

LEE COUNTY BOARD OF COUNTY COMMISSIONERS
AGENDA ITEM SUMMARY

BLUE SHEET NO: 20020652

1. **REQUESTED MOTION:**

ACTION REQUESTED: Approve a Service Provider Agreement with Lee Memorial Health System for the purposes of collecting and recycling various paper materials from the Cape Coral, Health Park, and Lee Memorial hospitals.

WHY ACTION IS NECESSARY: Board Approval is required because of the County service responsibilities contained in this agreement.

WHAT ACTION ACCOMPLISHES: Allows the County's Solid Waste Division to provide collection service and recycle paper materials from the three hospitals in the Lee Memorial Hospital System.

2. **DEPARTMENTAL CATEGORY:** SOLID WASTE
COMMISSION DISTRICT #: CW

A8A

3. **MEETING DATE:**

06-18-2002

4. **AGENDA:**

- CONSENT
- ADMINISTRATIVE
- APPEALS
- PUBLIC
- WALK ON
- TIME REQUIRED:

5. **REQUIREMENT/PURPOSE:**

- (Specify)
- STATUTE
 - ORDINANCE
 - ADMIN. CODE
 - OTHER Service Provider Agreement

6. **REQUESTOR OF INFORMATION:**

- A. COMMISSIONER:
- B. DEPARTMENT: Lee County-Public Works
- C. DIVISION/SECTION: Solid Waste Division
- BY: Lindsey Sampson, Solid Waste Director

DATE:

Lindsey Sampson

7. **BACKGROUND:** The Solid Waste Division has been working with the Lee Memorial Health System (LMHS) to establish a comprehensive recycling program for its three hospitals in Lee County. LMHS has agreed to begin commingling office paper, cardboard, magazines, etc. in separate compaction containers in order to increase its recycled materials generation and decrease its solid waste volume. The hospital has toured all of the local fiber recycling facilities and has determined that the Lee County facility provides a level of service and housekeeping within an indoor facility that cannot be matched or provided by any other facility.

Additionally, LMHS prefers to have the Division provide the collection service in order to maintain "one-party" responsibility for the transportation and recycling/disposal of this material. The Division will provide a certificate of destruction for the materials to LMHS on a monthly basis. LMHS will pay the County for the services provided at an initial cost of \$50.00 per container and such cost can be escalated on an annual schedule.

The Division will use its own equipment and personnel to provide the collection service.

8. **MANAGEMENT RECOMMENDATIONS:**

9. **RECOMMENDED APPROVAL**

(A) DEPARTMENT DIRECTOR	(B) PURCH. OR CONTRACTS	(C) HUMAN RESOURCES	(D) OTHER	(E) COUNTY ATTORNEY	(F) BUDGET SERVICES				(G) COUNTY MANAGER
					OA	OM	Risk	GC	
<i>Lavender</i> Date: 6-4-02	<i>[Signature]</i> Date: 6/4/02	N.A. Date:		<i>[Signature]</i> Date: 6/4/02	<i>[Signature]</i> Date: 6/4/02	<i>[Signature]</i> Date: 6/4/02	<i>[Signature]</i> Date: 6/6	<i>[Signature]</i> Date: 6-5-02	<i>Lavender</i> Date: 6-4-02

10. **COMMISSION ACTION:**

- APPROVED
- DENIED
- DEFERRED
- OTHER

RECEIVED BY COUNTY ADMIN.
6/4 4:00 PM
COUNTY ADMIN. FORWARDED TO:
6/8 8AM

**LEE MEMORIAL HEALTH SYSTEM
RECYCLED WASTE PAPER SERVICE AGREEMENT
Lee County Solid Waste Division of Lee County, Florida**

LEE MEMORIAL HEALTH SYSTEM, a special purpose unit of local government created by special act of the Florida Legislature, Chapter 63-1552, Laws of Florida, Special Acts, 1963, as recodified by Chapter 2000-439, Laws of Florida, Special Acts, 1963, ("LMHS") and Lee County, Florida, through its Solid Waste Division ("LCSWD") agree as follows:

1. PURPOSE

The purpose of this Agreement is to provide for collection, transportation and recycling of waste paper materials for the Lee Memorial Health System facilities described below, to be carried out by LCSWD in accordance with this Agreement.

COLLECTION SITE FACILITIES AND ADDRESSES

- A. CAPE CORAL HOSPITAL, 636 Del Prado Boulevard, Cape Coral, FL
- B. HEALTHPARK MEDICAL CENTER, 9981 HealthPark Circle, Fort Myers, FL
- C. LEE MEMORIAL HOSPITAL, 2776 Cleveland Avenue, Fort Myers, FL

2. LCSWD'S RESPONSIBILITIES

A. WASTE COVERED BY THIS AGREEMENT

The waste paper materials covered by this Agreement shall consist of cardboard, paper (consisting of both confidential and non-confidential items), and the various fiber materials acceptable for recycling by LCSWD. Waste paper materials will not include any materials contaminated with hazardous substances or biohazardous materials or substances, as defined by Federal or Florida law or regulation.

LCSWD agrees to provide to LMHS waste paper collection, transportation and recycling through a regular collection schedule. LMHS shall provide compactors for waste paper materials. LCSWD shall be the exclusive agent for disposal and recycling of waste paper materials on behalf of LMHS.

B. WASTE PAPER MATERIALS SERVICE REQUIREMENTS

LCSWD shall furnish all labor, materials, tools, equipment and supervision necessary to provide collection, routine storage following collection, removal, transportation, and processing for recycling of the waste paper materials which are generated at the locations of LMHS. LCSWD shall comply with all current local, state, and federal regulations and guidelines when collecting, storing, removing, transporting, and processing for recycling of all wastes under the scope of this Agreement.

LCSWD shall bale and process for recycling, all LMHS waste paper materials covered by this Agreement within 24 hours of said materials being received at LCSWD's facility.

LMHS shall supply the required compactor containers, which shall be used for the storage of waste paper materials only. LMHS accepts responsibility for equipment that is in the custody and control of LMHS. LCSWD shall, specifically, reimburse LMHS for the replacement cost of any reusable containers, supplied by LMHS to LMHS, which property is lost, damaged or destroyed, in whole or in part, while in the custody or under the control of LCSWD.

LCSWD shall collect and remove the waste paper materials of LMHS hospitals as required to maintain clean and non-cluttered conditions at the collection sites listed above. LMHS' experience and minimum requirement anticipates at least a twice a month collection, but LCSWD shall collect and remove the above materials on reasonable request of LMHS.

C. WASTE PAPER MATERIALS PACKAGING

LMHS personnel will collect, identify, segregate, and label waste paper materials by placing the waste in green plastic waste receptacle liner bags. LMHS personnel will provide, collect and handle the green bags. Bags filled with waste paper materials will be placed in compactor containers used exclusively for such materials. LMHS personnel will transport the green bags of waste paper material to the designated compactor of the respective facility prior to the arrival of LCSWD's employees upon the premises for removal. LMHS will provide the green bags for use at all facilities.

D. TRANSPORTATION OF WASTE PAPER MATERIALS

LCSWD shall provide properly permitted and licensed vehicles for highway transportation of collection compactors filled with waste paper materials. LCSWD shall maintain and repair the vehicles and any trailers as needed. The vehicles and trailer(s) will meet all current local, state, and federal requirements.

LCSWD shall remove the compactors when they have been filled with waste paper materials. LCSWD shall respond to any requests by the facilities to exchange full compactors for empty compactors within twenty-four (24) hours of notification during normal working hours (See E.8). LCSWD shall remove and transport compactors using properly permitted and licensed trucks.

E. CERTIFICATE OF DESTRUCTION

LCSWD shall provide LMHS an executed certificate of destruction in accordance with the requirements of Chapter 119, F.S., and applicable rules, guidelines and manuals of the Florida Bureau of Archives and Records Management. LMHS shall provide the form required for such certification with a description of the public records submitted for recycling in each case (attached as Exhibit A).

F. ADDITIONAL LCSWD REQUIREMENTS

- (1) LCSWD shall take title to all waste paper materials once the waste is fully loaded into LCSWD furnished vehicles, and LCSWD shall be entitled to all proceeds it may derive from sale or transfer of processed recyclable materials.
- (2) LCSWD shall provide documentation of indemnity to LMHS as allowed by Florida Law, in particular, section 768.28 F.S., against liability from its willful misconduct, negligence or breach of contract.
- (3) LCSWD shall notify LMHS immediately in the event of any motor vehicle or other event or accident which has or may result in confidential waste paper materials being lost, spilled or scattered.
- (4) LCSWD acknowledges and agrees that the waste paper materials covered by this Agreement may consist in part of confidential papers, including the medical records of LMHS patients, and LCSWD agrees to inform and train its personnel regarding the need to maintain the confidentiality of such papers and materials, which may include special handling of the waste paper materials.
- (5) LCSWD shall ensure that all paper waste materials covered by this Agreement are contained within LCSWD's storage and recycling facility. Such paper waste materials shall not be stored out-of-doors. LMHS personnel responsible for waste disposal shall be permitted to visit and tour the LCSWD recycling facility escorted by LCSWD personnel during normal business hours, without the need for prior notification.
- (6) LCSWD will be responsible for providing LMHS with certified weight tickets for all waste paper materials removed from the LMHS facilities that are covered under the scope of this Agreement.
- (7) LCSWD will provide to the LMIIS contracting representative the total number of pulls for the month and total monthly poundage of waste paper materials removed from each hospital by the

15th of each month via email. An MS Excel worksheet will be exchanged between the parties to continue to track the poundage generated by the hospitals.

- (8) LCSWD shall observe the hours of 8:00 AM to 4:30 PM, Monday through Friday, five days a week, as regular working hours. Holidays normally observed shall not be considered as normal working hours.

3. REQUIREMENTS OF LMHS

- A. LMHS agrees to pay LCSWD \$60.00 per ton for any compactor load that contains more than 5% by weight of contaminants or non-recyclable material.
- B. LMHS will maintain full responsibility in all aspects, for the waste paper materials prior to the collection of each compactor container by LCSWD.
- C. LMHS will maintain clear access (horizontal and vertical) to the containers for collection and handling by LCSWD.
- D. LMHS will maintain a program for administering confidential documents including, but not limited to, the shredding of any such know documents prior to placement into a waste paper container.

4. COMPENSATION, PAYMENT FOR SERVICES & FEES

Compensation under this Agreement shall be in accordance with a fee for each pickup of waste paper materials, or "pull."

PRICE PER PULL (Routine and On-Call): \$50.00

LCSWD will invoice LMHS monthly and payment is due net thirty days. Each facility shall be invoiced separately. LCSWD will deliver invoices for the prior month service by the 20th day of each month. LCSWD agrees to a fixed fee for the first two years of this Agreement. LCSWD shall give LMHS sixty days notice prior to any request for fee increase. Fee increases shall be no greater than the percentage of the United States Department of Commerce Consumer Price Index (CPI) and may only occur on the second and subsequent anniversary date(s) of this Agreement.

5. INDEPENDENT CONTRACTOR STATUS

The relationship between the parties is a contractual relationship between independent contractors. None of the provisions of this Agreement are intended to create nor shall be deemed or construed to create an employee, agency, partnership, joint venture, or any other relationship between the parties other than that of independent parties, contracting solely for the purpose of implementing the provisions of this Agreement. Neither LCSWD, nor any employee or agent of LCSWD, is an agent or employee of LMHS, nor is LMHS, nor any employee of LMHS, an agent or employee of LCSWD. Nothing in this Agreement shall be construed to interfere with or in any way affect LCSWD's obligation to exercise independent professional judgment in rendering services under the Agreement. Neither party, nor any employees or agents thereof, shall have any claim under this Agreement or otherwise against the other party for social security benefits, workers' compensation, disability benefits, unemployment insurance, vacation, sick pay or any other employee benefits of any kind.

6. TERM

This Agreement shall be effective as of the 1st day of July 2002; ("Effective Date") and it shall expire on the 30th day of June 2007, unless renewed by written mutual consent of the parties. This Agreement shall not automatically renew.

7. TERMINATION OF AGREEMENT

Either party may terminate this Agreement at any time, with or without cause, upon a sixty (60) days written notice to the other party. Upon any termination of this Agreement, neither party shall have further rights against, or obligations to, the other party except with respect to any rights or obligations, promises or agreements set forth in this Agreement, which expressly extend beyond the termination.

8. CONFIDENTIALITY

LCSWD and its employees may come into contact with patient information as a result of performing under this Agreement. LCSWD has executed the attached Health Information Confidentiality and Security Agreement in order to comply with the provisions of the Privacy Rules adopted under federal law. Such Agreement is incorporated herein and made a part hereof.

9. JCAHO COMPLIANCE

Services performed under this Agreement shall be in accordance with any and all applicable standards published in the Joint Commission on Accreditation of Healthcare Organizations' *Comprehensive Accreditation Manual for Hospitals*.

10. QUALIFIED STAFF

LCSWD shall provide only staff who are qualified in relation to their education, training, licensure, and competence as are necessary to perform the required respective task of each staff member as related to this Agreement.

11. COMPLIANCE WITH LAWS AND LMHS POLICY

Notwithstanding any provision of this Agreement, the parties shall comply with any applicable laws, rules, or regulations, including, but not limited to, those related to the Medicare and Medicaid programs. Further, LCSWD has been provided full access to the Lee Memorial Health System Standards of Conduct and agrees to adhere to the standards described within. LCSWD represents that it has not been excluded as a provider or contractor from a federal or state health care program. In the event LCSWD is so excluded during the term of this Agreement, LCSWD shall notify Lee Memorial Health System immediately of such exclusion. Both parties to this Agreement shall cooperate fully, including granting access to relevant documents, with the other party in any investigation or audit conducted by or under the supervision of either party's management personnel regarding the provision of or payment for, services provided by LCSWD and/or LMHS.

12. CONTROLLING LAW AND VENUE

This Agreement shall be construed for all purposes as a Florida document and shall be interpreted and enforced in accordance with the laws of the State of Florida. The parties expressly consent to and agree to venue for any legal action as being solely in Lee County, Florida, regardless of where this Agreement is executed, performable or breached and regardless of any other applicable laws concerning venue.

13. RECORD RETENTION

In the event that the cost of services provided under this Agreement equals Ten Thousand Dollars (\$10,000) or more over a twelve-month period, the Parties, until the expiration of four (4) years after the furnishing of such services pursuant to this Agreement, shall make available, upon the written request of the United States Secretary of Health and Human Services, or upon the request of the Comptroller General of the United States, or any of their duly authorized representatives, this Agreement, and any books, documents, and records that are necessary to certify the nature and extent of the costs incurred.

If either of the Parties carries out any of the duties of this Agreement through a subcontract, with a value or cost of Ten Thousand Dollars (\$10,000) or more over a twelve (12) month period, with a related organization, such subcontract shall contain a clause to the effect that, until the expiration of four (4) years after the furnishing of such services pursuant to such subcontract, the related organization shall make available, upon written request to the United States Secretary of Health and Human Services, or upon request to the Comptroller General of the United States, or any of their duly authorized representatives, the subcontract, and books, documents, and records of such organization that are necessary to verify the nature and extent of such costs.

If either of the Parties is requested to disclose any books, documents, or records relevant to this Agreement for the purpose of an audit or investigation, the party receiving such request shall notify the other of the nature and scope of such request and shall make available, upon request, all such books, documents, or records. This provision shall survive the termination of this Agreement.

14. ASSIGNMENT AND TRANSFERABILITY

Neither Party may assign its rights or obligations under this Agreement without the express prior written consent of the other Party.

15. ATTORNEY'S FEE AND COSTS

In the event a dispute arises between the Parties hereto and suit is instituted, the prevailing party in such litigation may be entitled to recover reasonable attorney's fees and other costs and expense from non-prevailing party, whether incurred at trial level or in any appellate proceeding.

16. NOTICES

Any and all notices or other communications provided for herein shall be given in writing and shall be hand delivered or sent by United States certified mail, postage prepaid, return receipt requested, addressed as set forth in the caption of this Agreement; provided, however, that either Party may, from time to time, give notice to the other Party of some other address to which notices or other communications to such party shall be sent, in which event, notices or other communications to such Party shall be sent to such address. Any notice or other communication shall be deemed to have been given and received hereunder as of the date of the same is actually hand delivered, or if mailed, when deposited in the United States mail, postage prepaid, registered or certified, return receipt requested.

17. BINDING EFFECT

This Agreement shall be binding upon and insure to the benefit of the heirs, legal representatives, successors and permitted assigns of the Parties.

18. COUNTERPARTS

This Agreement may be executed in counterparts, each of which shall be deemed an original, and all of which shall constitute but one and the same instrument.

19. ENTIRE AGREEMENT AND AMENDMENT

This Agreement constitutes the entire understanding between the parties. Any prior or oral statements by either Party or its representatives shall not be recognized as part of the Agreement. This Agreement may be amended only with the mutual written consent of the Parties.

WHEREFORE, the parties, by and through their duly authorized representatives, have executed this Agreement on the date(s) shown below

For: **LEE MEMORIAL HEALTH SYSTEM**

Dave Kistel, Vice President Facilities and Support Services

Date: _____

Witness: _____

Witness: _____

For: **LEE COUNTY, FLORIDA**

Chairman

Date: _____

Attest: Charlie Green, Clerk of the Court

By: _____
Deputy Clerk

LEE MEMORIAL HEALTH SYSTEM

HEALTH INFORMATION CONFIDENTIALITY AND SECURITY AGREEMENT

This Agreement is made the 1st day of July 2002, by and between LEE MEMORIAL HEALTH SYSTEM, 2776 Cleveland Avenue; Fort Myers, Florida 33901 ("LMHS") and LEE COUNTY through it's SOLID WASTE DIVISION ("LCSWD"). The parties agree as follows:

1. Recitals.

- a. LMHS maintains and operates hospitals and other health care entities in Lee County, Florida;
- b. LCSWD is obligated to provide certain services to LMHS pursuant to a contract, the performance of which requires LCSWD to come into contact with LMHS' confidential and proprietary health information that is considered private pursuant to federal, state and/or local laws or regulations ("the Health Information");
- c. This Agreement shall be and is incorporated and made a part of the contract between LMHS and LCSWD;
- d. LMHS desires to protect the confidentiality and integrity of the Information and to prevent inappropriate disclosure of the information; and
- e. The parties desire to satisfy the requirements of privacy regulations adopted pursuant to the Health Insurance Portability and Accountability Act ("H.I.P.A.A.").

2. Definitions.

For purposes of this Addendum, the following terms shall have the indicated meanings:

- a. "Health Information" shall mean any information, recorded in any form or medium, that relates to the past, present, or future physical or mental health or condition of an individual, the provision of health care to an individual, or the past, present or future payment for the provision of health care to an individual.
- b. "H.I.P.A.A. Regulations" shall mean the regulations promulgated by the Secretary of Health and Human Services under the authority of Title II, Subtitle F of the Health Insurance Portability and Accountability Act (Public Law 104-191).

3. Obligations of LCSWD.

LCSWD represents that to the extent that LCSWD may be provided with any LMHS Health Information, LCSWD will:

- a. Not use or further disclose Health Information other than as specifically set forth in this Agreement;
- b. Not use or further disclose Health Information in a manner that would violate the requirements of any state or federal law, including the provisions of the H.I.P.A.A. Regulations;
- c. Use appropriate safeguards to prevent use or disclosure of the Health Information other than as provided for in this Addendum;
- d. Report to LMHS any use or disclosure of the Health Information not provided for by this Addendum of which LCSWD may become aware;
- e. Ensure that any agents, including subcontractors, to whom LCSWD provides Health Information received from LMHS or Affiliated Entities agrees to the same restrictions and conditions that apply to LCSWD with respect to such Health Information;
- f. Make the Health Information available in accordance with the H.I.P.A.A. Regulations; if required;
- g. Make available Health Information for amendment and incorporate any amendments to Health Information in accordance with the H.I.P.A.A. Regulations;
- h. Make its internal practice, books and records relating to the use and disclosure of Health Information received from LMHS available to the Secretary of Health and Human Services for purposes of determining LMHS' compliance with the H.I.P.A.A. Regulations;

4. Term and Termination.

This Agreement shall be effective on the date first written above, and shall continue until terminated by either of the parties on 60 days' advance written notice. In the event of termination, LCSWD shall no longer be eligible to perform work for LMHS, and any and all agreements, oral or written, to perform such work shall automatically terminate. Those

provisions of this Agreement requiring the maintenance of confidentiality of the Information shall survive the termination of this Agreement.

5. **Disclosures Required by Law.**

In the event that LCSWD is required by law to disclose Health Information, LCSWD shall provide LMHS with written notice immediately and in advance of the disclosure, so that LMHS may take whatever action is deemed appropriate.

6. **Audit Rights.**

In order to allow LMHS to certify its compliance with the H.I.P.A.A. Regulations, LCSWD shall permit LMHS, at LMHS' expense and on five (5) days prior notice, to audit LCSWD's systems and services, with specific emphasis on LCSWD's compliance with the provisions of this Section. Such audit, which may be conducted by LMHS' personnel under obligations of confidentiality or by an independent auditing firm, will not interfere unreasonably with LCSWD's business activities, and will be conducted no more than once per calendar year, unless LMHS has received a request from the Secretary of Health Human Services, or unless a previous audit has disclosed a material issue indicating non-conformance to the provisions of this Agreement. LMHS will use information received during an audit solely for the purposes of the Agreement and will otherwise maintain the confidentiality of such information.

7. **Policy and Procedure Review.**

Upon request, LCSWD shall make available to LMHS any and all documentation relevant to the safeguarding of Health Information, including but not limited to LCSWD's current policies and procedures, operational manuals and/or instructions, and/or employment and/or third party agreements.

8. **Notice of Improper Disclosure or Systems Compromise.**

LMHS and LCSWD agree to immediately notify all parties with whom they have shared Health Information, and any person who is the subject of Health Information, of any actual or suspected improper or unauthorized access and disclosure of Health Information, or any misuse of Health Information, including but not limited to systems compromises. LMHS and LCSWD shall take all necessary steps to prevent and limit any further improper or unauthorized disclosure and misuse of Health Information. LCSWD shall also maintain an incident log of all actual or suspected improper or unauthorized access or disclosures. At the request of LMHS, LCSWD shall make such log available to LMHS.

9. **Return of Materials.**

Unless otherwise specifically required by statute or rule, LCSWD shall upon request, at the conclusion or termination of the performance of work for LMHS, or at the termination of the contract between them or this Agreement, return or destroy all material containing or reflecting any of Health Information, whether prepared by LMHS or as a result of providing services for which the LCSWD has been specifically authorized by LMHS. In the case of destruction of the material, the LCSWD shall exercise due diligence to destroy Health Information in a manner that will render non-retrievable all documents, memoranda, notes or other writings prepared by LCSWD, or its representatives, which contain or are based on Health Information.

10. **Subcontractors.**

LCSWD shall obtain written consent from LMHS prior to the handling of Health Information by any third party. In addition, LCSWD shall require any third party to execute an agreement that upholds the standards and imposes obligations on such third party as are contained within this Agreement.

11. **Alteration of the Information.**

Except for processing for recycling of waste paper materials covered by this Agreement, if LCSWD significantly alters the form or substance of Health Information in its possession or under its control, LCSWD shall immediately inform LMHS regarding such alteration. LMHS shall have the right to access the altered Information during normal business hours, upon written request to LCSWD. Such access shall be provided to LMHS within a reasonable period after receipt of

the request. LCSWD shall make and incorporate corrections to such changes or amendments to Health Information as requested by the LMHS.

12. **Injunctive Relief.**

LCSWD acknowledges that the remedy at law for any breach by it of this Agreement is inadequate and that the damages resulting from such breach are not readily susceptible to being measured in monetary terms. Accordingly, In the event of a breach or threatened breach by LCSWD of this Agreement, LMHS shall be entitled to seek an immediate injunctive relief and may obtain a temporary order restraining any threatened or further breach if so ordered by a court of competent jurisdiction. Nothing herein shall be construed as prohibiting LMHS from pursuing any other remedies available to LMHS for such breach or threatened breach, including recovery of damages from LCSWD, if applicable or allowed by law.

13. **No Third Party Beneficiaries.**

The parties understand and agree that no other persons or entities who are the subject of Health Information are intended to be third party beneficiaries of this Agreement.

14. **Severability.**

In the event that any provision of this Agreement is found to be invalid or unenforceable for any reason, such provision shall be ineffective to the extent of such finding, but the remaining provisions of this Agreement shall be and remain valid and enforceable.

15. **Construction.**

The language in all parts of this Agreement shall in all cases be simply construed according to its fair meaning and not strictly for or against the LCSWD or LMHS. The headings preceding each paragraph are for convenience only and shall not in any way be construed to effect the meaning of the paragraphs themselves.

16. **Indemnity and Hold Harmless.**

LCSWD agrees to indemnify, defend and hold harmless LMHS, its directors, officers, agents, and employees against in so far as it may do so pursuant to Florida Law, in particular 768.28, all claims, demands, or causes of action that may arise from LCSWD's employees', agents', or subcontractors' improper disclosure of Health Information and from any other intentional or negligent acts or omissions in the performance of this Agreement.

17. **Waiver.**

No delay or omission on the part of either party in exercising any right hereunder shall operate as a waiver of such right or of any other right under this Agreement. A failure to enforce any provision hereof on any one occasion shall not be construed as a bar to or waiver of any right or remedy on any other occasion or of the Agreement as a whole. The election of either party of a particular remedy on default will not be exclusive of any other remedy, and all rights and remedies of the parties hereto will be cumulative.

18. **Entire Agreement and Amendments.**

This instrument, together with the contract into which it is incorporated pursuant to Subsection 1.c., constitutes the entire agreement between the parties, and may be amended only with the mutual written consent of the parties.

19. **Jurisdiction and Venue.**

This Agreement shall be construed in accordance with the laws of Florida and venue for any action hereon shall be in Lee County, Florida.

IN WITNESS WHEREOF, the parties, by and through their duly authorized representatives, have executed this Agreement on the date(s) shown below.

For: **LEE MEMORIAL HEALTH SYSTEM**

Dave Kistel, Vice President Facilities and Support Services

Date: _____

Witness: _____

Witness: _____

For: **LEE COUNTY, FLORIDA**

Chairman

Date: _____

Attest: Charlie Green, Clerk of the Court

By: _____
Deputy Clerk

EXHIBIT "A"

LEE COUNTY DIVISION OF SOLID WASTE LETTERHEAD

CERTIFICATE OF DESTRUCTION

DATE:

TO: Lee Memorial Health System
Attn: Mike Berkley
Cape Coral Hospital
PO Box 150045
Cape Coral, FL 33915-0045

Lee County Solid Waste Division picked up "thirty-five yard" containers of mixed paper from (CAPE CORAL HOSPITAL) (HEALTHPARK MEDICAL CENTER) (LEE MEMORIAL HOSPITAL) on:

Dates: _____ Weights: _____

The material was brought to our plant in Lee County and was processed through the sorting belt and into the baler. The baler compressed the paper into bales weighing approximately 1400 pounds. These bales were then shipped in commercial transport trucks to the paper mill to be pulped and destroyed or to a fiber insulation manufacturer to be shredded.

Signature

Date: _____

Printed Name and Title