

**THIRD AMENDMENT TO INTERLOCAL AGREEMENT BETWEEN
ALACHUA COUNTY AND THE CITY OF GAINESVILLE
FOR SOLID WASTE MANAGEMENT SERVICES**

THIS THIRD AMENDMENT TO THE INTERLOCAL AGREEMENT PERTAINING TO THE SOLID WASTE MANAGEMENT SERVICES, is made effective as of this 1st day of October, A.D., 2009, by and between Alachua County, a charter county and political subdivision of the State of Florida, hereinafter referred to as "County", and the City of Gainesville, a municipal corporation of the State of Florida, hereinafter referred to as "City";

WITNESSETH:

WHEREAS, the County and the City have previously entered into an Interlocal Agreement for Solid Waste Management Services dated May 12, 1998, (the "Interlocal"); a First Amendment to Interlocal Agreement for Solid Waste Management Services dated September 28, 2004; a Memorandum of Understanding for Solid Waste Management Services dated November 23, 2004; and a Second Amendment to the Interlocal Agreement for Solid Waste Management Services, dated October 23, 2007 (these four documents being collectively referred to herein as "Agreements"); and

WHEREAS, the reporting requirements of the May 12, 1998 Interlocal Agreement and the November 23, 2004 Memorandum of Understanding are in conflict; and

WHEREAS, Article VI., Section 4. of the Interlocal allows for renewal by mutual agreement of the parties; and

WHEREAS, the City and County desire to extend the Agreements through December 31, 2018; and

WHEREAS, the City and County agreed that there will be City representation at formal disposal negotiations with the New River Solid Waste Association; and

WHEREAS, the City and County agreed to develop and implement contractual flow-control within their respective jurisdictions, while continuing to pursue one or more exclusive commercial franchises as a backup; and

WHEREAS, the City and County agreed for the County to formalize interlocal disposal agreements with the other municipalities in the county; and

WHEREAS, the City and County agreed to fund care of identified closed landfills through cooperative funding mechanisms; and

WHEREAS, the City and County agreed to, through the interlocal disposal agreement, share expertise on proper maintenance of closed landfills;

NOW THEREFORE, the City and County do hereby agree as follows:

1. ARTICLE III, Section 3, of the Interlocal is amended in its entirety to read:

The County shall, no later than March 31 of each year, prepare an annual report on its Solid Waste Management System. The report shall provide specific details of each of the elements and programs which comprise the County's solid waste management system. This report shall clearly identify program costs. The report shall also include a disclosure of the total tonnage received during the fiscal year and the origin of such tonnage as it relates to the City, all other cities, the unincorporated area of the County, and out-of-County waste. The County shall keep records of the revenues and expenses of the solid waste management system and the City shall have the right at all reasonable times to inspect all records, accounts, and data relating thereto.

The County shall also provide quarterly reports to the City, which shall include tonnages of waste received at the County's transfer station and a

summary of revenues and expenses for each of the solid waste management programs. The third quarter report for each year shall include an evaluation and projection of revenues and expenditures associated with each element and program of the solid waste management system for the following fiscal year in order to project the following years solid waste management services fees.

2. ARTICLE III, Section 6 is added, as follows:

The County shall include City representation at formal disposal negotiations with the New River Solid Waste Association.

3. ARTICLE III, Section 7 is added, as follows:

The County agrees to develop and implement contractual flow-control within its jurisdiction, while continuing to pursue one or more exclusive commercial franchises as a backup

4. ARTICLE III, Section 8 is added, as follows:

The County agrees to formalize interlocal disposal agreements with the other municipalities in the county

5. ARTICLE III, Section 9 is added, as follows:

The County agrees to fund care of identified closed landfills through cooperative funding mechanisms with the City.

6. ARTICLE III, Section 10 is added, as follows:

The County agrees to share expertise on proper maintenance of closed landfills with the City.

7. ARTICLE IV, Section 5 is added, as follows:

To the extent allowed by law, the City agrees to develop and implement

contractual flow-control within its jurisdiction. In addition, the City may pursue one or more exclusive commercial franchises.

8. ARTICLE IV, Section 6 is added, as follows:

The City agrees to negotiate cooperative funding mechanisms with the County to fund care of closed landfills for which the City and County are responsible pursuant to Florida law.

9. ARTICLE IV, Section 7 is added, as follows:

The City agrees to share expertise on proper maintenance of closed landfills with the County.

10. ARTICLE VI, Section 1, of the Interlocal is amended in its entirety to read:

This agreement shall become effective on the date of execution and shall remain in effect until December 31, 2018 unless earlier terminated as provided herein.

11. ARTICLE VI, Section 4, the first sentence is hereby changed to read:

Upon mutual agreement by the City and County, this Agreement may be renewed.

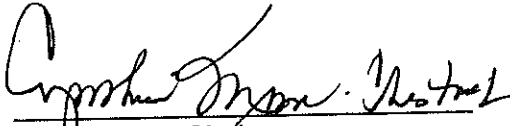
12. This Third Amendment shall be recorded by the County in the Public Records of Alachua County, Florida after both parties have executed this document.

13. Except as modified by this Third Amendment (the language of which shall govern in the event of any conflict with the Agreements), all terms and conditions of the Agreements shall remain in full force and effect. This amendment shall take effect upon the date of execution.

IN WITNESS WHEREOF, the parties have caused this Third Amendment to

Interlocal Agreement to be executed for the uses and purposes therein expressed on the day and year first above-written.

ALACHUA COUNTY, FLORIDA

By: 
Mike Byerly, Chair
Board of County Commissioners

ATTEST:



J. K. "Buddy" Irby, Clerk

(SEAL)

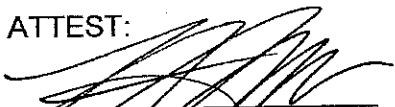
APPROVED AS TO FORM


Alachua County Attorney

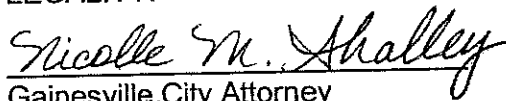
CITY OF GAINESVILLE

By: 
Pegeen Hanrahan, Mayor

ATTEST:


Kurt M. Lannon, Clerk of the Commission

APPROVED AS TO FORM AND LEGALITY:


Gainesville City Attorney
Senior Assistant

**SECOND AMENDMENT TO THE INTERLOCAL AGREEMENT FOR
SOLID WASTE MANAGEMENT SERVICES**

THIS SECOND AMENDMENT is made and entered into this 23rd day of October, 2007, by and between THE CITY OF GAINESVILLE, FLORIDA, a municipal corporation (hereinafter referred to as "CITY"), and ALACHUA COUNTY, a charter county and political subdivision of the State of Florida, by and through its Board of County Commissioners (hereinafter referred to as "COUNTY").

WHEREAS, the CITY and COUNTY have previously entered into an Interlocal Agreement for Solid Waste Management Services dated May 12, 1998 (the "Interlocal"); a First Amendment to Interlocal Agreement for Solid Waste Management Services dated September 28, 2004; and a Memorandum of Understanding for Solid Waste Management Services dated November 23, 2004 (these three documents being collectively referred to herein as the "Agreements"); and

WHEREAS, the Article VI., Section 4. of the Interlocal allows for renewal by mutual agreement of the parties; and

WHEREAS, the CITY and COUNTY desire to renew the Agreements.

NOW, THEREFORE, the parties hereto agree as follows:

1. ARTICLE VI., Section 1, of the Interlocal is amended in its entirety to read as follows:

This Agreement shall become effective on October 1, 2007 and shall remain in effect until September 30, 2009 unless earlier terminated as provided herein.

2. ARTICLE IV. of the Interlocal is amended to add a new Section 5 to read as follows:

The obligations of the CITY as to any funding required pursuant to this Agreement shall be limited to an obligation in any given year to budget and appropriate from legally available funds, after monies for essential City services have been budgeted and appropriated, sufficient monies for the funding that is required during that year. Notwithstanding the foregoing, the CITY shall not be prohibited from pledging any legally available non-ad valorem revenues for any obligations heretofore or hereafter incurred, which pledge shall be prior and superior to any obligation of the CITY pursuant to this Agreement.

3. This Second Amendment shall be recorded by the County in the Public Records of Alachua County, Florida after both parties have executed this document.

4. Except as modified by this Second Amendment (the language of which shall govern in the event of any conflict with the Agreements), all terms and conditions of the Agreements shall remain in full force and effect. This amendment shall take effect upon the expiration of the agreement or amendment currently in effect.

ALACHUA COUNTY, FLORIDA

By: Paula M. DeLaney
Board of County Commissioners
Paula M. DeLaney, Chair

ATTEST:

J. K. "Buddy" Irby
J. K. "Buddy" Irby, Clerk
(Seal)

APPROVED AS TO FORM

Paula M. DeLaney
Alachua County Attorney

CITY OF GAINESVILLE

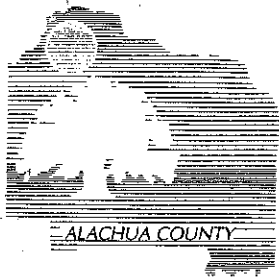
WITNESS:

By: Rosemary Shell
Title:

By: Russ Blackburn
Russ Blackburn, City Manager

APPROVED AS TO FORM AND LEGALITY

Stacole M. Smith
Asst City Attorney II



Alachua County Office of Management and Budget

Suzanne L. Gable, CPA
John Valinski, CGFM
John D. Johnson

Director
Senior Financial Management Analyst
Grants/Contracts Coordinator

October 21, 2004

MEMORANDUM

To: Karen Deeter, Waste Collection Manager
Public Works

From: John Johnson, Grants & Contracts Coordinator
Office of Management & Budget *jcp*

Subject: **Grants/Contracts Approved by the Board of County Commissioners on
September 28, 2004**

Enclosed please find one original of the document referenced below which was approved by the Board on the date referenced above.

GAINESVILLE, CITY OF

First Amendment to the Interlocal Agreement for Solid Waste Management Services

Term: May 12, 1998 - September 30, 2007

Amount: N/A

Account: N/A

Please forward the original to the vendor and keep a copy for your files.

Thank you for your assistance.

cc: OMB
Finance & Accounting
Rob Bonetti

JDJ/jcp



1 **FIRST AMENDMENT TO INTERLOCAL AGREEMENT BETWEEN**
2 **ALACHUA COUNTY AND THE CITY OF GAINESVILLE**
3 **FOR SOLID WASTE MANAGEMENT SERVICES**
4

5
6 THIS FIRST AMENDMENT TO THE INTERLOCAL AGREEMENT PERTAINING
7 TO THE SOLID WASTE MANAGEMENT SERVICES, made and entered into this 28 day of
8 September, A.D., 2004, by and between Alachua County, a charter county and political
9 subdivision of the State of Florida, hereinafter referred to as the "County", and the City of
10 Gainesville, a municipal corporation of the State of Florida, hereinafter referred to as "City";

11 W I T N E S S E T H:

12 WHEREAS, Alachua County and the City of Gainesville entered into an interlocal
13 agreement dated the 12th day of May 1998, to provide for the City's use of the Alachua County
14 solid waste management facility, known as the Solid Waste Transfer Station at the Leveda
15 Brown Environmental Park; and

16 WHEREAS, the May 1998 interlocal agreement provided that the County shall not
17 charge the City a higher fee for solid waste management services than it charges other users of
18 the County's solid waste management system; and

19 WHEREAS, the County requested that the City agree to amend this provision to enable
20 the County to charge a different fee for other users of the County's solid waste management
21 system; and

22 WHEREAS, the City requested that the County agree to amend the interlocal agreement
23 to require that the County transfer \$2,250,000 to the Solid Waste System Fund to replace the
24 funds that the County transferred to the Self-Insurance Fund during Fiscal Year 2002; and

1 WHEREAS, the County transferred \$1,125,000 to the Solid Waste Fund in Fiscal Year
2 2003; and

3 WHEREAS, the parties agree to amend the interlocal agreement to provide for a different
4 solid waste disposal fee for different users of the County's solid waste management system and
5 provide for reimbursement of the funds transferred to the Self-Insurance Fund during Fiscal Year
6 2002.

7 NOW THEREFORE, in consideration of the mutual covenants and promises hereinafter
8 set forth, and other good and valuable consideration, the CITY and COUNTY do hereby agree as
9 follows:

- 10 1. Article III, County Obligations, paragraph 2, is amended in its entirety to read:
- 11 2. The COUNTY shall determine and set reasonable solid waste management
12 services fees and take other lawful and necessary steps to establish funds
13 for the provision by the COUNTY of solid waste management services in
14 accordance with Section 403.706, Florida Statutes. The COUNTY shall
15 not charge the CITY a higher fee for solid waste management services
16 than it charges other users of the County's solid waste management
17 system. The CITY, however, does hereby consent to the COUNTY
18 charging to Waste Management Inc. of Florida, Waste Pro of Florida or
19 Southland Waste System a lower fee for disposing of commercial solid
20 waste at the Alachua County Solid Waste Transfer Station than the
21 COUNTY charges the CITY if such lower fees are charged pursuant to
22 written contracts executed with any of the aforesaid solid waste haulers

1 prior to November 1, 2004. The COUNTY shall fund solid waste
2 management services through the collection of a solid waste management
3 services fee at the Alachua County Solid Waste Transfer Station or
4 through special assessments or through a combination of methods. All
5 revenues received under this agreement for solid waste management
6 services shall be applied only to solid waste management purposes. The
7 County shall use its best efforts to reimburse the Solid Waste System Fund
8 for the remaining funds of the \$2,250,000 which were transferred to the
9 Self-Insurance Fund during Fiscal Year 2002. In no event shall the
10 reimbursement be less than \$100,000 per fiscal year, commencing with
11 Fiscal Year 2004-2005 and continuing until the balance is fully paid,
12 including any and all interest the transferred funds would have earned
13 based on the actual return rate of the solid waste system fund from the
14 initial date of the transfer until all principal and interest is repaid. This
15 covenant to reimburse survives the term of this agreement.

16 2. Under Article VII, Miscellaneous, Section 15, Intergovernmental Coordination, is
17 added as follows:

18 15. INTERGOVERNMENTAL COORDINATION.

19 A) The County and the City agree that representatives of their respective
20 governing bodies and their managers shall meet on at least a semiannual basis to
21 discuss the delivery of solid waste management services, including solid waste
22 disposal services, and any changes in the provision of solid waste management

1 services that the County and City agree to implement.
2 B) The County agrees that the City Manager or designee will be included in any
3 substantive discussions relating to the solid waste management system for the
4 purpose of receiving the City's input and recommendations prior to the County
5 approving or amending any agreement with any third party that provides services
6 to or for the system.

7 SAVE AND EXCEPT as expressly amended herein, all other terms and provisions of the
8 original Interlocal Agreement between the parties, dated May 12, 1998, shall be and remain in
9 full force and effect.

10

1 IN WITNESS WHEREOF, the parties have caused this First Amendment to Interlocal
2 Agreement to be executed for the uses and purposes therein expressed on the day and year first
3 above-written.

4 ALACHUA COUNTY, FLORIDA

5
6
7 By: Mike Byerly
8 Mike Byerly, Chair
9 Board of County Commissioners

10 ATTEST:

11 J. K. "Buddy" Irby, D.C.
12 J. K. "Buddy" Irby, Clerk
13

14 (SEAL)

15 APPROVED AS TO FORM

16 D. Wagon
17 Alachua County Attorney

18 CITY OF GAINESVILLE

19
20 By: Wayne Bowers
21 Wayne Bowers, City Manager
22

23 WITNESSES:

24 Rosemary Shes
25 Mike [Signature]
26
27
28
29

30 APPROVED AS TO FORM AND LEGALITY

31 [Signature]
32 Gainesville City Attorney

File contract

CIRCUIT COURT CLERK
J.K. "Buddy" Irby
ALACHUA COUNTY, FL
Date 09/14/1998 14:15
Document ID 1551492
Page 2191 / 531

**INTERLOCAL AGREEMENT FOR SOLID WASTE MANAGEMENT
SERVICES BETWEEN ALACHUA COUNTY AND
THE CITY OF GAINESVILLE, FLORIDA**

THIS AGREEMENT, made and entered into this 12th day of May, A.D., 1998, by and between the City of Gainesville, Florida, a municipal corporation of the State of Florida, (CITY), and Alachua County, a charter county and political subdivision of the State of Florida, by and through its Board of County Commissioners, (COUNTY), concerning solid waste management services.

WITNESSETH:

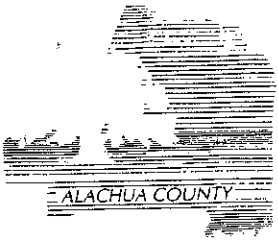
WHEREAS, Section 163.01, Florida Statutes, known as the Florida Interlocal Cooperation Act of 1969, authorizes local governmental units to enter into agreements with each other to make the most efficient use of their powers and to provide services and facilities that meet the needs of the local community; and,

WHEREAS, the COUNTY in accordance with Section 403.706, Florida Statutes, has the authority and the responsibility to provide for solid waste disposal for all entities within the County; and,

WHEREAS, the COUNTY has engaged in a comprehensive process to identify and develop a solid waste disposal facility to safely and economically serve the needs of the entire population of the County; and,

WHEREAS, the COUNTY intends to finance construction of the County solid waste facility project with existing solid waste enterprise fund capital reserves; and,

WHEREAS, the degree of usage of the County solid waste facility project by the CITY has influenced the size and cost of such facility; and,



"Caring People Providing Quality Service"

Commissioners:
Leveda Brown
Chairman
Charles Chestnut III
Chuck Clemons
Robert E. Summers
Penelope Wheat

BOARD OF COUNTY COMMISSIONERS

P.O. Box 2877 • Gainesville, Florida 32602-2877
(352) 374-5210

Richard D. Tarbox, County Manager

November 16, 1998

City of Gainesville
ATTN: Diane Holder
P.O. Box 490 - Station #32
Gainesville, Florida 32602

**RE: Initialed Page of Interlocal Agreement for Solid Waste Management Services
between City of Gainesville and Alachua County**

Dear Diane:

Enclosed is one fully-initialed original of the above-referenced page as you requested. However, please notice that Chuck Clemons, Vice Chair, initialed on behalf of Leveda Brown, Chair.

Thank you for your assistance. If you have any questions, please feel free to contact me.

Sincerely,

Laura C. Easter, Grants/Contracts Coordinator
Office of Management and Budget

Enclosure

REC'D PURCHASE
98 NOV 19 PM 1



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**INTERLOCAL AGREEMENT FOR SOLID WASTE MANAGEMENT
SERVICES BETWEEN ALACHUA COUNTY AND
THE CITY OF GAINESVILLE, FLORIDA**

THIS AGREEMENT, made and entered into this 12th day of May, A.D., 1998, by and between the City of Gainesville, Florida, a municipal corporation of the State of Florida, (CITY), and Alachua County, a charter county and political subdivision of the State of Florida, by and through its Board of County Commissioners, (COUNTY), concerning solid waste management services.

WITNESSETH:

WHEREAS, Section 163.01, Florida Statutes, known as the Florida Interlocal Cooperation Act of 1969, authorizes local governmental units to enter into agreements with each other to make the most efficient use of their powers and to provide services and facilities that meet the needs of the local community; and,

WHEREAS, the COUNTY in accordance with Section 403.706, Florida Statutes, has the authority and the responsibility to provide for solid waste disposal for all entities within the County; and,

WHEREAS, the COUNTY has engaged in a comprehensive process to identify and develop a solid waste disposal facility to safely and economically serve the needs of the entire population of the County; and,

WHEREAS, the COUNTY intends to finance construction of the County solid waste facility project with existing solid waste enterprise fund capital reserves; and,

WHEREAS, the degree of usage of the County solid waste facility project by the CITY has influenced the size and cost of such facility; and,

WHEREAS, the COUNTY has requested the CITY to enter into an Interlocal Agreement regarding the use of the County solid waste facility project so that, in turn, the COUNTY may reasonably project cost of operation and maintenance of the facility.

WHEREAS, the COUNTY intends to continue to provide a quality level of solid waste management services to the entire population of Alachua County.

NOW, THEREFORE, in consideration of the mutual covenants and promises hereinafter set forth, and other good and valuable consideration, the CITY and COUNTY do hereby agree that:

ARTICLE I

Purpose

It is the purpose and intent of this Agreement to define the terms and conditions of the COUNTY's provision of solid waste management services to the CITY and the CITY's rights and obligation to send certain portions of its waste stream, as herein defined, to the appropriate COUNTY facility. This Agreement is intended to:

1. Provide the CITY with environmentally responsible solid waste management services; and,
2. Require the CITY to utilize the COUNTY's designated facilities for the management and disposal of the residentially collected solid waste and solid waste collected by the CITY's residential franchise haulers; and,
3. Require the CITY to utilize the COUNTY's designated facilities for the management and disposal of the commercially collected solid waste, as herein defined, collected by the CITY's franchised haulers, should the CITY enter into exclusive franchise agreements for the collection of commercial or commercially collected residential solid waste.

4. Allow the CITY to utilize any future constructed COUNTY owned and/or operated recovered materials processing facility, for the processing of recovered materials collected from within the CITY, by the CITY or its contracted or franchised haulers.

All terms and conditions of this Agreement shall be interpreted in a manner consistent with, and in furtherance of, the purpose of this Agreement.

ARTICLE II

Definitions

For the purpose of this Interlocal Agreement, hereinafter referred to as the Agreement, the definitions contained in this Article shall apply unless otherwise specifically stated. If a word or phrase is not defined in this Article, the definition of such word or phrase contained in the Alachua County Code shall control. If a word or phrase is not defined in this Article or in the Alachua County Code, the definition of such word or phrase contained in the Florida Statutes shall control. When not inconsistent with the context, words used in the present tense include the future, words in the plural include the singular and words in the singular include the plural. Use of the masculine gender shall include the feminine gender. The word "shall" is always mandatory and not merely discretionary.

"Acceptable waste" means that portion of the solid waste that may be disposed of lawfully in a Class I and/or Class III landfill, including dead animals, white goods, and waste tires but excluding construction and demolition debris.

"Board" means the Board of County Commissioners of Alachua County, Florida.

"City" means the City of Gainesville, Florida.

"City Manager" means the City Manager of Gainesville, Florida, or the designee of such person.

“Commercially collected solid waste” means solid waste collected by the CITY’s contracted commercial solid waste collector. Such solid waste is primarily collected from commercial, industrial, institutional, agricultural and governmental generators, but may also include solid waste collected from residential generators utilizing dumpster-type collection service.

“Construction and Demolition Debris” means discarded materials generally considered to be not water-soluble and nonhazardous 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 or demolition project or from the renovation of a structure, and including rocks, soils, tree remains, trees, and other vegetative matter that normally results from land clearing or land development operations for a construction project, including such debris from construction of structures at a site remote from the construction or demolition project site. Mixing construction and demolition debris with other types of solid waste will cause it to be classified as other than construction and demolition debris. The term also includes: clean cardboard, paper, plastic, wood, and metal scraps from a construction project; and de minimis amounts of other nonhazardous wastes that are generated at construction or destruction projects, provided such amounts are consistent with best management practices of the industry.

“County” means Alachua County, Florida.

“County Manager” means the County Manager of Alachua County, Florida, or the designee of such person.

“Designated facilities” means the solid waste management facilities specifically designated by the Board for the disposal and processing of acceptable waste collected from within the incorporated area of the City.

“Garbage” means all kitchen and table food waste and animal or vegetative waste that is attendant with or results from the storage, preparation, cooking or handling of food materials.

“Recovered Materials” means metal, paper, glass, plastic, textile, or rubber materials that have known recycling potential, can be feasibly recycled, and have been diverted and source separated or have been removed from the solid waste stream for sale, use or reuse as raw materials, whether or not the materials require subsequent processing or separation from each other, but does not include materials destined for any use that constitutes disposal. Recovered materials as defined herein are not solid waste.

“Recycling” means any process by which solid waste, or materials which would otherwise become solid waste, are collected, separated, or processed and reused or returned to use in the form of raw materials or products.

“Refuse” means both rubbish and garbage or a combination or mixture of rubbish and garbage, including paper, glass, metal and other discarded matter, excluding recyclable materials and yard trash.

“Residentially collected solid waste” means acceptable waste that is collected by the CITY’s franchised collector(s). Such acceptable waste is collected primarily from residential generators, but may include some acceptable waste from commercial, industrial, institutional or governmental generators.

“Rubbish” means waste material other than garbage, usually attendant to domestic households or housekeeping, and attendant to the operation of stores, offices and other business

places. Rubbish shall include, but is not limited to, paper, magazines, packaging, receptacles, textile materials, excelsior bottles, cans and ceramic materials.

“Sludge” means and includes the accumulated solids, residues, and precipitates generated as a result of waste treatment or processing, including wastewater treatment, water supply treatment, or operation of an air pollution control facility, and mixed liquids and solids pumped from septic tanks, grease traps, privies, or similar waste disposal appurtenances.

“Solid Waste Disposal Facility” means the facility designated by the Board for the disposal of solid waste collected within Alachua County.

“Solid Waste” means sludge unregulated under the Federal Clean Water Act or Clean Air Act, sludge or garbage, rubbish, refuse, special wastes, or other discarded material, including solid, liquid, semisolid, or contained gaseous material resulting from domestic, industrial, commercial, mining, agricultural, or governmental operations. Recovered materials as defined herein are not solid waste.

“Solid Waste Management Facilities” means any County owned or operated solid waste disposal area, volume reduction plant, transfer station, materials recovery facility, or other facility, the purpose of which is resource recovery or the disposal, recycling, processing or storage of solid waste. The term does not include recovered materials processing facilities which meet the requirements of Section 403.7046, Florida Statutes, except the portion of such facilities, if any, that is used for the management of solid waste.

“Solid Waste Management Services” include all county-wide services provided by the County for the processing, transporting and disposal of solid waste; waste alternatives education programs; recovered materials processing; household hazardous waste management; rural collection centers; closure requirements for closed solid waste disposal facilities; and monitoring

of both closed and operating solid waste disposal facilities but solid waste management services do not include solid waste and recycling collection services.

“Solid waste management system” means all programs required to be operated by the County’s Office of Waste Management, within the Public Works Department, including all reserves and expenses thereof, to provide a quality level of disposal and management of solid waste.

“Special Wastes” means solid wastes that can require special handling and management, including, but not limited to, asbestos, white goods, waste tires, used oil, lead-acid batteries, construction and demolition debris, ash residue, yard trash and biological wastes.

“Unacceptable wastes” means sludge; hazardous waste; infectious waste; and biological wastes, except for dead animals.

“White goods” means and includes inoperative and discarded refrigerators, ranges, water heaters, freezers, room air conditioners, and other similar domestic and commercial large appliances.

“Yard trash” means any plant material resulting from landscaping maintenance and land-clearing operations, and includes, but not limited to, materials such as tree and shrub trimmings, grass clippings, palm fronds, trees and tree stumps.

ARTICLE III

COUNTY OBLIGATIONS

1. The COUNTY shall develop, and maintain, such solid waste management facilities as are necessary for the receipt, processing and/or disposal of all acceptable waste, as herein defined, delivered from within the City.

2. The COUNTY shall determine and set reasonable solid waste management services fees and take other lawful and necessary steps to establish funds for the provision by the COUNTY of solid waste management services in accordance with Section 403.706, Florida Statutes. The COUNTY ~~will~~ ^{shall} not charge the CITY a higher fee for solid waste management services than it charges other users of the County's solid waste management system. The COUNTY shall fund solid waste management services through the collection of a solid waste management services fee at the Alachua County Solid Waste Transfer Station or through special assessments or through a combination of methods.

3. The COUNTY shall, no later than March 31 of each year, prepare an annual report on its Solid Waste Management System. The report shall provide specific details of each of the elements and programs which comprise the COUNTY's solid waste management system. The format of this report shall clearly identify program costs. The report shall also include a disclosure of the total tonnage received during the fiscal year and the origin of such tonnage as it relates to the CITY, all other cities, the unincorporated area of the County, and out-of-County waste. The COUNTY shall keep books and records of the revenues and expenses of the solid waste management system and the CITY shall have the right at all reasonable times to inspect all records, accounts, and data relating thereto. The report shall also include an evaluation and projection of revenues and expenditures associated with each element and program of the solid waste management system for the following fiscal year in order to project the following years solid waste management services fees.

4. The COUNTY's solid waste management system shall be administered under the direction and supervision of the Board of County Commissioners of Alachua County, Florida.

5. The COUNTY shall provide the CITY with due notification of any proposed modifications to agreements or contracts, existing at the date of this Agreement, and of the COUNTY's intent to enter into any new agreements or contracts that may cause an increase or decrease in the solid waste management system's operational costs.

ARTICLE IV

CITY OBLIGATIONS AND RESPONSIBILITIES

1. During the term of this Agreement and all subsequent renewal periods, the CITY shall require its contracted residential solid waste franchise haulers to deliver all acceptable waste, collected from within the CITY, to the COUNTY's designated facilities.
2. During the term of this Agreement and all subsequent renewal periods, should the CITY enter into any contracts or exclusive franchises for collection of commercial solid waste, the CITY shall direct its contractors or franchises to dispose of all solid waste collected under the contracts or franchises at a COUNTY designated facility. The COUNTY shall charge for processing and disposal of such waste at the CITY's prevailing solid waste management services fee.
3. The CITY shall not knowingly deliver, or cause to be delivered, unacceptable waste to any designated facility.
4. The CITY's requirement to pay the COUNTY under this Agreement is limited to the payment of any outstanding solid waste management services fees due from the CITY to the COUNTY for delivery of acceptable waste to the designated facilities.

ARTICLE V

BILLING AND PAYMENT PROCEDURES

1. The COUNTY shall, within ten (10) business days after the end of each month, provide a monthly invoice to the CITY for the solid waste management services fee incurred by the CITY during the preceding month.

2. The CITY agrees to pay directly to the COUNTY, within thirty (30) days of receipt of the appropriate monthly invoice, the undisputed solid waste management services fee billed by the COUNTY for the CITY's use of the Solid Waste Management System for the preceding month.

3. In the event the CITY's review of the monthly invoice indicates errors or discrepancies, the CITY shall so notify the COUNTY in writing within fifteen (15) business days from receipt of the monthly invoice. Upon receipt of such notification the CITY and COUNTY shall act in good faith to attempt to resolve the disputed portion of the invoice. In the event the dispute cannot be resolved, the matter will be determined through mediation. The CITY shall not be obligated to pay the disputed portion of the monthly invoice until such time as the dispute shall be resolved.

ARTICLE VI

TERM OF AGREEMENT

1. This Agreement shall become effective on the date the County begins operations at the Alachua County Solid Waste Transfer Station and shall remain in effect until September 30, 2007, or as provided herein.

2. The CITY shall have the right to terminate this agreement if the COUNTY changes the location of the Alachua County Solid Waste Transfer Station from the 6305 N.E. Waldo Road location without first obtaining the CITY's consent to the change in location.

3. The COUNTY designates the New River Regional Landfill as the location of the solid waste disposal facility. In the event the COUNTY during the term of this agreement changes the location of the solid waste disposal facility, the CITY shall have the right to terminate this agreement if the change in location results in higher disposal costs to the CITY for the disposal of Class I solid waste that is generated within the incorporated limits of the City of Gainesville and that is subject to the CITY's mandatory solid waste collection program. In the event the COUNTY changes the location of the solid waste disposal facility without an increase in disposal fees, and the CITY objects to the new location on the basis that the new solid waste disposal facility is not environmentally compatible with the policies of the CITY, the CITY shall have the right to terminate this agreement after providing the COUNTY with written notification at least 365 days prior to the termination date.

4. Upon mutual agreement of the parties, this Agreement may be renewed for additional five (5) year periods. At the end of each period, the CITY shall have the right to exercise its right to renew, renegotiate, or terminate this Agreement. The CITY shall notify the COUNTY of its intent to exercise this renewal option, or to allow this Agreement to terminate. Said notice shall be in writing and delivered not less than one hundred eighty (180) days prior to the end of the term of the then current Agreement. In the event the CITY notifies the COUNTY of its intent to exercise this renewal option, the COUNTY shall notify the CITY of its intent to accept or decline the renewal option offer. Such notice shall be made in writing and delivered to the CITY within twenty (20) days of receipt by the COUNTY of the CITY's notice of intent to

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exercise the renewal option. Non response by the COUNTY to the CITY's notice of intent to exercise the renewal option shall be considered acceptance and approval of the notice of intent to renew.

5. This Agreement shall be for the benefit of, and shall be binding upon, the successors and assigns of the parties hereto.

ARTICLE VII

MISCELLANEOUS

1. HOLIDAYS

The designated facilities shall be open to receive acceptable waste on all days of the year except Sundays and the following holidays: New Year's Day, July 4th, Thanksgiving Day, and Christmas Day. In cases where one of the foregoing holidays falls on a Sunday, the COUNTY shall operate the designated facilities on the preceding Saturday and the following Monday.

2. FORCE MAJEURE

A) An event of force Majeure is an act that happens by the direct immediate and exclusive operation of the forces of nature, uncontrolled and uninfluenced by human acts or omissions and without human intervention and is of such a character that it would not have been prevented or escaped from by any amount of foresight or prudence or by any reasonable degree of care, or diligence, such as, but not limited to, war, tempest, hurricanes, tornadoes and earthquakes or lightning.

B) Either party shall be excused from performance when its non-performance was caused directly or indirectly by an event of Force Majeure. The affected party shall give to the other party prompt written notice of the event of force majeure and reasonable full particulars concerning it. Thereupon, the obligations of the party giving notice so far as they are affected

by the event of force majeure shall be suspended during, but no longer than the continuance of, the event of force majeure and for a reasonable time thereafter required to remedy the physical damages or return to normal operations or both.

C) Any party excused from performing any obligation under this Agreement pursuant to Paragraph 2.b., of this Article, shall promptly, diligently and in good faith take all reasonable action required in order for it to be able to commence or resume performance of its obligations under the Agreement.

D) The party whose performance is excused due to the occurrence of an event of force majeure shall, during such period, keep the other party duly notified of all such actions required in order for it to be able to commence or resume performance of its obligation under this Agreement.

3. CHANGES IN LAW

The COUNTY and the CITY agree to enter into good faith negotiations regarding modifications to this Agreement that may be required in order to implement changes in the interest of the public welfare or due to change in law.

4. POINT OF CONTACT

The day-to-day dealings between the COUNTY and the CITY shall be between the County Manager, for the COUNTY and the City Manager, for the CITY.

5. NOTICE

Any notice, demand, communication, or request required or permitted hereunder shall be in writing, except where otherwise herein designated by telephone, and delivered in person or sent by certified, return receipt requested, United States Mail as follows:

As to the CITY:

City Manager
City of Gainesville
P.O. Box 490, Station 7
Gainesville, FL 32602

As to the COUNTY:

Chairman, Board of County Commissioners
Post Office Box 2877
Gainesville, FL 32602-2877

Notices shall be effective when received at the address as specified above. Changes in the respective address to which such notice is to be directed may be made from time-to-time by written notice. Facsimile transmission is acceptable notice, effective when received, however, facsimile transmissions received (i.e.; printed) after 4:30 p.m. or on weekends or holidays, will be deemed received on the next business day. The original of items which are transmitted by facsimile equipment must also be mailed as required herein.

6. DEFAULT OF AGREEMENT

Except for billing disputes, if either party fails to keep and perform each and every covenant it has agreed to keep and perform, the other party, after giving the defaulting party notice of the default and 30 days to correct the default, and the default remains, may terminate this agreement.

7. INDEPENDENCE OF AGREEMENT

It is understood and agreed that nothing herein contained is intended or should be construed as in any way establishing the relationship of co-partners or a joint venture between the parties hereto, or as constituting the COUNTY as an agent, or representative of the CITY for any purpose whatsoever. The COUNTY is to be, and shall remain, an independent entity with respect to all services performed under this Agreement.

8. INDEMNIFICATION

The COUNTY and the CITY, as political subdivisions of the State of Florida as defined in Section 768.28, Florida Statutes, agree to be fully responsible for their respective negligent acts or omissions which in any way relate to or arise out of this agreement. In addition, the COUNTY will hold harmless, defend, save and indemnify the CITY from and against, and reimburse the CITY for any and all damages, claims, liabilities, loss, costs and expenses (including, without limitation, reasonable attorneys fees), all judgments, suits, consent decrees or other claims arising out of the operation of the transfer station or the transportation of solid waste from the Alachua County Transfer Station to the solid waste disposal site, other than claims arising out of the negligent acts or omissions of the CITY. The CITY will hold harmless, defend, save and indemnify the COUNTY from and against, and to reimburse the COUNTY for any and all damages, claims, liabilities, loss, costs and expenses (including, without limitation, reasonable attorneys fees), all judgments, suits, consent decrees or other claims arising out of the CITY's performance of its obligations under this interlocal agreement, other than claims arising out of the negligent acts or omissions of the COUNTY. Nothing herein shall be construed as consent by an agency or subdivision of the State of Florida to be sued by third parties in any matter arising out of this agreement or as a waiver of sovereign immunity by any party to which sovereign immunity applies.

9. RIGHT TO REQUIRE PERFORMANCE

The failure of either party, at any time, to require performance of any provision hereof shall in no way affect the right of said party thereafter to enforce same. Nor shall waiver by either party of any breach of any provision hereof be taken or held to be a waiver of any succeeding breach of such provision or as a waiver of any provision itself.

10. VENUE

This Agreement shall be governed by the laws of the State of Florida. Any and all legal action necessary to enforce this Agreement will be held in Alachua County, Florida and the Agreement will be interpreted according to the laws of the State of Florida.

11. COMPLIANCE WITH LAWS

The COUNTY shall conduct its operations, or require such operations to be conducted, under this Agreement in compliance with all applicable Federal, State, and local laws and regulations.

12. SEVERABILITY

In the event that any provision of this Agreement shall be declared illegal, void or unenforceable by a court of competent jurisdiction, or in an arbitration proceeding, the other provisions shall not be affected but shall remain in full force and effect.

13. ENTIRE CONTRACT

This document incorporates and includes all prior negotiations, correspondence, conversations, agreements, or understandings applicable to the matters contained herein and the parties agree that there are no commitments, agreements, or understandings concerning the subject matter of the Agreement that are not contained in this document. Accordingly it is agreed that no deviation from the terms hereof shall be predicated upon any prior representations or agreements whether oral or written. The parties acknowledge that this Agreement was negotiated at arms length by the parties, with adequate representation on an equal basis, and the filing of a suit challenging the negotiated terms of this Agreement by either party shall be deemed a default and the Agreement shall be terminated as provided herein.

This Agreement constitutes the entire agreement and understanding between the parties hereto, and it shall not be considered modified, altered, changed or amended in any respect unless in writing and signed by both parties hereto.

14. EFFECTIVE DATE

This Agreement shall become effective upon both parties affixing signatures hereto and the CITY shall begin delivery of solid waste as covered herein at that time.

IN WITNESS WHEREOF the parties hereto have executed this Agreement on the day first above written in three (3) counterparts, each of which shall without proof or accounting for the other counterparts be deemed an original contract.

ALACHUA COUNTY, FLORIDA

By: Leveda Brown
Leveda Brown
Chairman, Board of County Commissioners

ATTEST:

J.K. "Buddy" Irby
J.K. "Buddy" Irby, Clerk

APPROVED AS TO FORM

David W. Hays
Alachua County Attorney's Office

CITY OF GAINESVILLE

By: Wayne Bowers
Wayne Bowers, City Manager

Danny Rucker
Witness

Levita Brown
Witness

APPROVED AS TO FORM AND LEGALITY

Justice M. Carter
Gainesville City Attorney's Office