

**RESOLUTION NO. 2016-265**

**A RESOLUTION OF THE BOARD OF COUNTY COMMISSIONERS OF ST. JOHNS COUNTY, FLORIDA, AUTHORIZING THE COUNTY ADMINISTRATOR TO GRANT EXTRAORDINARY RELIEF TO ADVANCED DISPOSAL SERVICES, LLC AS PERMITTED BY THE FRANCHISE EXTENSION AGREEMENT FOR THE COLLECTION AND TRANSPORTATION OF SOLID WASTE AND WAIVING THE FUEL ADJUSTMENT FEE REQUIRED TO BE PAID TO THE COUNTY.**

**WHEREAS**, St. Johns County (County) and Advanced Disposal Services, LLC (ADS) entered into a Franchise Extension Agreement (Agreement), as amended, for the collection and transportation of residential solid waste in St. Johns County, Florida, on behalf of St. Johns County;

**WHEREAS**, section 9.11 of the Agreement requires ADS to pay a Fuel Adjustment Fee to the County when the FDOT index price less the Monthly Base Fuel Price results in a negative Unfunded Cost;

**WHEREAS**, section 9.3 of the Agreement provides that ADS may petition the County for a rate adjustment based on extraordinary changes supported by appropriate documentation and an audited statement fully explaining and supporting any claim for a Rate adjustment and documenting the extraordinary changes;

**WHEREAS**, on December 15, 2015, the County approved Resolution 2015-384 regarding an extraordinary rate adjustment for fuel relief requested by ADS;

**WHEREAS**, the fuel differential paid to the County was waived commencing on October 1, 2015 until such time as the County's Compressed Natural Gas (CNG) Fueling Facility was operational, but no more than six months at which time this request could be reevaluated;

**WHEREAS**, the County estimated the construction and operation of the CNG Fueling Station by October 1, 2015, however the proposed CNG Fueling Station was not operational at that time;

**WHEREAS**, ADS purchased collection vehicles using CNG for fuel in anticipation of the completion and operation of the County-sponsored Fueling Station;

**WHEREAS**, ADS has requested that the County consider waiving the fuel differential for April-June 2016 due to the CNG Fueling Station not being operational during those months, and has submitted to the County appropriate documentation and an audited statement to fully explain and support its request and to document the extraordinary changes;

**WHEREAS**, the Contract Administrator has reviewed and recommended approval of the requested relief;

**WHEREAS**, the Board of County Commissioners, at its sole discretion, approves this request and has determined that relief should be granted based on the documented extraordinary changes and costs;

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

1. The above recitals are hereby adopted as findings of fact.
2. Pursuant to section 9.3 of the Franchise Extension Agreement, the Board of County Commissioners hereby grants the request for relief subject to the following conditions:
  - a. The invoice for April-June 2016, ADS is not required to pay a Fuel Adjustment Fee to the County under the provisions of section 9.11 of the Agreement.
  - b. No other rate adjustment waiver, or waiver of any other provision of the Agreement is granted.
3. To the extent that there are typographical and/or administrative errors and/or omissions that do not change the tone, tenor, or context 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 Board of County Commissioners of St. Johns County, Florida this 6 day of September 2016.

ATTEST: Hunter S. Conrad, Clerk

By: Pam Halterman  
Deputy Clerk

Rendition Date: 9/8/16

BOARD OF COUNTY COMMISSIONERS  
OF ST. JOHNS COUNTY, FLORIDA

By: Jeb S. Smith  
Jeb S. Smith, Chair

Effective Date: 9/6/16



Res 2014-143

**AMENDED AND RESTATED  
FRANCHISE AGREEMENT  
FOR THE COLLECTION  
AND TRANSPORTATION  
OF RESIDENTIAL WASTE**

**BETWEEN**

**ST. JOHNS COUNTY, FLORIDA**

**AND**

**ADVANCED DISPOSAL SERVICES  
OF JACKSONVILLE, LLC**

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

Notwithstanding the foregoing provisions of this Section 9.2, the CPI adjustments that shall take effect on October 1, 2015, 2016, and 2017, shall be calculated in a different manner. The CPI adjustments for October 1, 2015, 2016, and 2017 shall be calculated in accordance with the normal procedures described above, and then the amount of the increase or decrease in the Rates shall be reduced by an additional two percent (2%). For example, if the CPI adjustment for October 1, 2015 is calculated to increase the Rates by three percent (3%), the actual CPI adjustment shall increase the Rates by only one percent (1%). Similarly, if the CPI adjustment for October 1, 2015 is calculated to increase the Rates by one-half of one percent (0.5%), the actual CPI adjustment shall reduce the Rates by one and one-half percent (1.5%).

### 9.3 Extraordinary Rate Adjustment

Once each year, the Contractor may petition the County for a Rate adjustment, based on extraordinary changes in the cost of providing services under this Agreement. The Contractor shall submit appropriate documentation to fully explain and support any claim for a Rate adjustment. The Contractor's request shall include an audited statement that documents the extraordinary changes in the Contractor's costs. The Contract Administrator shall review and recommend approval or denial of the Rate adjustment. The Board shall consider the Contractor's request for a Rate adjustment at a duly noticed public meeting. At its sole discretion, the Board may approve or deny the request. If the request is granted, the Board shall have the right to reduce the Contractor's Rates when the cost of the Contractor's operations returns to normal. Every six (6) months after a request is granted, the Board shall have the right to request, and the Contractor shall prepare, an updated audit to demonstrate why the extraordinary Rate adjustment should remain in effect.

### 9.4 Contractor's Invoices

The Contractor shall prepare and submit a monthly invoice to the County for the work that was performed during the preceding month. The invoice shall identify the number of Customers that were served, the Rate that should be charged for each Customer, and the total payment due to the Contractor. The first invoice shall cover the period from the Effective Date until the end of the calendar month that includes the Effective Date. Thereafter, each invoice shall cover the work performed during the preceding calendar month.

### 9.5 Payment Time

The Contractor shall be paid all undisputed amounts within forty-five (45) days after the County receives a proper invoice for the work performed by the Contractor during the preceding month.

appropriate information, in the format requested by the Contract Administrator, to determine whether the Person should be added to the County's Customer list. If the Contract Administrator verifies that the Person should be added to the County's Customer list, the County shall pay the Contractor for the Regular Services provided to the Customer. If the County overpays the Contractor for any reason, the Contractor shall promptly notify the Contract Administrator, and the County shall adjust its monthly payments to the Contractor to offset any prior overpayments.

Notwithstanding anything else contained herein, the County shall have no obligation to pay the Contractor for services rendered by the Contractor more than one (1) calendar month before the Contractor notifies the Contract Administrator that the Contractor has been providing its service to a Person or Residential Property that was omitted from the County's list of Customers. The Contractor hereby waives its right to payment for services provided more than one (1) calendar month prior to its notice to the Contract Administrator. For example, if the Contractor gives notice in October that the Contractor has provided service to a Customer since June, the Contractor shall receive payment for the services it provided in September and October, but the Contractor shall not be entitled to any payment for services it rendered prior to September.

#### 9.11 Diesel Fuel Adjustment Fee

The County shall pay an additional fee (i.e., "the Fuel Adjustment Fee") to the Contractor, and the Contractor shall pay a Fuel Adjustment Fee to the County, when required by the provisions of this Section 9.11. The Fuel Adjustment Fee shall be invoiced quarterly in arrears. The Fuel Adjustment Fee shall reflect the monthly changes in the price of Number 2 Diesel, as reported in the FDOT Fuel and Bit Price Index (FDOT Index) (<http://www.dot.state.fl.us/construction/fuel&bit/Fuel&Bit.shtm>).

The Fuel Adjustment Fee shall be paid for diesel fuel that is used by the Contractor's collection vehicles, but only when such vehicles are used to collect and transport the County's Residential Waste in St. Johns County in compliance with this Agreement. The Contractor shall compile and maintain accurate records demonstrating that the Contractor has complied with the requirements in this Section 9.11. The County may withhold payment of any invoice from the Contractor for the Fuel Adjustment Fee until the Contractor provides adequate documentation to support the invoice. At any time the County may monitor and audit the fuel consumption records of the Contractor for the collection and transportation of the County's Residential Waste.

The "Base Fuel Price" (BFP) will be set at \$3.2251 per gallon, beginning April 1, 2014. The Base Fuel Price shall be adjusted each month thereafter, based on the change during the preceding month in the Consumer Price Index published by the United States Department of Labor, Bureau of Labor Statistics, for all items in the wage earners and clerical workers (CPI-W) category for the South Urban Area. This CPI adjustment will establish a "Monthly Base Fuel Price" (MBFP).

The MBFP will be subtracted from the FDOT Index Price for that month to derive the "Price Differential" per gallon of diesel fuel for the subject month. This Price Differential will then be multiplied by the number of gallons consumed by the Contractor during the month for the collection and transportation of the County's Residential Waste in the County in compliance with this Agreement. The resulting value is the amount of the Fuel Adjustment Fee for that month.

When the FDOT Index Price is greater than the Base Fuel Price, the Fuel Adjustment Fee will be paid by the County to the Contractor. When the FDOT Index Price is less than the Base Fuel Price, the County will deduct the Fuel Adjustment Fee from the County's payments to the Contractor.

The Fuel Adjustment Fee shall be calculated by using the following formulas:

$$\text{BFP} \times \text{Monthly CPI Adjustment} = \text{MBFP}$$

$$\text{FDOT Index} - \text{MBFP} = \text{Price Differential (Per Gallon of Diesel Fuel)}$$

$$\text{Gallons Used by Contractor} \times \text{Price Differential} = \text{Fuel Adjustment Fee}$$

The following hypothetical examples use hypothetical values to demonstrate how the Fuel Adjustment Fee will be calculated:

Example No. 1:

$$\$3.2251 \text{ (BFP)} \times 1.003 \text{ (CPI Adjustment)} = \$3.2348 \text{ (MBFP)}$$

$$\$3.2348 \text{ (MBFP)} - \$3.1818 \text{ (FDOT Index)} = \$0.053 \text{ (Price Differential)}$$

$$1,000 \text{ Gallons (Fuel Used)} \times \$0.053 \text{ (Price Differential)} = \$53.00 \\ \text{(Fuel Adjustment Fee to be paid by the Contractor to the County)}$$

Example No. 2:

$$\$3.2251 \text{ (BFP)} \times 0.995 \text{ (CPI Adjustment)} = \$3.2089 \text{ (MBFP)}$$

$$\$3.3311 \text{ (FDOT Index)} - \$3.2089 \text{ (MBFP)} = (\$0.1222) \text{ (Price Differential)}$$

$$1,000 \text{ Gallons (Fuel Used)} \times (\$0.1222) \text{ (Price Differential)} = \\ \$122.20 \text{ (Fuel Adjustment Fee to be paid by the County to the Contractor)}$$

#### 9.12 Right to Verify Payments

The County's acceptance of any payment from the Contractor and the County's deduction of any amount from any payment due to the Contractor shall not be construed



## Advanced Disposal

August 5<sup>th</sup>, 2016

Mr. Neal Shinkre  
Public Works Director  
St. John County Public Works  
1625 State Road 16  
St. Augustine, FL 32084

Re: Request for Waiving the Fuel Adjustment Fee for a defined period of time.

Dear Neal,

Please accept this letter as Advanced Disposal Service Jacksonville, LLC's (Advanced Disposal) official request to extend the Waiving of the Fuel Adjustment Fee for the previous months of April, May, and June 2016 for the following reasons:

- Advanced Disposal has been working in conjunction with the County's efforts to develop a new CNG fueling station by committing to purchasing and utilizing 15 new CNG trucks to service the County. The original commitment was only 5 new CNG trucks; however, to further support the County's initiative, Advanced Disposal, committed to purchasing 10 additional new CNG trucks.
- The completion date of the CNG fueling station has changed on multiple occasions for various reasons. The most recent anticipated deadline was March 2016 which was not achieved and the actual completion date was achieved on July 1<sup>st</sup>, 2016.

In light of the three month delay, Advanced Disposal respectfully requests of the County an extension of the Waiving of the Fuel Adjustment Fee for the three previous months prior to the station completion date.

Sincerely,

Greg Huntington  
Municipal Marketing and Government Affairs  
Advanced Disposal Services

Cc: Todd Strong, Region Manager  
Bill Stubblebine, District Manager  
Kristine Austin, District Controller  
Wendy Hicks, St. Johns Solid Waste Manager

# Advanced Disposal Services, Inc.

# INFO ONLY

7580 Phillips Highway  
 Jacksonville, FL 32256  
 Phone 904.783.7000 Fax 904.493.3081

DATE: July 1, 2016  
 INVOICE #

**Bill To:**

St Johns County  
 Solid Waste Division  
 3005 Allen Nease Road  
 Elkton, Florida 32033

\*E-mail to Christy Stewart [cstewart@sjcfl.us](mailto:cstewart@sjcfl.us) & Julie Atkins [jatkins@sjcfl.us](mailto:jatkins@sjcfl.us)

DESCRIPTION				AMOUNT
Extraordinary Fuel Rate Adjustment				\$ (49,453.31)
April - June 2016				
	Apr-16	May-16	Jun-16	
CPI-W	0.50%	0.43%	0.44%	
CPI-W Price Chg	227.955	228.943	229.955	
FDOT Price	\$ 1.2755	\$ 1.4627	\$ 1.6045	
Beg Base Rate	\$ 3.1873	\$ 3.2033	\$ 3.2172	
Chg to Base Rate	\$ 0.0160	\$ 0.0139	\$ 0.0142	
Monthly Base Rate	\$ 3.2033	\$ 3.2172	\$ 3.2314	
Unfunded Price	\$ 1.9278	\$ 1.7545	\$ 1.6269	
Gallons	10,765.50	9,444.60	7,455.30	
Fuel Adjustment	\$ (20,753.73)	\$ (16,570.55)	\$ (12,129.03)	
<b>TOTAL</b>				<b>\$ (49,453.31)</b>

Make all checks payable to Advanced Disposal Services

**THANK YOU FOR YOUR BUSINESS!**