:

Isabelle C. Lopez, City Attorney

EXHIBIT 1: DEFINITIONS

The definitions contained in this Exhibit 1 shall govern the interpretation and construction of the Agreement.

1.1. Acceptable Waste shall mean Solid Waste that may be received in the Transfer Stations and disposed of in the Disposal Facility in compliance with Applicable Law.

1.2. Applicable Law shall mean any local, state, or federal statute, law, constitution, charter, ordinance, judgment, order, decree, permit, rule, regulation, policy, standard, or similar binding authority, or judicial or administrative interpretation of any of the same, which are in effect or are enacted, adopted, promulgated, issued, or enforced by a governmental body during the term of this Agreement, and relate in any manner to the performance of the City or the County under this Agreement. Applicable Law includes, but is not limited to, the permits and approvals that govern the operation of the Transfer Stations and the Disposal Facility.

1.3. Board shall mean the Board of County Commissioners of St. Johns County or the Board's designee.

1.4. City shall mean, depending on the context, either (a) the geographic area contained within the municipal boundaries of the City of St. Augustine or (b) the government of the City of St. Augustine, acting through the Commission or its designee(s).

1.5. Class I Landfill shall mean a landfill that has all of the permits and approvals needed to lawfully receive Class I Waste.

1.6. Class I Waste shall mean Solid Waste that is not Hazardous Waste and is not prohibited from disposal in a lined landfill pursuant to FDEP Rule 62-701.300, F.A.C. or other Applicable Laws.

1.7. Commission shall mean the City Commission of the City of St. Augustine or the Commission's designee.

1.8. Construction and Demolition Debris shall mean discarded materials generally considered to be not water soluble and non-hazardous in nature, including, but not limited to, steel, glass, brick, concrete, asphalt roofing material, pipe,

gypsum wallboard, and lumber, from the construction or destruction of a structure as part of a construction, demolition, or renovation project, and including rocks, soils, tree remains, and other vegetative matter that normally results from land clearing or land development operations for a construction project.

1.9. County shall mean, depending on the context, either (a) the geographic area contained within unincorporated St. Johns County or (b) the government of St. Johns County, acting through the Board or its designee(s).

1.10. Disposal Facility shall mean the Class I Landfill that is used for the disposal of the Class I Waste transported from the County's Transfer Stations.

1.11. FDEP shall mean the Florida Department of Environmental Protection.

1.12. Force Majeure shall mean:

- (a) An act of God, including a hurricane, tornadoe, landslide, lightning, earthquake, fire, flood, or explosion, and an act of a public enemy, including war, terrorism, blockade or insurrection, riot, or civil disturbance;
- (b) The order or judgment of any federal, state, or local court, administrative agency or governmental body;
- (c) The failure to issue, suspension, termination, interruption, denial, or failure of renewal of any permit or approval essential to the operation of the Transfer Stations or the Disposal Facility;
- (d) A change in law;
- (e) The failure of any appropriate federal, state, or local public agency or private utility having operational jurisdiction in the area in which the Transfer Stations or Disposal Facility are located, other than the County, to provide and maintain utilities, services, water and sewer lines, and power transmission lines which are required for and essential to the operation of the Transfer Stations or Disposal Facility;

- (f) Any unforeseen condition (including the presence of Hazardous Waste) which shall prevent, or require redesign or change in, the construction or operation of the Transfer Stations or Disposal Facility; or
- (g) The condemnation, taking, seizure, involuntary conversion, or requisition of title to or use of the Transfer Stations or Disposal Facility or any material portion or part thereof taken by the action of any federal, state or local governmental agency or authorities, other than the County; or
- (h) Any act, event, or condition which is determined by mutual agreement of the County and Contractor to be of the same general type, and subject to the same conditions, as those set forth in subparagraphs (a) through (g), above.

1.13. Franchisee shall mean a Person that has received a contract or franchise from the City for the collection of the Acceptable Waste generated in the City.

1.14. Hazardous Waste shall mean a Solid Waste identified by the FDEP as a Hazardous Waste pursuant to Chapter 62-730, F.A.C., or other Applicable Law.

1.15. Holiday shall mean a Day when the County does not need to operate the Transfer Station. The Holidays are New Year's Day, Thanksgiving Day, and Christmas Day, unless the parties agree otherwise.

~~1.15.~~ 1.16. Person shall mean any and all persons, natural or artificial, including any individual, firm, association, joint venture, partnership, or other entity, however organized, including any public or private corporation, and any governmental agency or branch of government.

~~1.16.~~ 1.17. Service Fees means the fees that the City shall pay to compensate the County for the County's duties, obligations and responsibilities under this Agreement.

~~1.17.~~ 1.18. Solid Waste shall mean sludge that is not regulated under the federal Clean Water Act or Clean Air Act, as well as sludge from a waste treatment works, water supply treatment plant, or air pollution control facility; or garbage,

rubbish, refuse, special waste, or other discarded material, including solid, liquid, semi-solid, or contained gaseous material resulting from domestic, industrial, commercial, mining, agricultural, or governmental operations.

~~1.18.~~1.19. Special Waste shall mean a Solid Waste that requires special handling or management at the Transfer Stations. Special Waste includes waste tires.

~~1.19.~~1.20. Transfer Station shall mean a facility that is used to receive, temporarily store, and then load Solid Waste into vehicles for transport to a disposal facility. For the purposes of this Agreement, the Transfer Stations are the County's Transfer Station at the Tillman Ridge Landfill and the County's Transfer Station adjacent to Stratton Road.

~~1.20.~~1.21. Unacceptable Waste shall mean any Solid Waste, liquid waste, or other material that cannot be (a) accepted lawfully at the County's Transfer Stations or (b) disposed of lawfully at the Disposal Facility. Unacceptable Waste includes, but is not limited to, Hazardous Waste, asbestos, biomedical waste, biological waste, radioactive waste, sludge, liquid waste, Yard Trash, waste tires, Construction and Demolition Debris, and industrial process waste.

~~1.21.~~1.22. Yard Trash shall mean vegetative matter resulting from landscaping maintenance or land clearing operations and includes tree and shrub trimmings, grass clippings, palm fronds, trees and tree stumps, and associated rocks and soils.

EXHIBIT 2: SERVICE FEES

1. Service Fees for disposal of
Acceptable Waste \$52.00 per ton

2. Service Fees for disposal of
Special Waste:
 - (a) Tires, per ton \$185.00

3. Service Fee for segregating tires
or other Unacceptable Waste from
Acceptable Waste \$25.00 per hour