

C940235

AMENDED AND RESTATED
SOLID WASTE DISPOSAL EXTENSION AGREEMENT

This Amended and Restated Solid Waste Disposal Extension Agreement ("Agreement") is made as of the 2nd day of February, 1994, by and between Lee County, a political subdivision of the State of Florida ("County") and Waste Management Inc. of Florida, a Florida corporation, authorized to do business in the State of Florida ("Contractor").

WITNESSETH:

WHEREAS, County and Contractor (the "Parties") entered into a contractual agreement and narrative for the disposal of solid waste on June 20, 1984 and have subsequently amended and modified said agreement;

WHEREAS, County and Contractor also entered into a Solid Waste Disposal Extension Agreement to the 1984 agreement on January 11, 1989 for continuing the County's solid waste disposal services at a new landfill site;

WHEREAS, due to certain intervening changes with respect to the ownership and location of the new landfill, the Parties now wish to amend and restate the January, 1989 Solid Waste Disposal Extension Agreement in order to more correctly and properly describe and allocate the duties, obligations, responsibilities and relationship between the Parties under the 1989 Extension Agreement;

WHEREAS, on June 17, 1992, County and Contractor entered into a "First Amendment to Solid Waste Disposal Extension Agreement" relating to the construction and operation of two (2)

solid waste transfer stations in Hendry County, Florida and for transportation of solid waste from Hendry County to Lee County; and

WHEREAS, County desires the services of Contractor to manage the construction of and operate the County's sanitary landfill in Hendry County on a fixed cost basis as adjusted pursuant to this Agreement;

WHEREAS, the Hendry County landfill site provides sufficient land area for other waste disposal methods, which may include, but are not limited to, recycling and associated activities, composting, and horticultural mulching;

WHEREAS, under Chapters 125 and 403, Florida Statutes, County has the authority to enter into exclusive service contracts with private vendors for the construction management and operation of a landfill for the disposal of solid waste;

WHEREAS, because this Agreement constitutes an amendment to an existing contract, the County hereby waives those provisions of the County Purchasing Manual which may require any public advertising or bid requirements for such service contract;

WHEREAS, Contractor desires to provide the necessary construction management and landfill operation services and may assist the County in providing other related solid waste disposal services; and

WHEREAS, Waste Management, Inc. is willing to guarantee the performance of its subsidiary, Waste Management Inc. of Florida hereunder;

NOW, THEREFORE, FOR AND IN CONSIDERATION of the respective covenants herein contained, the parties agree as follows:

1.

DEFINITIONS

The definitions contained in Chapter 403, Part IV, Florida Statutes, as may be amended, are hereby adopted for purposes of this Agreement. Other definitions are as follows:

1.1 "County" means Lee County, Florida.

1.2 "County Purchase Price" means Contractor's current, audited net book value for (i) any property at the Disposal Site owned by Contractor, and (ii) all machinery of Contractor used in connection with operations at the Disposal Site.

1.3 "Contractor" means Waste Management Inc. of Florida.

1.4 "Delivery Date" means the date that Contractor first accepts Solid Waste for disposal at the Disposal Site pursuant to this Agreement.

1.5 "Disposal Site" means the approximately 1860 acre site located in sections 4, 9 and 16 of Hendry County as described in Exhibits A and B attached hereto.

1.6 "Duda Agreement" means the agreement with landowners adjacent to the Disposal Site attached hereto as Exhibit C, with Attachment.

1.7 "Gross Revenues from Operations" means the annual Operating Rate that would be paid to Contractor (without adjustment for the intra-corporate charge limitation) by the County for operating the Landfill Facilities, with the exception

of revenues derived from services performed at the Contractor's option, at County cost.

1.8 "Hendry County" means Hendry County, Florida.

1.9 "Interest" means for each calendar year, an annual rate equal to the average of the Prime Rates of Citibank, N.A., and the Chase Manhattan Bank, N.A., for the months of October, November, and December immediately preceding the beginning of such calendar year.

1.10 "Interlocal Agreement" means the agreement between Lee County and Hendry County for the management of Solid Waste, attached as Exhibit G.

1.11 "Landfill Facilities" means the landfill facilities in Hendry County to be permitted, constructed and operated pursuant to this Agreement.

1.12 "Suspicious Waste" means any waste which Contractor reasonably suspects to be "Unacceptable Waste."

1.13 "Taxes" means ad valorem taxes for Contractor's personal property located on the Disposal Site and used in connection therewith and Contractor's transportation equipment used for the operation of the Disposal Site. Should the State of Florida or any political subdivision thereof, or any other governmental authority having jurisdiction over the Disposal Site, impose a tax, assessment, charge or fee, or increase a then existing tax, assessment, charge or fee which Contractor will be required to pay, either by way of substitution for such ad valorem personal property taxes, or in addition to such ad

valorem personal property taxes, or impose an income or franchise tax or a tax on revenues in substitution for, or in addition to, a tax levied against the Contractor's personal property, such taxes, assessments, fees or charges will constitute "Taxes" hereunder.

1.14 "Unacceptable Waste" means any and all waste that is either:

(a) Waste which is prohibited from disposal at a sanitary landfill by state, federal, or local law, regulation, rule, code, ordinance, permit or permit condition; or

(b) Hazardous waste or

(c) Biomedical Waste

1.15 "Waste Handler" means any private or public hauler, collection company, transporter, transshipper, or transportation operator who delivers waste to the Landfill Facilities.

2.

DEVELOPMENT AND OPERATION OF THE DISPOSAL SITE

2.1 During the term of this Agreement, Contractor's duties with respect to the development and operation of the Disposal Site are as follows:

(a) Contractor, as Construction Manager, may assist in the design of the Disposal Site by interaction with County's consulting engineers, may assist in obtaining the necessary permits for the construction and shall assist in obtaining the necessary permit for operation of the Landfill

Facilities, and shall obtain the building permit(s) for the Landfill Facilities.

(b) Contractor shall be the operator of the Landfill Facilities pursuant to the terms of this Agreement and all regulatory permits and contractual obligations of the County affecting the construction and operation of the Landfill Facilities, including the Interlocal Agreement and the Duda Agreement, as particularly outlined in Attachment 1 to Exhibit C.

(c) Contractor, as Construction Manager, may interact with County's consulting engineers and may make recommendations to County with respect to the design of the Disposal Site, and may provide comments on all final design decisions with respect to the engineering and environmental integrity of the Landfill Facilities design, which may be accepted by the County if reasonable and practicable.

(d) Contractor shall act as construction manager, as provided in Exhibit D attached hereto, with respect to the development and construction of the Landfill Facilities at the Disposal Site and shall act on behalf of the County with respect to administering construction contracts entered into for such work by the County. The County shall obtain a general contractor for such construction through Lee County bid processes during which the Contractor shall cooperate with the County to insure the general contractor is satisfactory for the work. The Contractor as construction

manager shall guarantee the quality and schedule of construction as provided in Exhibit D hereto. In addition, the Contractor shall perform necessary closure activities as required and approved by the County.

2.2 County's duties with respect to the development of the Disposal Site are as follows:

(a) County, through its consulting engineers, with input from Contractor as Construction Manager, shall use its best efforts to design the Landfill Facilities at the Disposal Site and shall obtain all necessary permits for the construction and operation of the Landfill Facilities except for the building permit(s).

(b) County shall accommodate Contractor's reasonable and practicable recommendations as construction manager with respect to the pursuit of the DER permits and such other permits, approvals, consents and changes necessary for the construction and operation of the Landfill Facilities.

(c) In the event easements or other encumbrances affecting the Disposal Site make the permitting, construction or operation of the Landfill Facilities at the Disposal Site impossible, the County will use reasonable efforts, through lawfully available means, to condemn for public use or ownership any of such easements or encumbrances, provided such actions do not violate the Interlocal Agreement or the Duda Agreement.

(d) The County shall allow Contractor, its agents and subcontractors reasonable access to the Disposal Site for the purpose of surveying, testing the soil and water and making all such other investigations as are appropriate.

3.

TERM OF AGREEMENT

3.1 Effective Date. This Agreement shall be effective upon execution by the parties, as named herein.

3.2 Initial Term. The initial term of this Agreement shall expire ten (10) years after the Delivery Date.

3.3 Renewal Terms. This Agreement will be automatically renewed for an additional term of ten (10) years commencing at the end of the initial term, unless Contractor shall have failed to perform its obligations hereunder as outlined in Section 7.1 hereof, and such failure is documented in the annual performance reviews, or otherwise fails to cure any default pursuant to the provisions of Section 10 hereof. In the event of any non-renewal of this Agreement after the initial ten (10) year period, Contractor shall have the right to require County to purchase any property at the Disposal Site still owned by Contractor, and machinery of Contractor used in connection with operations at the Disposal Site, for the County Purchase Price.

4.

SCOPE OF SERVICE

4.1 Construction. Contractor will act as construction manager for the construction of the Landfill Facilities according

to the approved Landfill Facilities design and supervise all work necessary to make the Landfill Facilities operational and ready to receive Solid Waste. Contractor shall commence accepting ash from the County's resource recovery facility no later than twelve (12) months after all required regulatory and building permits have been issued to the County or Contractor for the building permit and notice to proceed has been issued by the County; provided, however, such period shall be extended for the period of any delay beyond the control of the Contractor caused by actions of Lee County or Hendry County or pursuant to the terms of the Duda Agreement or for Force Majeure.

4.2 Operation. On and continuing after the Delivery Date, Contractor shall accept at the Landfill Facilities all Solid Waste directed to the Facilities by Lee and Hendry Counties, provided such Solid Waste meets all regulatory requirements and requirements of the Interlocal Agreement and Duda Agreement. Contractor shall operate the Landfill Facilities in a workmanlike manner, in conformance with the highest industry and regulatory standards for the operation of sanitary landfills and in accordance with all permits, County contractual obligations including the Interlocal Agreement and Duda Agreement (as particularly described in the attachment to Exhibit C and the Landfill Operating Plan (Exhibit E). The Landfill Facilities shall not be used for the disposal of any wastes generated outside of Lee and Hendry Counties. Additionally, the Disposal Site shall not be used by the Contractor for activities other

than those directly related to solid waste disposal, except with the prior written consent of County.

4.3 Condition Precedent. Contractor's obligations to accept Solid Waste are expressly subject to the development of a design for the Disposal Site and the prior issuance to the County or Contractor and the continuing effectiveness of all final, nonappealable licenses and permits necessary to construct and operate the Landfill Facilities. In the event County is unable to obtain the necessary licenses, permits or financing for the development and operation of the Hendry County landfill, the Parties shall meet and re-evaluate this contract relative to the Parties continuing respective obligations. However, and in that event, it is the County's intent and the County shall use all reasonable efforts to develop an alternative landfill site. Contractor shall remain County's construction manager and operator for any alternative landfill site developed by Lee County, pursuant to the terms of this Agreement.

4.4 Hours. Contractor shall keep the Landfill Facilities open to accept Solid Waste for disposal from 6:00 a.m. through 6:00 p.m. Monday through Saturday of each week, except on Holidays. Any addition or reduction in the hours of operation will be effective only upon written request by County. Only upon the written request of County, Contractor shall keep the Landfill Facilities open longer hours or on Sunday during and immediately following any emergency which requires additional solid waste disposal.

4.5 Holidays. The Landfill Facilities may, in the discretion of County, be closed on New Year's Day, Christmas Day and any other holiday that the Solid Waste collection franchise haulers in Lee and Hendry Counties are not required to collect Solid Waste.

4.6 Scale. County will make available and operate at County expense at the Landfill Facilities, a computerized recording scale or scales to weigh Solid Waste that is accepted at the Landfill Facilities. Contractor as Construction Manager will install scales, and as landfill operator will cause normal maintenance and calibration of the scale(s) to be performed at least semi-annually and in the presence of County observers. Either Party has the right once a month during normal working hours to inspect and to test the accuracy of the scale(s). In the event the scale(s) are not operable at any time, a vehicle or container will be charged based upon the historical net weight in tons of such vehicle or container. All transfer vehicles and private hauler collection vehicles delivering Solid Waste will be weighed in and out of the Landfill Facilities. Weigh-out may be optional if County has a current tare weight on file for the vehicle. Contractor shall have the right to assign a Contractor employee to the scale house; such employee may randomly review waste acceptance operations and conduct weigh-outs of vehicles to confirm tare weight accuracy, provided that such activities do not interrupt normal operations. Contractor shall have the right

to monitor the scale operation records from a remote site using computer modems and other equipment.

4.7 Compliance with Applicable Laws. Contractor will comply with all present and future federal, state, and local laws, codes, statutes, ordinances, rules, administrative orders, regulations and requirements applicable to its activities under this Agreement and the operation of landfills for the disposal of Solid Waste.

4.8 Nondiscrimination. Contractor shall not, in the performance of this Agreement, discriminate or knowingly permit discrimination against any person on account of sex, race, age, creed, color, national origin, political or religious opinion or affiliation, and shall comply with all Federal and State regulations concerning non-discrimination.

4.9 Refusal of Unacceptable Waste. Contractor shall not be required to accept, at the Landfill Facilities, any waste that Contractor determines to be an Unacceptable Waste. Contractor shall conform to the highest industry standards in monitoring the receipt of Solid Waste to prevent the delivery of Unacceptable Waste.

All Waste Handlers that deliver waste to the Landfill Facilities shall be required to execute an Unacceptable Waste Agreement representing that no Unacceptable Waste has been delivered to the Landfill Facilities. Contractor may reject any waste or load of waste brought to the Landfill Facilities that Contractor determines to contain Unacceptable Waste.

Contractor will handle all Unacceptable Waste delivered to the Landfill Facilities in accordance with the operating permits and applicable statutes and use its best efforts to require the responsible Waste Handler to remove waste determined by Contractor to be Unacceptable Waste. If the Unacceptable Waste is not removed from Contractor's possession by the Waste Handler within a reasonable time, not to exceed twenty-four hours after receipt of the waste material, Contractor shall immediately notify County and County shall arrange for the lawful disposal of the waste. County will indemnify Contractor for any costs or damages resulting from delivery of Unacceptable Waste to the Landfill Facilities by a Lee County Solid Waste collection franchise hauler and will pay Contractor its reasonable expenses and charges for handling, loading and caring for such Unacceptable Waste. Any payments required for any such indemnification shall be made only upon County's recovery of such sums from the Lee County Solid Waste collection franchise that delivered the Unacceptable Waste.

4.10 Revocation of Acceptance. Contractor may, at any time before the condition of the waste has been materially changed, revoke its acceptance of any waste later determined by Contractor to be Unacceptable Waste. Revocation shall occur within a reasonable time after Contractor actually discovers or should have discovered the nonconformity, but no later than thirty (30) days after receipt. In revoking its acceptance of any waste,

Contractor shall notify County of the manner in which the waste is nonconforming.

4.11 Title to Waste. County is vested with title to all Solid Waste accepted by Contractor for landfilling at the Landfill Facilities.

4.12 Operating Plan. Contractor shall submit an operations plan for the Landfill Facilities based on the operating criteria developed by the County and shall follow the procedures established in Exhibit E attached hereto.

4.13 Ash Transfer. The Contractor has the option to transfer, at the direction of the County, Ash and other Solid Waste from the Lee County waste-to-energy facility to the Disposal Site. If such service is provided by the Contractor, it shall be provided at a competitive price established by the County pursuant to articulated specifications, and the Contractor shall be separately compensated for such service and Article 5 hereof shall not apply to such service. Such service shall be for a 5 year term from the date the County directs the Contractor to commence such service.

4.14 Hendry County Transfer Stations. That certain "First Amendment to Solid Waste Disposal Extension Agreement" entered into by the parties on June 17, 1992, and attached hereto as Exhibit "I", shall remain in full force and effect, to the extent that the terms and provisions are applicable. Article V of this Agreement shall not apply to payments under such First Amendment.

COMPENSATION TO CONTRACTOR

5.1 Operating Rate. The initial Operating Rate to be charged for receiving and landfilling Solid Waste delivered to the Landfill Facilities shall be derived as provided for in Exhibit E. As of the second October 1 following the Delivery Date the Initial Operating Rate shall be adjusted by using actual operating costs as provided for in Exhibit E. The rate determined according to the preceding sentence shall be the Operating Rate for Solid Waste accepted at the Landfill Facilities until the fifth October following the Delivery Date. Thereafter, the Operating Rate shall be adjusted as provided in Schedule E on the 5th, 10th and 15th October ("Adjustment Year") following the Delivery Date. The Operating Rate shall be paid to Contractor by County on a monthly basis as provided in Schedule E. Any intra-corporate charges under this Agreement shall not exceed 14.25% of Gross Revenues from Operations. Any interest charges on equipment purchased by the Contractor under this Agreement shall be part of such 14.25% limit and shall be limited to the interest rate defined in this Agreement and shall not be subject to escalation or the .76 divisor.

5.2 Operating Rate Escalation. Subsequent to the determination of the adjusted Operating Rate determined on the second October following the Delivery Date pursuant to Section 5.1, on October 1 for each year following such second year until the 5th October following the Delivery Date, such Operating Rate

(excluding items not subject to escalation pursuant to Exhibit E) shall be adjusted by the annual percentage change in the Consumer Price Index ("CPI"). Each year following an Adjustment Year thereafter shall be adjusted in the same manner until the next Adjustment Year. The CPI, as used herein, shall be the revised Consumer Price Index for Urban Wage Earners and Clerical Workers for all items - Southeastern U.S. Average, published by the Bureau of Labor Statistics, U.S. Department of Labor, 1967=100. More specifically, such Operating Rate shall be adjusted up or down by adding to or subtracting from it the product of the percentage change in the CPI for the preceding 12-month period ending March 30 of each year, multiplied by such Operating Rate for the prior year. In the event the U.S. Department of Labor, Bureau of Labor Statistics ceases to publish the CPI, the parties hereto agree to substitute another equally authoritative measure of change in the purchasing power of the U.S. dollar as may be then available so as to carry out the intent of this provision.

5.3 Additional Compensation. In addition to the adjustments in the Operating Rate specified in Paragraph 5.2, Contractor will be entitled to additional compensation based upon the following events:

(a) Changes in Government Regulations Requiring Expenditures. Contractor may seek reimbursement for any actual, additional material operating expenditures required by federal, state or local law, regulation, rule, ordinance, permit or permit condition that

becomes effective after the Effective Date of this Agreement and that was not imposed because of the action or inaction of Contractor. Contractor will provide County with information concerning any such material expenditures, County shall promptly review such information and may approve the recovery of such material expenditures by Contractor, such approval not to be unreasonably withheld. In the event County acting reasonably, does not approve the recovery of such material expenditures, County and Contractor shall utilize the dispute resolution procedure as outlined in Section 5.6, herein, to resolve such dispute. In the event County does approve the recovery of such material expenditures, Contractor may recover any such approved operating expenditures, divided by seventy-six one-hundredths (.76), as an adjustment to the Operating Rate, as adjusted.

(b) Tax Escalation. County will reimburse Contractor an amount ("Tax Escalation Amount") equal to the amount by which the Taxes as defined in Section 1.13 assessed in each tax year exceed the amount of all Taxes paid or accrued by Contractor in the calendar year of the Delivery Date. Within one hundred-twenty (120) days of the Delivery Date Contractor will provide County a verified statement of all Taxes for the first calendar year. One-twelfth (1/12th) of the Tax

Escalation Amount will be added each month to the invoice to the County.

(c) Volume Changes. In the event the tonnage of Solid Waste delivered to the Landfill Facilities for any fiscal year ending September 30, after the first year of operation of the Landfill Facilities is fifteen percent (15%) higher or lower than the tonnage of Solid Waste provided for in the Operating Plan pursuant to Exhibit E, Contractor may request County or County may request the Contractor to approve an adjustment in the succeeding year rates charged for Solid Waste disposal to adjust for the financial impact of the volume change, such approval not to be unreasonably withheld. Any such adjustment would be designed to modify the Operating Rate, as adjusted, to reflect the increase or decrease in the Operating Costs. In the event County or Contractor, acting reasonably, does not approve the requested adjustment or the parties hereto do not agree upon a requested rate adjustment, the County and the Contractor shall utilize the dispute resolution procedures as outlined in Section 5.6 herein, to resolve such dispute.

(d) Construction Manager. The Contractor as construction manager for construction during the term of this Agreement shall be paid in an amount derived by multiplying each construction invoice by 10 percent when the

construction invoice is paid by the County. If the County requests the Contractor to travel outside the scope of Exhibit D, such as to review other facilities, the County shall pay the Contractor's reasonable out-of-pocket travel expenses, subject to the limitations as set forth in Florida Statutes.

(e) Closure Costs. During the term of this Agreement the Contractor shall be paid by the County within 30 Days of receiving an invoice for closure costs as provided in Exhibit E.

5.4 Contractor Billing. At the beginning of each calendar month, Contractor will bill County for its operations in the preceding calendar month at the Landfill Facilities. Contractor will supply County each month an invoice detailing the tonnage, as supplied by County, and its operating cost for the preceding calendar month. Payment shall be due within thirty (30) days of the invoice, without further notice by Contractor, provided, however, that if any portion of an invoice is disputed by County, such disputed amount shall be paid only upon resolution of the dispute. A late charge of one-half percent (0.50%) per month will be imposed on any unpaid balance if the payment from County is past due forty-five (45) days or more.

5.5 Books and Records. County will supply Contractor with daily records of the weight or volume of Solid Waste received. In addition, Contractor will provide County, no later than May 1 of each year, with an annual calendar year financial audit by an

independent Certified Public Accountant approved by County and legally authorized to do business in the State of Florida. Such audit shall include a calculation of Contractor's net book value for all property at the Disposal Site owned by Contractor and all machinery and equipment. Such audit shall also include financial statements prepared in accordance with generally accepted accounting principles. Such financial statements shall include balance sheets, income statements, and statements of cash flows, including supporting footnotes and supplemental schedules of operating revenues and expenses and closure expenditures of the Landfill Facilities and any other information in such detail as required for periodic adjustment in the Operating Rates. County agrees that the preparation of the audit shall be part of the operational cost of the Landfill.

5.6 Dispute Resolution. If any dispute between the Parties pursuant to Article 5 of this Agreement cannot be resolved within 30 days or such other period as the Parties agree, in order to bring about a quick resolution of the dispute, either party may request formal dispute resolution as outlined herein.

Within 10 days of such request, each Party shall designate an arbitrator and the two selected arbitrators shall designate a third arbitrator. Thereafter, the Parties shall have 30 days to present their respective cases, and the arbitration panel shall have 30 days to render a written resolution of the dispute to the Parties, which shall be specifically enforceable by a court of competent jurisdiction. Each Party shall bear its own expenses

in connection with the resolution of disputes hereunder. The Parties shall continue to comply with the terms of this Agreement during the period of dispute resolution.

6.

INDEMNIFICATION AND FINANCIAL RESPONSIBILITY

6.1 Indemnification. Except with respect to activities not provided or performed by Contractor under the terms of this Agreement and all the attachments and exhibits, Contractor will during the period of construction, operations, and closure of the Landfill Facilities protect, indemnify and hold harmless County from and against any and all liability to, or claims of, third parties arising out of the failure of the Contractor to comply with the Interlocal Agreement or the Duda Agreement, as qualified by Attachment 1 to Schedule C, or the construction, operation, use of or occupancy of the Landfill Facilities at the Disposal Site, or places adjacent thereto, or any of the equipment or personal property required in the performance of this Agreement, except for occurrences caused by or arising out of the landfill design or activities after the term of this Agreement or the breach of this Agreement by County, acts or omissions of County, or the negligence or willful conduct of County, its officers, employees or agents. In the event of any indemnification of County by Contractor hereunder, Contractor shall be subrogated to all rights of County which may be asserted against any other person or entity. County and Contractor agree the first \$100.00 paid under this Agreement to the Contractor shall be given as

separate consideration for this indemnification, and for any other indemnification of County by Contractor provided for within this Agreement, the sufficiency of such separate consideration is acknowledged by Contractor by Contractor's execution of this Agreement. This Section 6.1 shall survive termination of this Agreement. The County shall hold Contractor harmless with respect to defects in design of the landfill and specific directives given by County to Contractor relative to conditions under the Interlocal Agreement or Duda Agreement.

6.2 Insurance. Contractor shall provide and maintain during active Disposal Site operations, Workers' Compensation insurance for the Landfill Facilities which shall meet the requirements of the State of Florida. Contractor shall provide and maintain during active operations of the Landfill Facilities public liability insurance, to protect against claims arising out of Contractor's operations that may result in bodily injury, death or property damage suffered on or adjacent to the Disposal Site. The policy or policies in force shall name County as an additional insured and contain a provision that the insurer will not cancel or decrease the insurance coverage without first giving County thirty (30) days notice in writing. Contractor shall furnish County copies of insurance policies. The limits of liability of all insurance required herein shall be as set forth in Exhibit F which is attached hereto and incorporated herein. The Contractor shall be compensated for such insurance as provided in Exhibit E.

7.

PERFORMANCE REVIEW

7.1 Contractor shall conduct operations at the Landfill Facilities in a workmanlike manner and in conformance with the highest industry standards for the operation of sanitary landfills.

7.2 Contractor shall, by March 31 of each year of operations at the Landfill Facilities, submit a review of the prior year's operations based on the approved plan of operation to the Director of the Lee County Department of Solid Waste (the "Director"). Contractor and the Director shall meet to discuss the Contractor's performance to date and any proposed changes to the approved plan of operations for the coming year. Contractor shall use its best efforts to accommodate all reasonable requirements of the Director. If changes to operating requirements are made which increase or decrease operating costs, operating costs shall be increased or decreased and Article 5 shall be adjusted pursuant to such change.

8.

ANCILLARY USES

County is desirous of developing areas within the Disposal Site which will not only accommodate the Landfill Facilities, but also provide for a range of waste disposal services. Such services may include, but are not limited to, recyclable material processing, composting and alternative volume reduction technologies, if permitted at such Disposal Site (together,

"Ancillary Services"). County will develop and operate such Ancillary Services independent of this Agreement and will coordinate with the Contractor with respect to Landfill Facilities operations.

9.

COUNTY OPTIONS TO PURCHASE

In the event Contractor defaults in the performance of this Agreement during the initial operating term or the renewal term and, pursuant to Section 10 hereof, County has the option to complete performance of the Agreement, County shall have and is hereby granted the option to purchase all property at the Disposal Site still owned by Contractor and all machinery connected therewith from Contractor for the County Purchase Price. The sale shall be otherwise on terms and with indemnities and financial security arrangements acceptable to Contractor.

10.

DEFAULT

Should Contractor abandon, delay unnecessarily in the performance of, or in any manner refuse or fail to comply with any of the material terms of this Agreement, County shall notify Contractor in writing of such abandonment, delay, refusal or failure and direct Contractor to comply with all provisions of the Agreement. A copy of such written notice detailing the evidence of such abandonment, delay, refusal or failure is to be delivered to the Contractor. If within 30 days this default, breach or non-compliance is not remedied, the County may declare

a default of the Agreement and notify Contractor in writing and this Agreement shall be terminated on the date of such notification. Upon such notification of default, all payments due Contractor shall be retained by County and applied to the completion of the Agreement and to damages suffered and expenses incurred by County by reason of such default. The County may complete this Agreement or any part thereof either by day labor by re-letting the Agreement for the same or any other method deemed appropriate and the County shall have the right to take possession of the real property and use any or all of the vehicles, materials, equipment, facilities and property of every kind provided by Contractor for the performance of this Agreement and to procure other vehicles, equipment and facilities necessary for the completion of the same and to charge costs incident thereto to the Contractor. In the event the Board completes this Contract at a lesser cost than would have been payable to Contractor under this Agreement if the same had been fulfilled by Contractor, then County shall retain such difference. Should such cost to the County be greater, Contractor shall be liable for and pay the amount of the excess to County upon demand. This Section 10 of this Agreement shall survive termination of this Agreement.

11.

MISCELLANEOUS

11.1 Force Majeure. The performance of this Agreement by Contractor may be suspended and the obligations hereunder excused

or extended in the event, and during the period, that such performance is prevented, hindered, or delayed by a cause or causes beyond the reasonable control of Contractor. Matters beyond the reasonable control of Contractor include, without limitation, Acts of God (except normal weather conditions for the geographic area of the facilities); epidemic, landslide, hurricane, earthquake, fire, explosion, flood or similar occurrence; an act of the public enemy, war, blockade, insurrection, riot, general unrest, civil disturbance or other similar occurrence that may have a material adverse effect on the operation of the facility; and changes in law, including the order or judgment of any federal, state or local court, provided such judgement is not the result of negligence, failure or willful action on the part of Contractor and which also has a material effect on the operation of the Disposal Site. In the event of disruption of services under any such circumstances, Contractor will make every reasonable effort to reopen the Landfill Facilities to accept Solid Waste as soon as practicable after the cessation of the cause of suspension of services, and it will take all reasonable steps to overcome the cause of cessation of services.

11.2 Enforcement. Except for disputes under Article 5, herein, in the event that there is a dispute between the Parties, and either Party brings an action to interpret this Agreement, or to enforce any right which such Party may have hereunder, or in the event an appeal is taken from any judgment or decree of a

trial court, the Party ultimately prevailing in such action will be entitled to receive from the other Party its costs and reasonable attorneys' fees to be determined by the court in which such action is brought.

11.3 Right to Require Performance. The failure of either Party at any time to require performance by the other Party of any provisions of this Agreement will in no way affect the right of that Party thereafter to enforce the same. No waiver by either Party of any breach of any of the provisions hereof will be taken or held to be a waiver of any succeeding breach of such provision or as a waiver of any other provision.

11.4 Law to Govern. This Agreement will be governed by the laws of the State of Florida, both as to interpretation and performance.

11.5 Severability. If any provision of this Agreement is declared illegal, void or unenforceable, the remaining provisions will not be affected but will remain in full force and effect.

11.6 Headings. The headings used herein are for convenience only and are not to be construed as part of this Agreement.

11.7 No Assignment. No assignment of this Agreement or any right accruing under this Agreement shall be made wholly or in part by Contractor except to an affiliate, without the express written consent of County. In the event of any assignment, Contractor will notify County of the assignment and the assignee will assume the liability of Contractor, however, such assumption

of liability shall not relieve Contractor of its liability under this Agreement. For purposes of this part, affiliate means WMX Technologies and Services, Inc. or any company which WMX Technologies and Services, Inc. or a subsidiary thereof owns at least fifty-one percent (51%).

11.8 Successors and Assigns. Subject to the foregoing restrictions on transfer and assignment by Contractor contained in Paragraph 11.7, this Agreement will inure to the benefit of and will be binding on the parties hereto and their respective successors and assigns.

11.9 Specific Services. Under no circumstances or conditions shall the performance of the specific services by Contractor in accordance with this Agreement be deemed or construed to grant or in any manner confer to Contractor any title, interest, ownership or any other rights in the real property or improvements at the Disposal Site.

11.10 Notices. All Notices or other communications to be given hereunder shall be in writing and shall be deemed given when mailed by Registered or Certified, United States mail:

To County: Director
 Division of Solid Waste Management
 Lee County
 2013 Altamont Avenue
 Ft. Myers, Florida 33902-0398

With a Copy to: Office of the County Attorney
 P.O. Box 398
 2115 Second Street
 Ft. Myers, Florida 33902

To Contractor: Manager
 Gulf Coast Landfill
 P.O. Box 7314
 Hwy. 82, 9/10 Mile E. of Lehigh Turnoff
 Ft. Myers, Florida 33911

With a Copy to: Group General Counsel
 Florida Group
 Waste Management of Florida Inc.
 500 Cypress Creek Road, West, Suite 300
 Ft. Lauderdale, Florida 33309

Waste Management, Inc:

 General Counsel
 Waste Management, Inc.
 3001 Butterfield Road
 Oak Brook, Illinois 60521

Any change of address by either party shall be by notice given to the other in the same manner as specified above. The Contractor shall also comply with all notice provisions in the Duda Agreement as provided in Section O. of that Agreement, attached hereto in its entirety as part of Exhibit C.

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

11.12 Exhibits. All Exhibits attached hereto are specifically incorporated into and made a part of this Agreement.

11.13 Signature. If this Agreement should not be signed by County within twenty-one (21) days from the date of execution by Contractor, this Agreement will be automatically void and of no further force or effect.

11.14 Securing Agreement. The Contractor warrants that it has not employed or retained any company or person, other than a bona fide employee working solely for the Contractor or legal counsel, to solicit or secure this Agreement and the Contractor has not paid or agreed to pay any person, company, corporation, individual or firm, other than a bona fide employee working solely for the Contractor or legal counsel, any fee, commission, percentage, gift or any other consideration contingent upon or resulting from the award or making of this Agreement.

11.15 County Authority. The County represents that it has the power and authority to enter into this Agreement, and that any necessary approvals, actions or waivers have been duly enacted or obtained; and that upon execution of this Agreement by the Board of County Commissioners of Lee County, it shall become a valid and binding obligation of the County.

IN WITNESS WHEREOF, the parties have executed this Agreement as of the day and year above first written.

LEE COUNTY, FLORIDA

By: Ray Quddah
Its Chairman

Attest: _____

Charlie Green
Clerk of Court

By: Lisa J. Luce
Its Deputy Clerk

WASTE MANAGEMENT, INC.
OF FLORIDA

By: [Signature]
Its _____

Witness: [Signature]

[Signature]

Corporate Seal

APPROVED AS TO FORM
By: [Signature]
OFFICE OF COUNTY ATTORNEY

EXHIBIT A

(Insert Exhibit A from Duda Agreement)

EXHIBIT B

(Insert Exhibit B from Duda Agreement)

All of Section 4, Township 45 South, Range 28 East, Hendry
County, Florida, containing 627 acres ±.

All of Section 9, Township 45 South, Range 28 East, Hendry
County, Florida, containing 610 acres ±.

All of Section 16, Township 45 South, Range 28 East, Hendry
County, Florida, containing 671 acres ±.

EXHIBIT "B"

Legal Description for
Lee/Hendry Landfill Site

All of Section 4, Township 45 South, Range 28 East, Hendry
County, Florida, containing 627 acres ±.

All of Section 9, Township 45 South, Range 28 East, Hendry
County, Florida, containing 610 acres ±.

All of Section 16, Township 45 South, Range 28 East, Hendry
County, Florida, containing 671 acres ±.

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TWP. 45S.-RNG. 28E.

HENRY COUNTY FLORIDA



T. 44S-R 28E.

SEE PAGE 39

T. 44S-R 28E

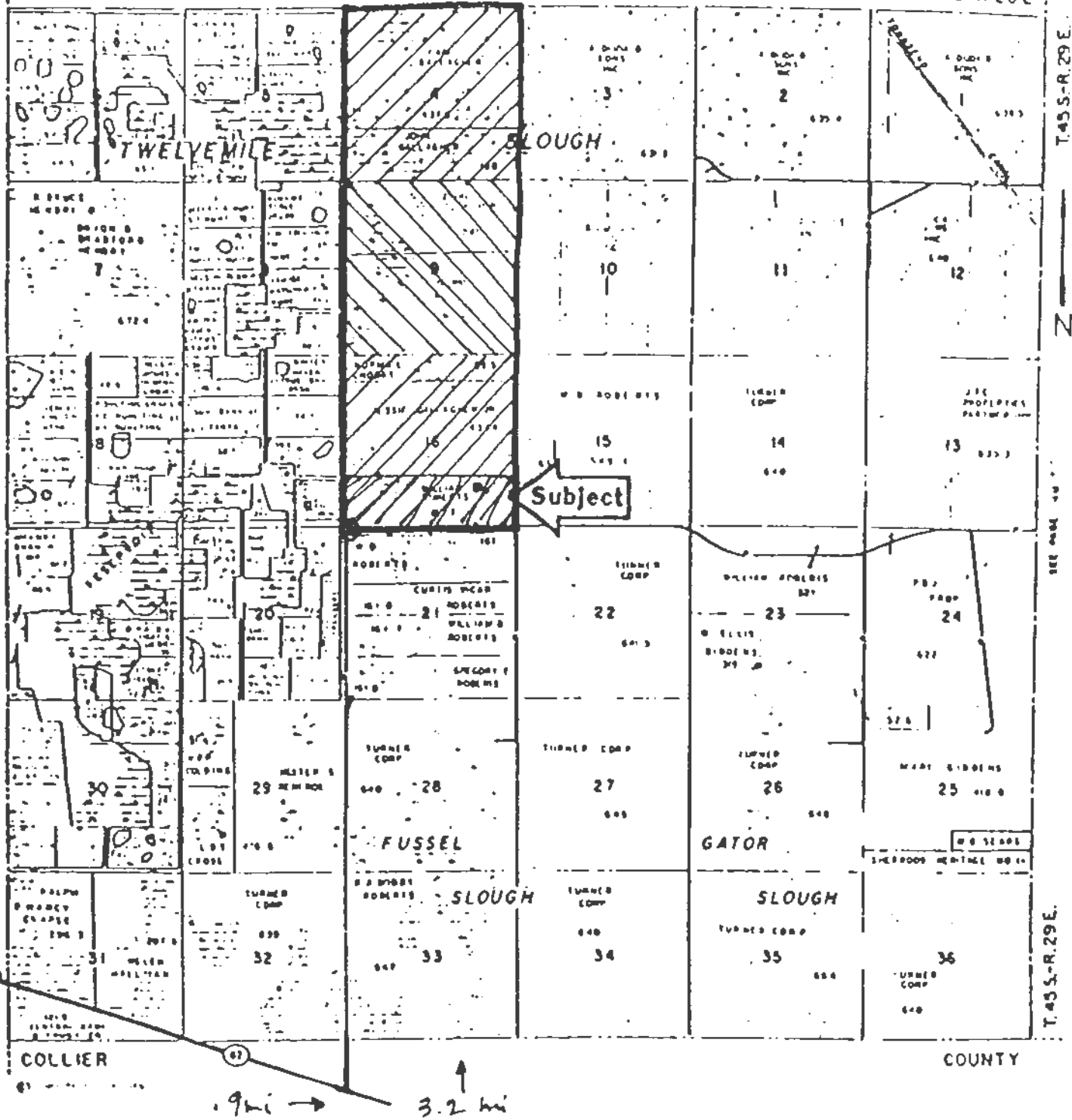


Diagram of Quartered Maps

Plat Map

Stewart & Stephan, Inc.

**EXHIBIT C
DUDA AGREEMENT**

&

ATTACHMENT 1

(Applicable Provisions to Contractor)

C 900406

3452784

AGREEMENT

1700

THIS AGREEMENT is made and entered into this 23rd day of June, 1993, by and between the Board of County Commissioners of Lee County, a political subdivision of the State of Florida (hereinafter referred to as "Board"); A. Duda & Sons, Inc., a Florida corporation (hereinafter referred to as "Duda"); Cooperative Producers, Inc., a Florida corporation (hereinafter referred to as "CPI"); and Turner Foods Corporation, a Florida corporation (hereinafter referred to as "Turner").

WITNESSETH:

WHEREAS, the Board of County Commissioners of Lee County and the Board of County Commissioners of Hendry County have entered into an interlocal agreement relating to the design, construction, operation, and closure of a regional landfill in Hendry County; and

WHEREAS, the regional landfill will be designed, constructed and operated to accommodate principally the disposal of ash residue to be generated at the resource recovery facility presently being constructed in Lee County and construction and demolition debris ("CDD"); the Landfill also will accommodate the disposal of certain other solid wastes generated by the residents of both Lee and Hendry Counties; and

WHEREAS, the proposed site for construction of the regional landfill is located adjacent to real property owned by Duda, CPI, and Turner; and

WHEREAS, Duda, CPI, and Turner have objected to the proposed location for the regional landfill; and

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RECORD VERIFIED - CHARLIE GREEN, CLERK
BY L. JAMES, DEC. 19

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WHEREAS, Duda, CPI, Turner and the Board wish to resolve their differences concerning the regional landfill without resorting to litigation; and

WHEREAS, the Board is authorized to enter into this Agreement pursuant to the terms of Article VIII, Florida Constitution, and Section 125.01, Florida Statutes (1992); and

WHEREAS, the Board finds that the terms of this Agreement are consistent with its adopted comprehensive plan; and

WHEREAS, Duda, CPI, and Turner are all Florida corporations doing business in this state and are authorized and duly empowered to enter into this Agreement.

NOW, THEREFORE, based upon the mutual covenants and restrictions contained herein and other good and valuable consideration, the receipt of which is hereby acknowledged, the Board, Duda, CPI, and Turner hereby stipulate and agree as follows:

I. INTENT AND PURPOSE.

On October 17, 1989, Lee and Hendry Counties entered into an interlocal agreement providing for the design, construction and operation of a regional landfill ("the Landfill") in Hendry County that will serve both Counties. The interlocal agreement was amended on April 11, 1990 and February 13, 1991. It is the intent of the counties that the Landfill be utilized principally for the disposal of ash residue generated at the resource recovery facility presently being constructed in Lee County and CDD.

Duda participated in the public hearings held to discuss the interlocal agreement and voiced its objections to the original site of the Landfill. In addition, representatives from CPI and Duda participated in various public hearings and meetings held by the Board of County Commissioners of Hendry County concerning identification of the Landfill as a public facility in the Hendry County comprehensive plan. Duda and CPI also have intervened in permitting proceedings initiated by Lee County and have formally registered their objections to the Landfill.

Duda initiated an alternative site analysis with the objective of identifying a more suitable site for the Landfill. Lee County also has developed alternative site plans for evaluation. As a result of these analyses, Lee County, Duda, CPI and Turner have developed an alternative proposal, wherein the Landfill will be reconfigured and relocated to the south of the original area proposed by Lee and Hendry Counties. Construction and operation of the Landfill with the alternative configuration will require the purchase of an additional 160 acres of land by Lee County. The Board will enter into a contract with the owner of the additional 160 acres for the purchase of that property and intends to close on this purchase in July, 1993, after the execution of this Agreement.

The Board has prepared a revised site plan for the Landfill which incorporates the additional 160 acres and relocates various facilities on the site. This revised site plan is attached to this Agreement and is hereinafter identified as Exhibit "A". When used hereafter in this document, the term "Landfill" includes all of the

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area and uses identified on the site plan attached hereto as Exhibit A, as supplemented by the terms of this Agreement. A legal description of the Landfill is attached hereto as Exhibit "B". Duda, CPI and Turner have reviewed this revised site plan and find it acceptable, subject to certain specific conditions described below relating to the design, construction, operation and closure of the Landfill.

Lee and Hendry Counties intend to proceed with the design and construction of the Landfill in Hendry County. Among other things, the Counties desire to have landfill capacity available for the disposal of ash residue generated by the resource recovery facility when it commences operation. The Landfill will not accept other solid waste prior to receiving ash residue from this resource recovery facility. (According to present estimates, the Landfill must be available for operations no later than October, 1994, to coincide with the commencement of operations at the resource recovery facility.)

In order to meet this construction deadline, the Board acknowledges that it must obtain the cooperation of Duda, CPI and Turner. In turn, Duda, CPI, and Turner recognize they must agree not to object to the Landfill if it is designed, constructed, operated and closed in accordance with all applicable rules and regulations, the terms and conditions reflected on the site plan incorporated herein as Exhibit A, and those development conditions specifically described in this Agreement.

It is the intent and purpose of this Agreement to confirm that: (a) the Board agrees to construct, operate and close the Landfill in accordance with the terms contained herein; and (b) in consideration for the Board's promise, Duda, Turner, and CPI agree that they will not object to, oppose or otherwise interfere with the permitting, construction or operation of the Landfill, so long as Lee County's activities are conducted in accordance with the terms of this Agreement.

II. INCORPORATION OF THE SITE PLAN.

A. The revised site plan attached hereto as Exhibit A and identified as the "Final Site Plan" is hereby incorporated into and made a part of this Agreement. Exhibit A is Drawing C-1 by Hazen and Sawyer, an environmental engineering firm, and it is Revision 4 dated June 23, 1993, and date stamped on June 25, 1993. This revised site plan depicts the location of various facilities and land uses upon the site, including negotiated buffer areas, and it provides limits relating to the height and areal extent of certain uses. This graphic representation of the Landfill, as supplemented by the terms of this Agreement, shall specifically govern the detailed design, construction, operation and closure of the Landfill. It is recognized, however, that the detailed design drawings for the Landfill will establish the precise location and shape of the structures and facilities at the Landfill, which may vary slightly from the conceptual outlines shown in Exhibit A; however, such minor variations shall not result in the placement of

any waste disposal area in the buffer areas and shall not result in any increase in the height of the described structures and facilities at the Landfill. Exhibit A contains a table with an estimate of the Landfill's "life expectancy," but this estimate shall not be construed to create any minimum or maximum limits on the duration of Landfill operations.

B. The parties hereto also acknowledge that the Board, Duda, CPI and Turner will work with the Board of County Commissioners of Hendry County to ensure that this Agreement and the attached exhibits become part of the Hendry County comprehensive plan, and specifically govern the design, construction, operation and closure of the Landfill.

III. DEVELOPMENT CONDITIONS.

The parties hereby stipulate and agree that the following development conditions shall apply to the design, construction, operation and closure of the Landfill.

A. The parties recognize that there are existing surface water discharges (including stormwater discharges) that drain from the site and flow to the north and south. It is the intent of the parties that the surface water management system for the Landfill shall be designed, constructed, and operated in such a manner that the quantity of the existing surface water discharges from the site is not increased and the quality of the discharges is not changed. If it becomes necessary during the life of the facility to alter existing surface water discharges from the Landfill, the Board

shall comply with all applicable regulations in effect at the time of any application and shall ensure that any such discharges will not impair the water quality of the receiving waterbody. In addition, the Board shall utilize an appropriate water quality monitoring program to ensure early detection of contaminants in the surface water discharges. The water quality monitoring program shall include a regime for regular sampling and analysis at one or more appropriate locations (including all outfalls or other discrete discharge points) for water quality indicator parameters or other parameters for which testing is required by the Florida Department of Environmental Protection (DEP) or any environmental regulatory agency with jurisdiction to regulate the discharge. At a minimum, the water quality monitoring program shall include the parameters and testing and reporting frequency mandated in Exhibit "C", which is attached hereto and entitled "Minimum Surface Water Quality Monitoring Program" (dated June 3, 1993).

B. The parties acknowledge that the applicable regulations codified in Chapter 17-701, Florida Administrative Code, shall apply to the design, location, construction, operation and closure of the Landfill. These regulations include the additional requirements in Chapter 17-701 that were adopted in November 1992 and became effective on January 6, 1993. These regulations shall apply without any exception, variance, or alternative criterion therefrom, except as specifically stated in Section III.C of this Agreement. These regulations contain extensive criteria affecting the design, location, construction, operation and closure of

landfill facilities. All of these criteria are incorporated into and made a part of this Agreement by reference.

C. Notwithstanding the provisions contained in Section III.B., above, the Board may choose to utilize an alternate procedure or requirement pursuant to Section 17-701.310, F.A.C., which requires a demonstration that the alternate procedure or requirement "provides an equal degree of protection for the public and the environment." The parties agree that any alternative procedure or requirement must provide an equal degree of protection to Duda, CPI, and Turner. If the Board files a request for an alternate procedure or requirement for the Landfill, then Duda, CPI or Turner may challenge that request and exercise their right to initiate or intervene in any and all proceedings concerning the request. However, in no event shall this subsection be interpreted to allow Duda, CPI or Turner to challenge any other issues concerning the Landfill.

D. A comprehensive groundwater monitoring system shall be installed on the Landfill within the area between the active landfilling operations and the property boundary. The monitoring system and the associated reporting system shall comply in all respects with the applicable requirements contained in Chapter 17-701, Florida Administrative Code, and the terms of this section. Monitoring wells located downgradient of active landfilling operations shall be placed no more than 500 feet apart. Wells shall be placed adjacent to the outer perimeter of the active landfill area to provide an early detection system for

identification of groundwater contamination. Downgradient wells shall, at a minimum, be monitored annually for all priority pollutants and quarterly for indicator parameters. The monitoring system shall be designed to provide for representative sampling of both the surficial and deeper aquifer systems.

E. The Board has represented that the resource recovery facility being constructed in Lee County has the present design capacity (1200 tons per day) to handle all of the processable solid waste generated in Lee and Hendry Counties for a period of approximately eight to ten years. It is the goal of Duda, CPI, Turner and the Board to minimize the disposal of processable solid waste at the Landfill and, in accordance with the terms of this Agreement, to maximize use of the Landfill for the disposal of ash, yard trash, CDD or other similar materials that pose a reduced risk to the environment. Therefore, the Board shall initiate and diligently pursue throughout the operational life of the Landfill appropriate planning processes intended to regularly identify and evaluate options for the reduction, recycling, reuse or disposal of solid waste which may be implemented in a timely fashion to ensure that increased quantities of processable solid waste will not need to be disposed of at the Landfill when the resource recovery facility and all other available solid waste management facilities then in use by the Board reach their capacity. The disposal options to be considered shall include, but are not limited to, the expansion of the existing resource recovery facility, the construction of a new resource recovery facility or landfill, other

volume reduction options, and the execution of contracts with operators of other resource recovery facilities or landfills. As part of this planning process, the Board shall identify, within one year of the execution of this Agreement, a detailed schedule for this planning process. The Board shall update this schedule periodically. The Board shall meet this schedule and shall in good faith use its best efforts to evaluate and implement the use of all practicable solid waste management options to achieve this goal. In determining whether any option is practicable, the Board may consider the technical feasibility, permissibility and economic impacts of the option.

F. The Landfill may receive processable solid waste only when such disposal is made necessary by scheduled or unscheduled maintenance at the Lee County resource recovery facility or at one of the other solid waste management facilities utilized by the County to meet the goal established in Section III.E., or by a bona fide emergency (subject to the provisions in Article VI). The Board shall use its best efforts to limit the duration of these occurrences. In addition, if the Board has met all of the conditions in Section III.E., then the Landfill may, as a last resort, be used for the disposal of processable solid waste when, and only to the extent that, the volume of such waste generated in Lee and Hendry counties exceeds the capacity of the Lee County resource recovery facility and all other available solid waste management facilities then in use by the Board, including those

Board may use these two areas if the Board determines that the stormwater capacity of all other stormwater retention basins has been fully used or if the Board needs borrow material (i.e., dirt) for the proper closure of the Landfill and all of the borrow material in the other stormwater retention basins has been excavated. If the Board determines that it needs to utilize one or more of these areas for future stormwater retention basins or borrow material, then the Board shall provide Duda, CPI and Turner

implemented pursuant to Section III.E. Prior to using the Landfill for this purpose, the Board shall provide a written report to Duda, CPI and Turner that demonstrates that the Board has met the conditions in Section III.E.

G. The Board shall design and implement a system for the control of methane gas emissions and odor from the Landfill. This system must provide, at a minimum, for the application of suitable material as initial cover on top of the processable solid waste at the end of each working day. In addition, the Board shall provide and implement contingency plans to ensure that objectionable odors from the Landfill are not detected on adjacent property. For the purposes of this Agreement, the term "objectionable odors" shall have the meaning provided in Section 17-296.200(123), F.A.C.

H. The normal hours of operation for the Landfill shall be limited to a period beginning no earlier than 6:00 a.m. and ending no later than 8:00 p.m. of that same day. This limitation on hours does not apply to a bona fide emergency situation requiring disposal before 6:00 a.m. or after 8:00 p.m., provided that Duda, CPI, and Turner are promptly advised as to the nature of the emergency and the duration of the extra hours of operation. Immediately upon the conclusion of the bona fide emergency event, all extra hours of operation shall immediately cease and the operation of the Landfill shall be limited to the normal hours of operation stated above.

with a written report that explains the reasons for the Board's determination.

J. The Board shall prepare and implement a program for the control of fugitive dust emissions at the Landfill. This program shall be designed to satisfy the standards and criteria contained in all applicable rules and regulations. This program shall be designed and implemented to ensure that the Board's activities at the Landfill do not result in measurable increases above background levels in the fugitive dust levels detected on adjacent properties owned by CPI, Duda or Turner.

K. The Board shall use a single synthetic liner and a leachate collection system in any areas at the Landfill that are used for the disposal of CDD, except as provided below. Leachate from the CDD disposal areas will be tested quarterly for the parameters listed in Exhibit D, which is attached hereto and entitled "Test Parameters for CDD Leachate" (dated June 3, 1993). Results of this testing shall be submitted promptly to DEP. The parties agree, however, that if the test data for the leachate from the CDD disposal areas demonstrate compliance with the primary drinking water standards for a period of three years, then future CDD disposal areas may not be lined and the CDD leachate testing program may be modified, subject to DEP's approval.

L. The Board shall implement suitable operational controls at the Landfill designed to ensure that those areas used for the disposal of CDD shall not receive any materials other than CDD, as

defined in Chapter 17-701, Florida Administrative Code. During the active life of the CDD disposal areas, the Board shall provide, on an annual basis, a report to the Florida Department of Environmental Protection (DEP) that includes a description of the operational controls and an assessment of their effectiveness in prohibiting the disposal of materials that might cause contamination in violation of applicable DEP regulations. The Board also shall implement an appropriate groundwater monitoring and reporting program for the unlined CDD disposal areas, if any. The results of this monitoring and reporting program shall be regularly provided to DEP. If at anytime DEP concludes that the operational controls are not preventing the disposal of contamination-causing materials in the CDD disposal areas, the Board shall from that point forward take appropriate steps to respond to DEP's concerns and correct the operation of the Landfill. Among other things, the Board shall consider whether it is necessary to dispose of CDD only in areas that comply with the requirements for Class I landfills and whether it is necessary to initiate remedial action to contain or correct any contamination discovered in active CDD disposal areas. Furthermore, from that time forward the groundwater monitoring program previously described herein (Section III.D.) shall be applicable to those unlined areas, if any, being actively utilized for the disposal of CDD. If the groundwater monitoring program indicates the presence of contaminants at levels exceeding applicable regulatory standards, which resulted from the disposal of materials other than

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CDD in the areas identified for CDD, the Board shall immediately initiate any appropriate remedial actions necessary to ensure that the properties owned by Duda, CPI and Turner and the groundwater beneath these properties are not adversely affected by said contaminants.

M. The height of the Landfill and all other uses shall be restricted in accordance with the terms and conditions contained in the site plan (Exhibit A), as supplemented by this Agreement. If necessary, the Board may vary from the proposed maximum height by an amount not to exceed one percent of the maximum height identified on the site plan. In addition, the Board may increase the height by an additional amount (not to exceed five percent) if necessary to comply with changes in applicable closure requirements.

N. The Board shall provide written notice to Duda, CPI and Turner of any proposed request for a permit, license or other approval, or a modification to a permit, license or other approval, for any activity relating to the construction, operation or closure of the Landfill. Such notice shall be given at least 30 days prior to the submittal of any such request to any agency. If requested, the Board or its representatives shall agree to meet with Duda, CPI or Turner to discuss the proposed request for a permit, license or approval prior to filing with an agency.

O. Unless the parties receive other written directions from the parties hereto, any notice or other document to be given to one or more of the parties pursuant to the terms of this Agreement

shall be provided in writing and sent to the following addresses:
for Duda: Calvin J. Livingston, Vice President and General
Counsel, A. Duda & Sons, Inc., Post Office Box 257, Oviedo, Florida
32765; for CPI: Peter Latham, Post Office Box 247, Felda, Florida
33930; for Turner: John C. Norris, President, Turner Foods
Corporation, 25450 Airport Road, Punta Gorda, Florida 33950; and
for the Board: Lee County Administrator, Post Office Box 398, Fort
Myers, Florida 33902; Lee County Attorney, Post Office Box 398,
Fort Myers, Florida 33902; and Lee County Director of Solid Waste,
Post Office Box 398, Fort Myers, Florida 33902.

P. The Board shall improve Church Road from its point of
intersection with State Road 82 to the Landfill. The road shall be
two-lanes, paved, constructed in accordance with all applicable
regulations, and shall abut Sections 20, 17, and 8; Township 45 S;
Range 28 E.

Q. The Board shall allow reasonable access to Church Road by
Duda, CPI and Turner. Duda, CPI and Turner acknowledge that they
are solely responsible for all costs attendant to construction of
access improvements on their property. Furthermore, the parties
acknowledge that the exact nature of the access improvements shall
be determined in accordance with the applicable regulations
relating to access to public roads. The parties also acknowledge
that at some future date Church Road will be improved from its
point of intersection with the Landfill to its point of
intersection with State Road 20 to the east. However, the date of
this construction is presently undetermined.

R. Duda, CPI, and Turner shall be entitled to have a representative from each company visit and inspect the Landfill at any time during normal hours of operation. Except as provided herein, a Board representative shall accompany anyone conducting a site inspection. If Duda, CPI or Turner provide the Board with 48 hours advance written notice of a proposed site inspection, they shall not be denied access to the site. At all other times the Board shall make a good faith effort to promptly provide a Board representative to accompany them during their site inspection. However, the parties recognize that the Board's representatives on the site may be unavailable to assist them and thus a site inspection may not be immediately possible if Duda, CPI or Turner do not provide advance notice of their intent to conduct a site inspection. Duda, CPI and Turner acknowledge that their representatives may be required to execute appropriate waiver of liability statements as a condition precedent to inspecting the Landfill.

S. Duda, CPI, and Turner may take photographs, or collect soil, water or other samples, or otherwise collect data concerning the Landfill. Copies of all photographs, test results, reports or other data compilations shall be provided to the Board within 30 days after the site inspection. Split samples shall be shared with the Board when collected. Duda, CPI, and Turner acknowledge that all data and analyses developed as a result of these site visits shall be provided to the Board.

T. The Board shall promptly provide Duda, CPI and Turner with copies of: (1) all applications for all permits or permit modifications, including construction, operation, renewal and closure permits; (2) groundwater or surface water monitoring reports required by this Agreement or by DEP or any other regulatory agency; (3) any warning notices, notices of violation, consent orders, complaints and similar documents; (4) any reports that must be prepared or sent to any environmental regulatory agency pursuant to the terms of this Agreement; (5) all applications and related correspondence concerning any zoning, special exception or other land use approvals by Hendry County; and (6) any correspondence with any environmental regulatory agency directly related to any of the documents described in subparagraphs (1) through (4), above.

U. Duda, CPI, and Turner may request DEP to conduct a site inspection at the Landfill and may accompany DEP on such pre-arranged inspections at any time, subject to DEP's concurrence. The Board shall promptly give notice to Duda, CPI and Turner of any site inspection at the Landfill by any environmental regulatory agency and of any meeting between the Board and any such agency to discuss the Landfill. The notice shall include a brief description of the nature and purpose of the inspection or meeting. Duda, CPI and Turner may attend only those inspections and meetings that involve matters adversely affecting their interests.

V. Duda, CPI and Turner recognize and agree that Section 4 of the Landfill may be used by the Board for wetlands mitigation projects and the buffer areas may be used for cattle grazing, farming, silviculture or other similar agricultural operations, provided that any such activities are conducted in compliance with all applicable environmental and other regulations, and do not have a material adverse effect on the use or value of adjacent properties.

W. The site plan contained in Exhibit A depicts a solid waste disposal area labelled "Class 3/Compost". This area may be used only for a Class III landfill, for yard trash composting and for CDD disposal. In addition, the parties agree that an enclosed recovered materials processing facility may be built in this area, provided that such facility is located as far as practicable from the eastern buffer and complies with all of the terms of this Agreement and all applicable regulations.

X. The Board shall construct, operate and close the Landfill, and undertake all other activities at or related to the Landfill, in accordance with all applicable laws, rules, ordinances, orders, permits, and approvals.

Y. The Landfill shall not accept other solid waste prior to receiving ash residue from the resource recovery facility presently being constructed in Lee County. No treated or untreated biomedical waste may be disposed of at the Landfill. The disposal of other forms of biological waste shall comply with all applicable legal requirements, and bodies of dead animals disposed of at the

Landfill shall be promptly covered. The Board agrees that no solid waste generated outside of Hendry County or Lee County shall be solicited, managed or disposed of at the Landfill unless ordered by a court of competent jurisdiction.

IV. OBLIGATIONS OF ADJACENT PROPERTY OWNERS.

A. In consideration for the Board's compliance with the terms of this Agreement, Duda, CPI, and Turner agree not to object to, oppose, or otherwise interfere with the permitting, design, location, construction, operation or closure of the Landfill or Church Road, in any forum, either directly or indirectly, publicly or privately, individually or collectively, provided that the Landfill is designed, constructed, operated and closed in accordance with this Agreement and all applicable regulations.

B. The parties acknowledge that the Board may utilize the two alternate configurations described herein if it is not able to obtain certain permits and approvals under the circumstances described in this section.

1. Alternative A. If the Board does not obtain, within ten years from the date of commencing construction of the Landfill, those permits required to fill the 0.5 acre wetland area identified on Exhibit A, and as a result thereof cannot proceed with the construction of the Landfill in that wetland area, the Board may reconfigure the area designated for disposal of Household Waste/Ash in accordance with the "Alternative Final Site Plan" attached hereto as Exhibit E. Exhibit E is Drawing C-1A by Hazen and Sawyer, an environmental engineering firm, and it is Revision 3

dated June 29, 1993, and date stamped on July 1, 1993. The intent of this alternative is to provide the Board with capacity for ash disposal equal to that lost due to the inability to obtain permits required for the filling of the 0.5 acre wetland.

2. Alternative B. If, prior to commencing construction of the Landfill, the Board notifies the parties that it will not be able to obtain all permits and approvals required to construct the Landfill in a manner consistent with Exhibit A and in strict compliance with the terms and conditions of this Agreement, the Board may make certain revisions to the locations of the indicated disposal areas. Specifically, the Board may reconfigure the Class 3/Compost area so that it extends northward into the 100-acre area described as "Stormwater/Borrow" on Exhibit A; provided, however, that in no event shall the reconfigured area extend further north than necessary (and in no event shall it extend further north than the mid-point of this Stormwater/Borrow area), and provided further that no solid waste other than CDD may be disposed of in the 100-acre area designated as Stormwater/Borrow area on Exhibit A. In addition, areas identified for disposal of Household Waste/Ash may be reconfigured to extend into the area described as Class 3/Compost on Exhibit A; provided, however, that this reconfigured area shall be located as far south and as far from each 1,320-foot buffer as is practicable.

3. Any alternate configuration shall approximate the original configuration to the greatest extent practicable, and shall not exceed the height limitations described in Exhibit A. Any alternate configuration shall comply with the provisions of

this Agreement, including, but not limited to, the restrictions in Sections III.E. and F., except that the provisions in Sections II.A., II.B., and III.W. shall not apply to the alternate configuration insofar as they would require the Landfill to be developed in accordance with the site plan depicted in Exhibit A. In addition, no alternate configuration shall include construction or other solid waste management activities in the 1,320-foot buffer areas depicted on Exhibit A; provided, however, that those uses and activities specifically shown in the buffer areas on Exhibit A are authorized so long as those uses and activities do not exceed the acreage limitations shown on Exhibit A.

4. The Board may elect one of these alternate configurations only if it determines, and then reports to Duda, CPI and Turner, that it has used its best efforts to obtain the required permits and approvals, and that the reason for its inability to obtain these permits and approvals is based upon matters that may be remedied as a practical matter only by making such an election.

5. If the Board elects to pursue an alternate configuration of the Landfill pursuant to this section, then it shall give prompt notice to Duda, CPI and Turner. The notice shall include a complete explanation of the reasons for the Board's determination.

6. If the Board elects to pursue an alternate configuration of the Landfill pursuant to Section IV.B.2., above (i.e., Alternative B), then Duda, CPI and Turner shall not be subject to Section IV.A., and they shall be free to object to the

Landfill and to exercise their rights to initiate or intervene in any and all proceedings relating to the Landfill. If the Board elects to pursue an alternate configuration of the Landfill pursuant to Section IV.B.1., above (i.e., Alternative A), then Duda, CPI, and Turner shall comply with Section IV.A. and all of the other terms of this Agreement.

7. If the Board determines prior to the commencement of construction of the Landfill that it does not wish to build the Landfill at this site, the Board shall so notify Duda, CPI and Turner. Upon the execution by the Board and filing in the public records of Hendry County of an appropriate document that prohibits the use of the Landfill property for any landfill or other solid waste management facility by the Board, the purchaser of the site, or their agents, successors or assigns, this Agreement shall be null, void and unenforceable. This prohibition on the use of the site shall run with the land.

8. The Board agrees not to use the properties adjacent to the site described in Exhibit B for a landfill or other solid waste management activities during the term of this Agreement.

C. If required, Duda will assist the Board in obtaining appropriate permits (e.g., from DEP) that will allow the construction and operation of the Landfill within 10,000 feet of the airplane landing strip maintained by Duda on its adjacent property. If required for the Board to obtain the necessary permits or approvals for the Landfill, Duda agrees that it will limit its use of said air strip to piston engine aircraft only.

The Board agrees that it will not interfere in any way with the licensing of the air strip unless Duda takes actions that are inconsistent with the Board's use of the Landfill in the manner described in this Agreement.

D. All of the obligations described in this Agreement for the Board, Duda, CPI and Turner also apply to their officers, directors, employees, agents, attorneys, and consultants, when those persons are acting on behalf of the indicated principal, and to the parties' successors and assigns.

E. Duda, CPI, and Turner shall take all appropriate steps to ensure that all pending lawsuits filed by them concerning the Lee County-Hendry County Interlocal Agreement are dismissed within 30 days after the adoption by Hendry County of the amendments to its comprehensive plan as described in Article XIX of this Agreement. The Board shall promptly withdraw all pending applications for permits or other approvals for the previously-proposed landfill and for any related activities that are inconsistent with the terms of this Agreement.

F. Within 30 days after receiving a written request and legal description, CPI and Turner agree to dedicate to either Lee County or Hendry County their respective interests, if any, in the approximately 60 feet of right of way lying along their respective property lines in order to facilitate construction of Church Road.

V. MAINTENANCE OF CHURCH ROAD.

The Board shall implement a litter prevention program for the regular maintenance and cleaning of litter on Church Road.

VI. RESTRICTIONS AFFECTING DISPOSAL OF DEBRIS RESULTING FROM HURRICANES OR OTHER NATURAL DISASTERS.

Duda, CPI and Turner are concerned that the Landfill may receive solid waste generated by hurricanes or other natural disasters. If such waste materials were disposed of at the Landfill, it may result in a significant decrease in the capacity of the facility and promote or otherwise force its expansion. Therefore, within two years from the date hereof, the Board shall prepare and implement a program for the identification and use of appropriate alternative disposal sites and methods for solid waste generated by hurricanes or other natural disasters. If the Board fails to prepare and implement the described program, then the Board agrees that its disposal of storm debris at the Landfill shall not provide a basis for requesting any expansion of the Landfill. In no event shall the disposal of storm debris cause the Landfill to encroach into the protected buffer areas or exceed the maximum heights described herein unless the Board demonstrates and a court of competent jurisdiction finds that the Board has used its best efforts to satisfy the requirements of this paragraph and, nonetheless, an act of God has created an emergency situation that necessitates, as a last resort, an increase in the height of the Landfill. Any increase in the height of the Landfill under these circumstances shall be limited to the smallest amount necessary to

deal with the emergency conditions, and the Board shall be liable to Duda, CPI and Turner for any damages resulting from this increase in height.

VII. OBLIGATION TO CORRECT PROBLEMS.

The Board shall be responsible for continuing compliance with the terms, conditions, covenants, and restrictions contained in all applicable regulations, permits, approvals, development orders, local comprehensive plans, land development regulations, and this Agreement. Should a violation occur, Lee County shall proceed promptly to undertake such action as is required to correct said violation.

VIII. PROTECTION OF THE CORKSCREW SANCTUARY.

As contemplated in Section III.A., above, the Board shall implement an appropriate monitoring program at the Landfill if existing discharges of surface water from the Landfill into the Corkscrew Sanctuary via the manmade canal located along the west boundary of Section 28 are increased in quantity or changed in quality. This water quality monitoring program shall be designed to ensure the early detection of contaminants in the surface water discharged from the Landfill. The water quality monitoring program shall include a regime for regular sampling and analysis at one or more locations at the Landfill for all appropriate water quality parameters, as determined by DEP or any other agency with jurisdiction to regulate the discharge. At a minimum, the

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monitoring program must comply with the requirements set forth in Exhibit C, which is attached hereto.

IX. EFFECTIVE DATE AND TERM OF THIS AGREEMENT.

This Agreement shall be effective only upon execution by all parties identified herein and shall remain in full force and effect until satisfaction of all post-closure monitoring requirements in accordance with all applicable regulations.

X. EXECUTION OF THE AGREEMENT.

This Agreement shall be executed by the parties in a form sufficient to permit its recordation with the Clerk of the Circuit Court in both Lee and Hendry Counties.

XI. SPECIFIC PERFORMANCE AND ATTORNEYS' FEES.

Should any party be required to employ an attorney or attorneys to enforce any of the provisions hereof, or to protect its interests in any manner arising under this Agreement, or to recover damages for the breach of this Agreement, the prevailing party shall be entitled to recover from the other party all reasonable costs, charges and expenses, including attorneys' fees, expended or incurred in connection therewith. If a court of competent jurisdiction determines that there has been a material breach of this Agreement, then the obligations imposed by this Agreement on the non-breaching party shall be void and unenforceable, unless the non-breaching party decides at its option

that it wants to enforce the Agreement and seek specific performance, injunctive relief, or some other manner of lawfully available relief. The remedies provided in this Agreement are cumulative and they supplement those remedies that are authorized by law and equity.

XII. SEVERABILITY.

In case any one or more of the provisions contained in this Agreement shall for any reason be held to be invalid, illegal or unenforceable in any respect, such invalidity, illegality or unenforceability shall not affect any other provision hereof, and this Agreement shall be construed as if such invalid, illegal or unenforceable provision had never been contained herein.

XIII. ENTIRE AGREEMENT.

This Agreement contains the entire understanding and agreement between the parties hereto with respect to the subject matter hereof, and supersedes any prior written or oral agreements between them with respect to the subject matter hereof.

XIV. AMENDMENT OR MODIFICATION.

This Agreement may be amended or modified only by a written instrument signed by the parties hereto.

XV. CAPTIONS.

The captions contained in this Agreement are inserted only as a matter of convenience and reference, and in no way define, limit, extend or describe the scope of this Agreement or the intent of any provision hereof.

XVI. BINDING EFFECT.

This Agreement shall be binding upon and inure to the benefit of the parties hereto and their successors and assigns. This Agreement shall constitute a covenant running with the land, which land is more specifically described in Exhibit B, and it shall be enforceable by Lee County, Duda, CPI and Turner.

XVII. WAIVER.

No waiver hereunder of any condition or breach shall be deemed to be a continuing waiver or a waiver of any subsequent breach.

XVIII. COUNTERPARTS.

This Agreement may be executed in several counterparts, each constituting a duplicate original but all such counterparts constituting one and the same agreement.

and (4) appropriate language that requires the incorporation in or application of the terms, conditions, covenants and restrictions contained in this Agreement to any land development regulations, development orders, local land use approvals, special exceptions and zoning permits adopted or issued by said board for the Landfill or related activities or uses.

XX. DEFINITIONS

A. As used in this Agreement, unless the context clearly indicates otherwise, all terms herein that are defined in Chapter 403, Florida Statutes, or Chapter 17-701, Florida Administrative Code, shall be given the meaning as defined therein as of the date of the execution of this Agreement.

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B. As used in this Agreement, unless the context clearly indicates otherwise, the term "processable solid waste" means garbage, household waste, industrial waste (except inert materials), putrescible waste, and other similar wastes that attract birds, but the term does not include yard trash, CDD, clean debris, or brown goods (e.g., furniture and similar oversized materials).

IN WITNESS WHEREOF, each party hereto has executed this agreement as of the day and year stated above.

ATTEST:
CHARLIE GREEN, CLERK

BOARD OF COUNTY COMMISSIONERS
OF LEE COUNTY, FLORIDA

By: *Ruth Johnson*
Deputy Clerk

By: *M. ...*
Chairman

APPROVED AS TO FORM:

By: *[Signature]*
Office of County Attorney

Signed in the presence of:

A. DUDA & SONS, INC.

Sarah B. Dougherty
(Print Name) Sarah B. Dougherty

By: *F. S. Duda*
(Name) Ferdinand S. Duda
As its President

Mary Cina
(Print Name) Mary Cina

Signed in the presence of:

Marcos H. Tyre
(Print Name) MARCO H. TYRE

Neysa T. Mitchell
(Print Name) NEUSA T. MITCHELL

Signed in the presence of:

John L. Morris
(Print Name) JOHN L. MORRIS

Dena Kemp
(Print Name) DENA KEMP

COOPERATIVE PRODUCERS, INC.

By: Albert Jones Jr
(Name) ALBERT JONES JR
As its Vice President

TURNER FOODS CORPORATION

By: John L. Morris
(Name) JOHN L. MORRIS
As its PRESIDENT

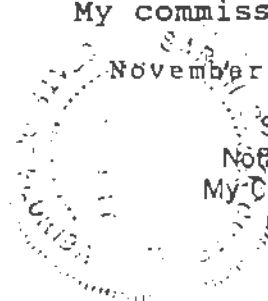
STATE OF FLORIDA
COUNTY OF SEMINOLE

The foregoing instrument was acknowledged before me this 13th day of July, 1993, by Ferdinand S. Duda as President of A. DUDA & SONS, INC., a Florida corporation, on behalf of this corporation, who is personally known to me ~~or who has produced~~ ----- (type of identification)~

(affix notarial seal)

My commission expires:

November 7, 1994



SARAH B. DOUGHERTY
Notary Public, State of Florida
My Comm. expires Nov. 7, 1994
Comm. No. CC062021

Sarah B. Dougherty
Notary Public
Sarah B. Dougherty
(print/type name of Notary)
Notary Public--State of
Florida
Commission Number: CC062021

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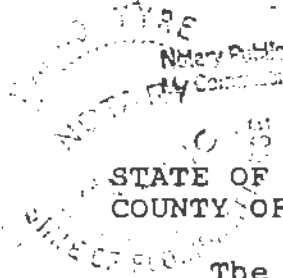
STATE OF Florida
COUNTY OF Deer

The foregoing instrument was acknowledged before me this 16th day of July, 1993, by Albert Jones Jr. as Vice President of COOPERATIVE PRODUCERS, INC., a Florida corporation, on behalf of this corporation, who is personally known to me or who has produced _____ (type of identification).

(affix notarial seal)

My commission expires:

Marcos H. Tyre
Notary Public
MARCO H. TYRE
(print/type name of Notary)
Notary Public--State of
Florida
Commission Number: _____



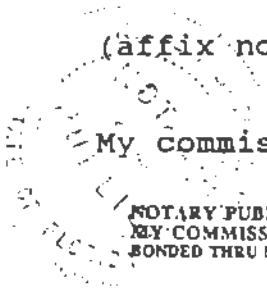
STATE OF Florida
COUNTY OF Charlotte

The foregoing instrument was acknowledged before me this 30th day of July, 1993, by John C. Norris as President of TURNER FOODS CORPORATION, a Florida corporation, on behalf of this corporation, who is personally known to me or who has produced _____ (type of identification).

(affix notarial seal)

My commission expires:

Karen Satornino
Notary Public
Karen Satornino
(print/type name of Notary)
Notary Public--State of
Florida
Commission Number: CC116433



NOTARY PUBLIC, STATE OF FLORIDA.
MY COMMISSION EXPIRES: June 9, 1995.
BONDED THRU NOTARY PUBLIC UNDERWRITERS.

State of Florida
County of Lee

I, Charlie Green, Clerk of the Circuit Court for Lee County, Florida, do hereby certify this document to be a true and correct copy of the original document on file in the Minutes Department.

Given, under my hand and official seal at Fort Myers, Florida, this 16th day of July, 1993.

CHARLIE GREEN, CLERK
By: Clara J. Wauson
Deputy Clerk

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EXHIBIT "B"

Legal Description for
Lee/Hendry Landfill Site

All of Section 4, Township 45 South, Range 28 East, Hendry
County, Florida, containing 627 acres ±.

All of Section 9, Township 45 South, Range 28 East, Hendry
County, Florida, containing 610 acres ±.

All of Section 16, Township 45 South, Range 28 East, Hendry
County, Florida, containing 671 acres ±.

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TWP. 45 S.-RNG. 28 E.

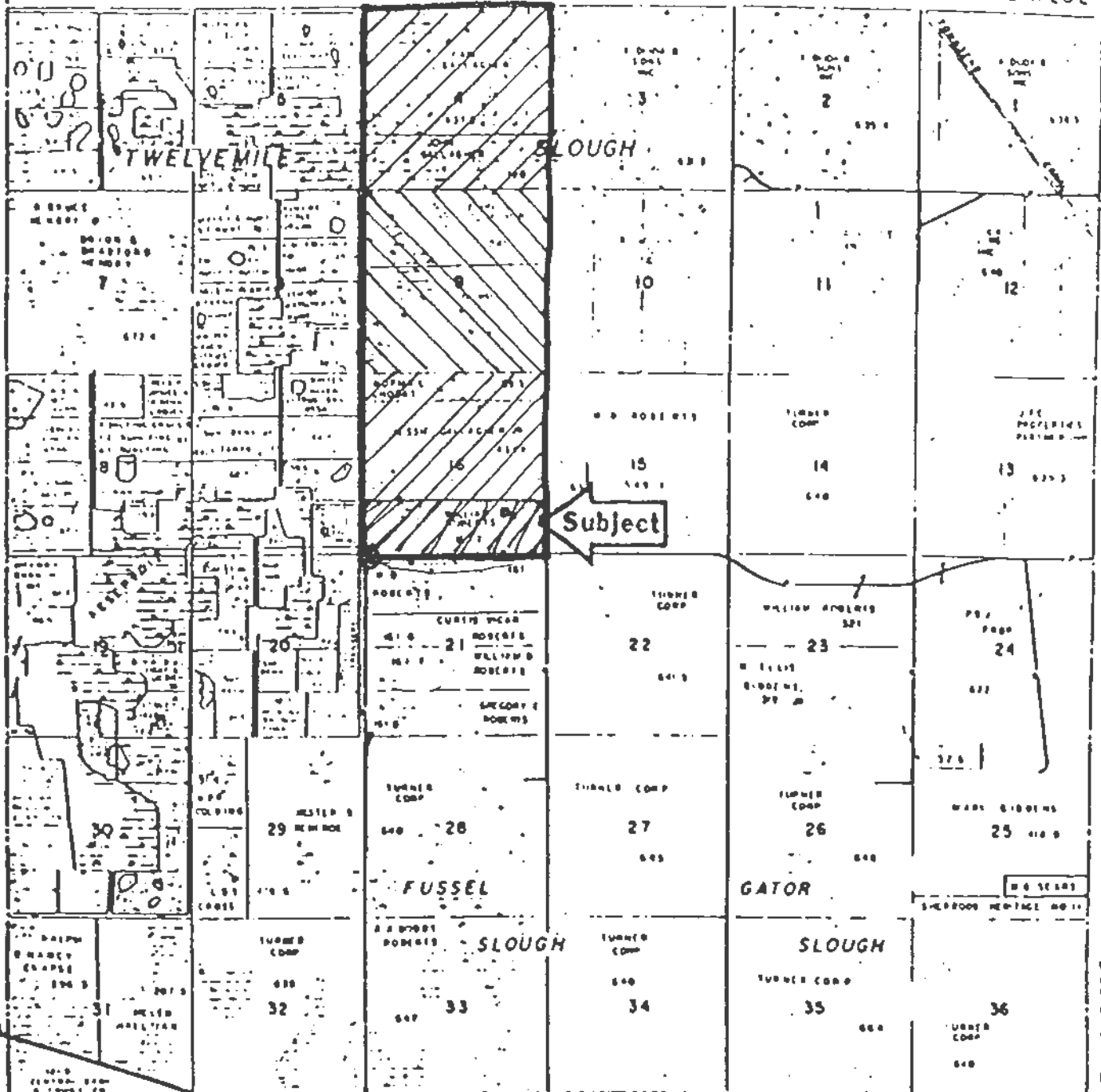
HENRY COUNTY FLORIDA



T. 44 S.-R. 28 E.

SEE PAGE 39

T. 44 S.-R. 28 E.



COLLIER

COUNTY



Diagram of Quartered Maps

Plat Map
 Stewart & Stephan, Inc.

June 3, 1993

EXHIBIT C
MINIMUM SURFACE WATER QUALITY MONITORING PROGRAM

The surface water shall be sampled and analyzed quarterly at one or more appropriate locations at the Landfill for the following parameters:

Total Dissolved Solids	Lead	Alkalinity
Total Suspended Solids	Mercury	Chemical Oxygen Demand
Chloride	Zinc	Dissolved Oxygen
Arsenic	Turbidity	Nitrate and Nitrite
Aluminum	Sulfate	Ammonia (un-ion.)
Cadmium	Total Organic Carbon	
Chromium	pH	
Iron	Specific Conductance	
Total Phosphate		

Surface water from the sampling locations also shall be sampled and analyzed once each year for the following parameters:

Copper	Oils and Greases	Silver
Detergents	Gross alpha	Barium
Organic Nitrogen	Beryllium	Most Probable number
Total Nitrogen	Cyanide	of fecal and
Ammonium	Nickel	total coliform
Ortho Phosphate	Selenium	

Quarterly monitoring reports shall be submitted within the first 15 days of the month immediately following the end of the sampling and analyses period. Annual monitoring reports shall be submitted within the first fifteen days of the month following the quarter of monitoring anticipated to have the greatest amount of rainfall.

June 3, 1993

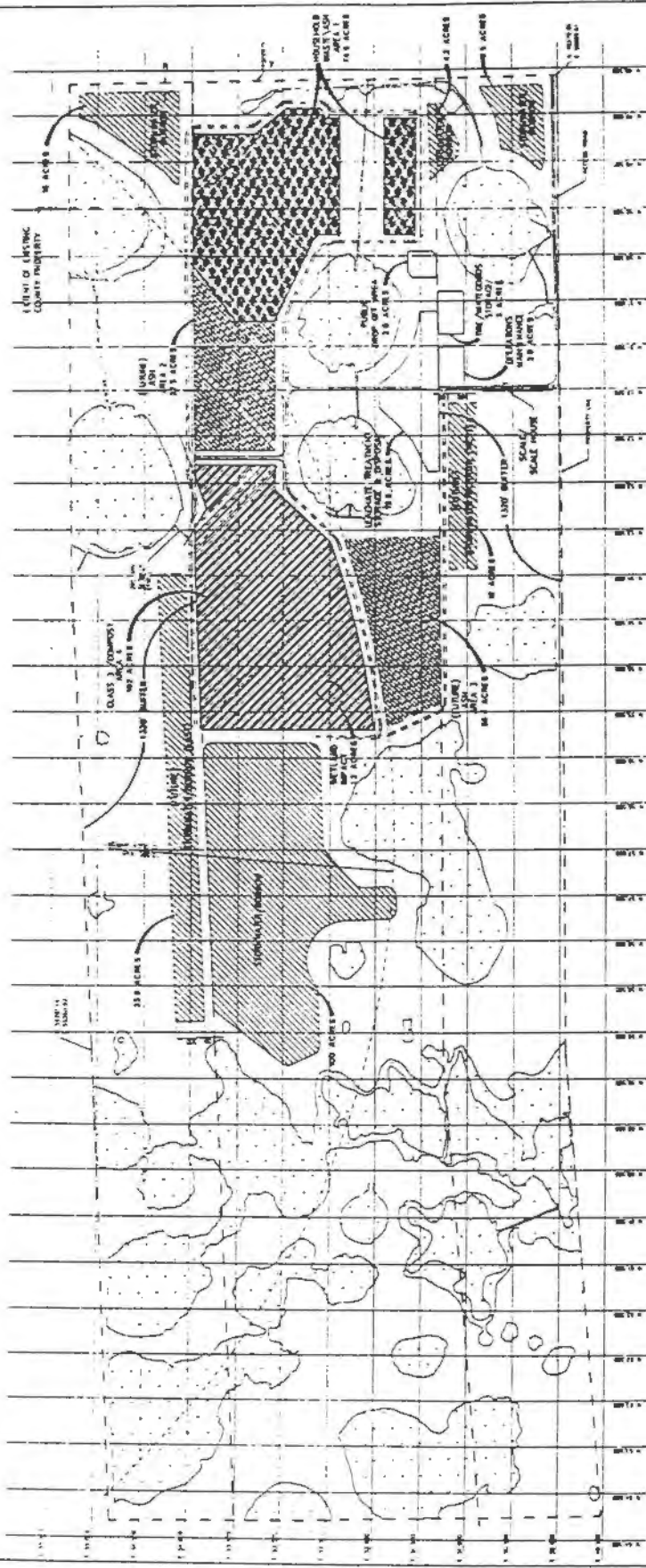
EXHIBIT D

TEST PARAMETERS FOR CDD LEACHATE

The CDD leachate shall be analyzed quarterly for the following parameters:

pH	Copper	Chloride
Biochemical Oxygen Demand	Lead	Sodium
Chemical Oxygen Demand	Mercury	Manganese
Total dissolved solids	Nickel	Iron
Total suspended solids	Silver	Barium
Arsenic	Zinc	
Cadmium	Selenium	
Chromium		

Samples of CDD leachate also shall be collected and analyzed annually for those parameters listed in EPA Methods 624 and 625.



1. ALL SHADING AREAS EXCEPT THOSE INDICATED BY HATCHING ARE TO BE GRADED TO THE FINISH ELEVATION. ALL GRADED AREAS SHALL BE COVERED WITH GRASS OR OTHER VEGETATION. ALL GRADED AREAS SHALL BE PROTECTED BY A 3' HIGH CONCRETE CURB OR OTHER PROTECTIVE DEVICE. ALL GRADED AREAS SHALL BE PROTECTED BY A 3' HIGH CONCRETE CURB OR OTHER PROTECTIVE DEVICE. ALL GRADED AREAS SHALL BE PROTECTED BY A 3' HIGH CONCRETE CURB OR OTHER PROTECTIVE DEVICE.

7. LOT DIMENSIONS (FEET)

LOT 1	100	100
LOT 2	100	100
LOT 3	100	100

8. SUMMARY OF VOLUMES

ITEM	DESCRIPTION	VOLUME (CU YD)
1	GRAVEL DRIVEWAY	100
2	GRAVEL DRIVEWAY	100
3	GRAVEL DRIVEWAY	100
4	GRAVEL DRIVEWAY	100
5	GRAVEL DRIVEWAY	100

HAZEN AND SAWYER
INCORPORATED ENGINEERS & ARCHITECTS

EXHIBIT E
ALTERNATIVE
FINAL SITE PLAN

DATE: 9/9/93

SCALE: AS SHOWN

PROJECT: [REDACTED]

CLIENT: [REDACTED]

LOCATION: [REDACTED]

DATE: 9/9/93

SCALE: AS SHOWN

PROJECT: [REDACTED]

CLIENT: [REDACTED]

LOCATION: [REDACTED]

ATTACHMENT 1

TO EXHIBIT C

Pursuant to Section 6.1 of this contract, Contractor agrees to indemnify and hold County harmless from any administrative, or actions at law brought against County as the result of non-compliance by Contractor with the following terms and conditions of the "Duda Agreement" (attached as Exhibit C), and as noted:

- a) Section II., Parts A. and B.
- b) Section III., Parts A., B., C., D., F., G., H., J., K., L., M., N., O., and R.

Notation: Contractor, as a service provider only, for construction management services, operation and closure of the Lee/Hendry Landfill during the term of this contract, shall be liable for indemnifying the County only for its failure to perform pursuant to the terms and conditions of this contract and the operating plan as provided by the County and which incorporates these sections and parts of the Duda Agreement.

Any additional expenses to Contractor to implement the "Duda Agreement" conditions agreed to by the parties in this attachment to Exhibit C, and not incorporated into the operational plan, shall be treated as "operational expenses" by the Contractor upon notification to and acceptance by the

County. The operational plan may be subsequently amended to include any such additional requirements .

Section III. (Cont). Parts S., T., U.

Notation: Contractor shall not be liable to County for indemnification as the result of any damage to or contamination of, the sampling wells by third parties.

Section III. (Cont.) Parts W., X.

Notation: WMIF shall indemnify County to the extent that it conducts closure activities pursuant to this contract.

c) Section V. through VIII.

Notation: Contractor shall comply with all County directions and procedures and shall indemnify County only for its performance under those directions and procedures.

d) Section XX.

Notation: Contractor accepts the definition as provided in the "Duda Agreement."

EXHIBIT D

CONSTRUCTION MANAGER SERVICES

EXHIBIT D

CONSTRUCTION MANAGER SERVICES

CONSTRUCTION MANAGER'S SERVICES AND RESPONSIBILITIES

D.1 The Construction Manager covenants with the Owner to further the interests of the Owner by furnishing the Construction Manager's best skill and judgment and by cooperating with the Owner in furthering the interests of the Owner. The Construction Manager agrees to furnish efficient business administration and management services and to use its best efforts to obtain the completion of the required construction projects in an expeditious and economical manner consistent with the interests of the Owner. The Construction Manager represents and warrants that it shall perform its services under this Agreement in accordance with the highest professional standards consistent with the level of care and skill required of construction management firms experienced and specializing in the construction of similar landfill facilities.

D.2 The Construction Manager shall provide continuous cost estimating, constructibility review, value engineering and related services as set forth herein to insure that, at all stages of design and procurement by the Owner, the projects remain within the Owner's budget limitations and fixed construction cost pursuant to procurements. The Construction Manager shall provide immediate notice to the Owner and the Engineer at any time that the project or portions thereof requires changes from the procurement contracts and shall monitor and coordinate the efforts of the Owner, the Engineer and other

consultants to achieve compliance with such contracts. Such services shall include but not be limited to providing recommendations on procurement and the relative feasibility of drawings and specifications, construction methods, availability of materials and labor, time requirements for procurement, installation and construction, and factors related to cost including, but not limited to, costs of alternative designs, materials or systems, preliminary budgets and possible economies resulting from the selection of alternative designs, materials or systems and test requirements to be included in procurement and contract documents.

D.3 The Construction Manager acknowledges that it is the goal of the Owner to obtain the efficient completion of the Hendry/Lee Landfill projects. In order to achieve this goal, the Construction Manager shall coordinate its services under this Agreement with services to be provided to the Owner by members of the Project Development Team, consisting of the Owner, Engineer and Construction Manager. The Construction Manager agrees to cooperate with the other members of the Project Development Team as directed by the Owner and shall not take any action that is adverse to other members of the Project Development Team without prior written notice to, and written approval by, the Owner. The Construction Manager agrees to provide prompt written notice to the Owner of any potential conflicts with other members of the Project Development Team. The Owner encourages free communication between the Owner and the members of the Project

Development Team; however, the Construction Manager shall receive direction solely from the Owner, and the Construction Manager agrees that all of its services hereunder are to be performed solely on behalf of the Owner.

D.4 The Construction Manager acknowledges that the Owner will select or has selected an Engineer to provide design and construction services with respect to the construction projects. The Construction Manager agrees to coordinate its services under this Agreement with the services of the Engineers retained by the Owner in connection with the construction projects.

D.5 By not later than 30 days following notice from the County, the Construction Manager shall review the Owner's and the Engineers anticipated staffing for the initial project, including all consultants engaged by the Owner or the Engineer for the project, and shall make recommendations concerning the hiring of additional consultants for the project as the Construction Manager deems necessary in its professional judgment. Similar procedures shall be followed for future projects.

D.6 The Construction Manager shall assist the Owner and the Engineer in achieving mutually agreed upon program and Engineer project budget requirements and other design parameters.

D.7 The Construction Manager shall provide for review and acceptance by the Owner, the Engineer and periodically update a Project Planning Schedule that coordinates and integrates the

Construction Manager's services, the Engineer's services and the Owner's responsibilities with anticipated design and construction schedules. The Project Planning Schedule shall identify dates by which information must be submitted or action taken by the Owner and the Engineer. The Construction Manager shall provide reasonable advance notice to the Owner and the Engineer of dates by which information must be submitted or action taken.

D.8 The Construction Manager shall submit required information to the Owner and the Engineer on a timely basis. The Construction Manager shall be responsible for implementing appropriate lines of communication to schedule meetings as requested by or in accordance with direction provided by the Owner. The Construction Manager shall be responsible for obtaining and distributing communications and information as required to facilitate the Construction Manager's obligations pursuant to this Agreement, including all relevant information required from the Owner and the Engineer required to properly schedule each project, and all information required from trade contractors and other persons or entities with an interest in the project.

D.9 Consistent with Paragraph D.2 hereof, the Construction Manager shall prepare for the Owner's approval a detailed estimate of the costs of construction for the General Contract bid package, developed by using estimating techniques which anticipate the various elements of the project, and based on Detailed design documents prepared by the Engineer.

Construction Manager shall update and refine such cost estimates periodically. The cost estimates shall reflect the obligations of the Owner. The Construction Manager shall advise the Owner and the Engineer if it appears at any time that the costs of construction may exceed the project budget. The Construction Manager shall provide value engineering services to evaluate alternative systems and designs and shall make recommendations for corrective action to achieve project budget requirements. The Construction Manager acknowledges that the initial project is being constructed on a "fast track" basis and that time is of the essence of this Agreement. Accordingly, it is the Construction Manager's obligation to prepare and submit construction cost estimates required by this Paragraph D.9 to the Owner and the members of the Project Development Team within ten (10) business days of the presentation to the Owner by the Engineer of the Construction Documents, for the General Contract bid package. The Construction Manager shall coordinate its review of all such documents with the Engineer as necessary to meet the time periods established in this Paragraph D.10 for the submission of construction cost estimates.

D.10 Construction Manager shall be responsible for initiating, maintaining and supervising all safety precautions and programs in connection with the work. Construction Manager shall take all necessary precautions for the safety of, and shall provide the necessary protection to prevent damage, injury or loss to:

All employees on the work and other persons and/or organizations who may be affected thereby;

All the work and materials and equipment to be incorporated therein, whether in storage on or off the Disposal Site; and

Other property on Disposal Site or adjacent thereto, including trees, shrubs, lawns, walks, pavements, roadways, structures, utilities and any underground structures or improvements not designated for removal, relocation or replacement in the Contract Documents.

Construction Manager shall comply with all applicable codes, laws, ordinances, rules and regulations of any public body having jurisdiction for the safety of persons or property or to protect them from damage, injury or loss. Construction Manager shall erect and maintain all necessary safeguards for such safety and protection. Construction Manager shall notify owners of adjacent property and of underground structures and improvements and utility owners when prosecution of the work may affect them, and shall cooperate with them in the protection, removal, relocation or replacement of their property. Construction Manager's duties and responsibilities for the safety and protection of the work shall continue until such time as the work is

completed and final acceptance of same by Owner has occurred.

Construction Manager shall designate a responsible representative at the Disposal Site whose duty shall be the prevention of accidents. This person shall be Construction Manager's superintendent unless otherwise designated in writing by Construction Manager to Owner. The Construction Manager shall verify that the requirements and assignment of responsibilities for the above are included in the procurement Contract Documents.

D.11 The Construction Manager shall review the General Contractor's plan for the separation of the project into trade contracts for various categories of work. The Construction Manager shall review the method to be used for selecting trade contractors and awarding trade contracts. The Construction Manager shall review the drawings and specifications and make recommendations as required to provide that (1) the work of the separate trade contractors is coordinated, (2) all requirements for the project have been assigned to the appropriate separate trade contract, (3) the likelihood of jurisdictional disputes has been minimized, and (4) proper coordination has been provided for phased construction.

D.12 The Construction Manager shall develop and periodically update a comprehensive and detailed critical path

method (CPM) Project Construction Schedule providing for all major elements such as phasing of construction and times of commencement and completion required of each separate trade contractor. The Project Construction Schedule shall include the project delivery date and shall show the portions of the Project having priority. The CPM shall be on the basis of weekly requirements. The Construction Manager shall review the Project Construction Schedule for the General Contract bid package. The Construction Manager shall update the Project Construction Schedule monthly, incorporating the activities of the General Contractor on the project, including activity sequences and durations, allocation of labor and materials, processing of shop drawings, product data, samples, as-built drawings and similar required submittals, and delivery of products requiring long lead time procurement. The Construction Manager shall update and reissue the Project Construction Schedule monthly to show current conditions and revisions required by actual experience. The Construction Manager shall provide such other schedules as the Owner may request, such as schedules with respect to particular portions of the project. The Construction Manager shall use its best efforts and due diligence to maintain the progress of all work in accordance with the Project Construction Schedule.

D.13 The Construction Manager shall review and recommend a schedule for the purchase of materials and equipment requiring long lead time procurement and shall coordinate the schedule. The Construction Manager shall expedite and coordinate

delivery of these purchases and shall continually advise the Owner and the Engineer of the status of such materials and equipment.

D.14 The Construction Manager shall develop and recommend a records maintenance program for each project for review and approval by the Owner.

D.15 The Construction Manager shall develop a program for the implementation of the Owner's minority business enterprise and female business enterprise policies and shall work in conjunction with the Owner's MBE/FBE Compliance Officer. The Construction Manager shall provide for the Owner's review and approval the Construction Manager's written program to satisfy requirements of such programs and guidelines.

D.16 The Construction Manager shall consult with the Owner and the Engineer regarding pre-qualification criteria for bidders. The Construction Manager shall develop bidders' interest on each project. The Construction Manager shall review, in conjunction with the Engineer and the Owner, the General Contract bid packages. The Construction Manager shall participate in pre-bid conferences to familiarize bidders with the trade contract bid packages and management techniques and with any special systems, materials or methods. The Construction Manager shall review the addenda to the bid packages.

D.17 The Engineers and Construction Manager shall assist the Owner to receive bids and prepare bid analyses

regarding the award of General Contracts, rejection of bids or rebidding.

D.18 If bids for the General Contract bid package exceed cost estimates rendered by the Construction Manager or Engineer, the Owner shall have the right to require the General Contract bid package to be revised and/or resubmitted for bidding in order to achieve Project budget requirements.

D.19 The Construction Manager shall assist the Owner to conduct pre-award conference with successful bidders. The Construction Manager shall assist in the preparation of the General Contract and consult with the Owner on the acceptability of Trade Contractors and Trade Subcontractors proposed by the General Contractor. The Construction Manager shall prepare and file all notices of commencement and all other required filings to protect the Owner against mechanics' lien claims from trade contractors and trade subcontractors.

D.20 The Construction Manager shall provide administration of the General Contract as set forth herein. Subsequent to execution of this Agreement and prior to submission for bids of the first General Contract bid package, the Owner, the Engineer and the Construction Manager shall meet, as required by the Owner, to review and suggest modifications to the general conditions of the Contract.

D.21 The Construction Manager shall provide administrative, management and related services as required to coordinate the work of the General Contractor and with the

activities and responsibilities of the Construction manager, the Owner and the Engineer to complete the project in accordance with the Owner's requirements for cost, time and quality. The Construction Manager shall coordinate all aspects of the project with all authorities, governmental agencies and utility companies who may have jurisdiction over the project. The Construction Manager shall provide sufficient organization, personnel and management to carry out the requirements of this Agreement. The Construction Manager shall take all steps necessary to enforce agreements with the General Contractors for the benefit of the Owner.

D.22 The Construction Manager shall schedule and conduct pre-construction, construction and progress meetings to discuss such matters as procedures, progress, problems, quality and scheduling. The Construction Manager shall prepare and distribute minutes of such meetings promptly and in no event later than five (5) business days after the date of such meetings.

D.23 The Construction Manager shall submit a Project Progress Report to the Owner and the Engineer on a monthly basis. The Project Progress Report shall include the updated Project Construction Schedule required pursuant to Paragraph D.12, the Project status report required pursuant to Paragraph D.34, and such other relevant information as may be requested by the Owner. The Project Progress Report shall be indexed, bound and tabulated in a manner acceptable to the Owner.

D.24 The Construction Manager shall recommend necessary or desirable changes to the Engineer and the Owner, review requests for changes submitted by the General Contractor, negotiate General Contractor's proposals, submit recommendations to the Engineer and the Owner.

D.25 The Construction Manager shall advise the Owner and the Engineer of the cost and schedule impacts associated with changes in the Contract Documents, if any.

D.26 The Construction Manager shall develop and implement procedures acceptable to, and as directed by, the Owner for the review and processing of applications for payment by the General Contractor. Such procedures shall protect the Owner against payment ahead of progress. The Construction Manager shall make recommendations to the Engineer for certification to the Owner for payment.

D.27 The Construction Manager shall review building permits, utility permits and special permits for permanent improvements, excluding permits required to be obtained directly by the various trade contractors. The Construction Manager shall verify that applicable fees and assessments have been paid. The Construction Manager shall assist with the General Contractor's obtaining approvals from authorities having jurisdiction over the project.

D.28 The Construction Manager shall notify the Owner of any inaccuracies of which the Construction Manager may become

aware in any surveys describing the physical characteristics, legal limitations and utility locations for the Disposal Site.

D.29 The Construction Manager shall coordinate and monitor all testing provided by others as required by the technical sections of the specifications, by the building code or by any applicable governmental requirements or requirements by the Owner for special inspections. The Construction Manager shall keep an accurate record of all tests, inspections conducted, findings, and test reports and shall provide copies thereof to the Owner and the Engineer. The Construction Manager shall report any test failures to the Owner and the Engineer.

D.30 Without assuming any of the design consultants' responsibilities or liabilities, the Construction Manager shall assure that the work of the General Contractor is being performed in accordance with the requirements of the procurement Contract Documents. The Construction Manager shall protect the Owner against defects and deficiencies in the work. As appropriate, the Construction Manager shall require special inspection or testing, or make recommendations to the Engineer regarding special inspection or testing, of work not in accordance with the provisions of the Contract Documents, whether or not such work is then fabricated, installed or completed. The Construction Manager shall promptly report to the Owner and the Engineer all work which does not conform to the requirements of the Contract Documents, shall make recommendations regarding the acceptance or rejection of such work and shall advise the Owner and the

Engineer of any actions taken by the Construction Manager with respect thereto. The Construction Manager shall consult with the Owner regarding available courses of action when requirements of a General Contract are not being fulfilled, and the nonperforming party will not take satisfactory corrective action.

D.31 The Construction Manager shall consult with the Engineer if any Trade Contractor requests interpretations of the meaning and intent of the Drawings and Specifications and shall assist in the resolution of questions which may arise.

D.32 The Construction Manager shall participate in the administration of the Owner's insurance program as directed by the Owner and shall receive copies of insurance policies from the General Contractor, determine their validity, advise the Owner of expiration dates and forward them to the Owner with a copy to the Engineer.. The Construction Manager shall monitor compliance of the General Contractor with the Owner's requirements for insurance and bonding as set forth in the trade contracts and the Contract Documents.

D.33 The Construction Manager shall receive from the General Contractor, review for and approve constructibility and conformance with the Contract Documents and recommend for approval by the Engineer all shop drawings, product data, samples, as-built drawings and other submittals. The Construction Manager shall coordinate them with information contained in related documents and transmit them to the Engineer for the Engineer's approval. In collaboration with the Engineer,

the Construction Manager shall establish and implement procedures for expediting the processing and approval of shop drawings, product data, samples, as-built drawings and other submittals.

D.34 The Construction Manager shall submit monthly written project status reports to the Owner and the Engineer, including information on the General Contractor and each trade contractor's work, as well as the entire project, showing percentages of completion and the number and amounts of change orders, if any, and relating such information to the Project Construction Schedule.

D.35 The Construction Manager shall keep a complete and detailed daily log containing a record of weather, Trade Contractors' work on the site, number of workers, work accomplished, problems encountered, and other similar relevant data as the Owner may require. The Construction Manager shall make the log available to the Owner and the Engineer.

D.36 The Construction Manager shall maintain at the project site, on a current basis: a record copy of the General contract, drawings, specifications, addenda, change orders and other modifications, in good order and marked to record all changes made during construction; shop drawings; product data; samples; current as-built drawings; submittals; purchases; materials; equipment; applicable handbooks; maintenance and operating manuals and instruction; and other related documents and revisions which arise out of the General Contract or work. The Construction Manager shall maintain records, in duplicate, of

principal layout lines, levels and key site evaluations certified by a qualified surveyor or professional engineer. The Construction Manager shall make all records available to the Owner and the Engineer. At the completion of the project, the Construction Manager shall deliver all such records to the Owner.

D.37 The Construction Manager shall arrange for delivery and storage, protection and security for Owner-purchased materials, systems and equipment which are a part of the project, until such items are incorporated into the project.

D.38 With the Engineer and the Owner's maintenance and operations personnel, the Construction Manager shall coordinate, schedule and observe the General Contractors' checkout of utilities, landfill systems, operational systems and equipment for readiness and shall assist in their initial start-up, personnel training and testing.

D.39 When the Construction Manager considers the General Contractor's work or a designated portion thereof to be substantially complete, the Construction Manager shall assist the Engineer and the Owner in compiling a coordinated punch list of incomplete or unsatisfactory items and a schedule for their completion. The Construction Manager shall assist the Engineer in conducting inspections. After the Engineer certifies the Date of substantial completion of the work, the Construction Manager shall coordinate the correction and completion of the work.

D.40 The Construction Manager shall assist the Engineer and the Owner in determining when the project or a designated portion thereof is substantially complete. The Construction Manager shall prepare for the Engineer a summary of the status of the work of the General Contractor, listing changes in the previously issued certificates of substantial completion of the work and recommending the times within which the General Contractor shall complete uncompleted items on their certificates of substantial completion of the work.

D.41 Following the Engineer's issuance of a certificate of substantial completion of the project or designated portion thereof, the Construction Manager shall evaluate the completion of the work of the General Contractor and make recommendations to the Engineer when work is ready for final inspection. The Construction Manager shall assist the Engineer and the Owner in conducting final inspections. The Construction Manager shall secure issuance of all required certificates of occupancy. The Construction Manager shall secure and transmit to the Owner required guarantees, affidavits, releases, bonds, waivers and other documentation required by the General Contract. Such documents shall be bound and indexed by the Construction Manager prior to submission to the Owner. The Construction Manager shall deliver all keys, manuals, record drawings and maintenance stocks to the Owner.

D.42 If any defect in the Work performed by the General Contractor or materials furnished by any supplier appears

within applicable warranty period specified in the Contract Documents for the General Contractor or supplier, the Construction Manager shall inspect the affected portions of the Project to determine the scope of the defect and which General Contractor or supplier(s) is responsible. The Construction Manager shall then promptly notify the Owner of the results of such inspection and, at the Owner's direction, shall take such action as may be required to enforce the General Contractor's or supplier's warranty obligations. If any enforcement action does not result in timely performance by the General Contractor or supplier under its warranty, then the Construction Manager shall, at the Owner's direction, cause any necessary corrective work to be performed by others.

D.43 Construction Manager agrees to comply, at its own expense, with all federal, state and local laws, codes, statutes, ordinances, rules, administrative orders, regulations and requirements applicable to the Project, including but not limited to those dealing with safety (including, but not limited to, the Trench Safety Act, Chapter 553, Florida Statutes). If Construction Manager observes that the Contract Documents are at variance therewith, it shall promptly notify Owner and Engineer in writing.

D.44 Should Construction Manager be obstructed or delayed in the prosecution of or completion of the work as a result of unforeseeable causes beyond the control of Construction Manager, and not due to its fault or neglect, including but not

restricted to acts of God or of the public enemy, acts of government, fires, floods, epidemics, quarantine regulation, strikes or lockouts, Construction Manager shall notify Owner and Engineer in writing within forty-eight (48) hours after the commencement of such delay, stating the cause or causes thereof, or be deemed to have waived any right which Construction Manager may have had to request a time extension.

No interruption, interference, inefficiency, suspension or delay in the commencement or progress of the work from any cause whatever, including those for which Owner and Engineer may be responsible, in whole or in part, shall relieve Construction Manager of his duty to perform or give rise to any right to damages or additional compensation from Owner. Construction Manager expressly acknowledges and agrees that it shall receive no damages for delay. Construction Manager's sole remedy, if any, against Owner will be the right to seek an extension to the Contract Time; provided, however, the granting of any such time extension shall not be a condition precedent to the aforementioned "No Damage For delay" provision.

D.45 Construction Manager's acceptance of final payment shall constitute a full waiver of any and all claims by Construction Manager against Owner rising out of this Agreement or otherwise relating to a project, except those previously made in writing and identified by Construction Manager as unsettled at the time of the final payment. Neither the acceptance of the work nor payment by Owner shall be deemed to be a waiver of

Owner's right to enforce any obligations of Construction Manager hereunder or to the recovery of damages for defective work not discovered by Owner or Engineer at the time of final inspection.

D.46 Owner shall have the right to terminate a project under this Agreement without cause upon seven (7) calendar days written notice to Construction Manager. In the event of such termination for convenience, Construction Manager's recovery against Owner shall be limited to that portion of the amount earned through the date of termination and Construction Manager shall not be entitled to any other or further recovery against Owner, including, but not limited to, damages or any anticipated profit on portions of the work not performed.

Owner shall have the right to suspend all or any portions of the work upon giving Construction Manager two (2) calendar days' prior written notice of such suspension. If all or any portion of the work is so suspended, Construction Manager's sole and exclusive remedy shall be to seek an extension of time to its schedule. In no event shall Construction Manager be entitled to any additional compensation or damages.

D.47 The extent of the duties, responsibilities and limitations of authority of the Construction Manager as a representative of the Owner during construction shall not be modified or extended without the written consent of the Owner and the Construction Manager, which consent shall not be unreasonably withheld.

D.48 The extent of the duties, responsibilities and limitations of authority of the Construction Manager as a representative of the Owner during construction shall not be modified or extended without the written consent of the Owner and the Construction Manager, which consent shall not be unreasonably withheld.

EXHIBIT E
OPERATING PLAN AND PAYMENTS

EXHIBIT E
OPERATING PLAN AND PAYMENTS

I. Operating Plan

A. Initial Operating Plan

The initial operating plan shall be submitted by Contractor within 30 days after receipt of the operating criteria provided by County. The County and Contractor shall meet to discuss the operation plan for the County's approval.

The initial operating plan shall be finalized by Contractor and submitted to County for its approval within 30 days after final permits for the Landfill Facilities are obtained. Following County approval of the operating plan, Contractor shall submit within 30 days, reasonable cost estimates for calculating Operating Rates.

The initial operating plan shall be applicable until the second October 1st following the Delivery Date.

To the extent County audit of actual operating costs for the initial operating plan period demonstrates that the actual operating costs for such period were less than the estimates on which the Operating Rate paid by the County was based for such period, the Contractor shall reimburse the County the difference between the Operating Rate paid by the County and the Operating Rate that would have been paid by the County if the actual operating costs had been utilized in establishing the Operating

Rate for such period. The reimbursement shall be made, plus simple interest, within 30 days after such amount is determined.

b. Amended Operating Plan

The County shall supply Contractor with operating criteria 90 days before the second October 1st following the Delivery Date and Contractor shall provide County a new operating plan for its approval within 30 days after receipt of the operating criteria. Following County approval of such operating plan, the Operating Rate shall be calculated on the basis of the new operating plan and operating costs to such October 1st date, except where changes in the operating plan require estimates.

This same procedure shall be used before the fifth October 1st, the tenth October 1st and the fifteenth October 1st, following the Delivery Date to establish the Operating Rate for each succeeding period.

II. Operating Rate

The Operating Rate shall be calculated on the basis of the operating plan and cost estimates or historic costs as provided above (for the applicable period). It shall consist of the following:

A. Operating Costs

1. Direct Costs

- i. Salaries and wages
- ii. Equipment operation expense
- iii. Equipment maintenance expense

iv. Utilities

2. Indirect Costs

i. Equipment depreciation using straight line depreciation over GAAP account lives when available and Waste Management, Inc. company wide account lives where GAAP lives are not available (not subject to escalation)

ii. Governmental Fees

iii. Contractual services from unrelated third parties including accounting and legal fees

iv. Office expenses

v. Insurance

vi. Intra-corporate charges including interest charges on equipment purchases (such interest charges are not subject to escalation or the .76 divisor)

Section 1.9

The Operating Costs other than interest charges and depreciation shall be divided by .76 to obtain the Final Operating Costs. Such cost other than depreciation and interest charges shall be subject to escalation as provided for in Section 5.2 of the Agreement. All operating costs must be justifiable charges for operating the Landfill Facilities and charges such as charitable contributions, entertainment, promotions (other than those specifically related to services provided by Contractor pursuant to this Agreement), lobbying (as defined in Lee County

Ordinance number 90-07), and political contributions shall not be Operating Costs.

B. Indemnification Charge

The indemnification charge shall be \$1.00 per ton of Solid Waste disposed of and shall be subject to escalation as provided in Section 5.2 of the Agreement but shall not be subject to the .76 divisor.

C. Intra-Corporate Charges and Contractor Elected Services.

1. Intra-corporate charges other than contractor's election

Any intra-corporate charges shall not exceed 14.25 percent of Gross Revenues from Operation. Any such charges shall not exceed similar intra-corporate charges to other Affiliates operating landfills on behalf of communities. The 14.25 percent limit shall be calculated after all Gross Revenues from Operations are calculated and then applied to intra-corporate charges. All charges by WMX Technology and Services, Inc. or its Affiliates shall be a part of intra-corporate charges except charges by Rust International Corporation for engineering consultation or services authorized by the County and aerial photography and analysis services. For example, if Gross Revenues from Operations including intra-corporate charges, but excluding services provided at the County's cost are \$2,000,000 after applying escalation and the .76 divisor, the intra-corporate charges as adjusted for escalation and the .76 divisor cannot exceed \$285,000 and shall be reduced by any amount in excess of \$285,000..

2. Contractor Elected Services.

If the County chooses to provide groundwater analysis and/or lechate treatment facility operation, the Contractor may at its option provide such services as long as the County's payment to the Contractor does not exceed the County's cost of providing such service. Such costs, if any, shall be a part of Operating Costs if the County does not choose to provide such service and shall not be a part of Operating Costs or Gross Revenues from Operations if the Contractor elects to operate at the County's cost, in which case the Contractor shall be compensated at the County's cost and such costs shall not be subject to the .76 divisor or escalation.

D. Additional Compensation

Additional compensation pursuant to Section 5.3(a) of the Agreement shall be added to the Operating Rate as provided for in section 5.3(a). Taxes pursuant to Section 5.3(b) of the Agreement shall not be subject to the .76 divisor or escalation as provided in Section 5.2 of the Agreement and the annual cost shall be added to the Operating Rate on a pro rata basis for each month (one-twelfth per month).

E. Monthly Operating Rate

The monthly Operating Rate paid by the County shall be the sum of:

1. The Annual Final Operating Costs as defined at Paragraph II.A. of this Exhibit divided by 12.

2. The indemnification charge times the number of tons of Solid Waste disposed of by Contractor during the month.
3. Any adjustment to the Final Operating Costs pursuant to 5.3(a) for the year divided by 12 or the number of months in the year to which such costs are applicable.
4. Taxes divided by 12.

Additionally, for any month, County will pay Contractor for any services provided by Contractor at County's cost pursuant to invoice from the Contractor.

The annual charges shall be based on an operating year from October 1st to September 30, except that the first year of operation shall commence on the Delivery Date and shall end on September 30 of that year, and the last year shall commence on October 1st and end at the end of the term of this Agreement. The above proration of items for a short year shall be on the same pro rata monthly basis taking into consideration the number of months in the short year and days in a short month.

Such Operating Rate is also subject to adjustment as provided for in Section 5.3(c).

III. Construction Management

The Contractor shall be paid for its activities as construction manager (described in Exhibit D) as provided in Section 5.3(d) of the Agreement. Such activities shall be separately compensated and shall not be a part of the Operating

Rate. Such payments are not subject to the .76 divisor nor escalation.

IV. Closure Activities

The closure costs shall be approved by the County as a part of the operating plan. Any operating costs set forth in Paragraph II.A. of this Exhibit properly allocable to closure activities shall be allocated along with any other cost of such activities to closure costs.

Closure costs shall be paid as provided for in Section 5.3(e) of the Agreement. Such costs shall not be a part of the Operating Rate and items must be properly allocated between the Operating Rate and closure costs, such as dual use of equipment or employees. Such costs are subject to the .76 divisor but are not subject to escalation.

V. Disposal Activities for Processable Waste Diverted from the Recovery Facility

The County and Contractor acknowledge and agree that the annual Final Operating Costs and Monthly Operating Rate are based on assumed costs for the disposal of ash generated by Lee County's Resource Recovery Facility and non-processable waste. In the event the Resource Recovery Facility diverts 300 tons per day of processable waste above the tonnage provided for in the Operating Plan to the Landfill Facility for at least fifteen (15) days in any thirty (30) day period, such event shall entitle the

Contractor to petition the County for compensation to recover its additional operating expenditures caused by handling and disposing of the processable waste. Contractor's request for compensation shall be reviewed and acted on by County in accord with the provisions of Section 5.3(a) of the Agreement.

EXHIBIT F
INSURANCE LIMITS

INSURANCE LIMITS

General Liability

Aggregate	\$5,000,000
Per Occurrence	\$5 000 000
Fire	\$2,000,000

Automobile Liability	\$5,000,000
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Excess Liability

Aggregate	\$5,000,000
Per Occurrence	\$5,000,000

Worker's Compensation	Statutory Limits
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EXHIBIT G

(Insert Interlocal Agreement with Hendry County)

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LEE CO. CONTRACT NO. C90 0406

INTERLOCAL AGREEMENT
FOR SOLID WASTE DISPOSAL

This Interlocal Agreement is made and entered into this 13th day of FEB., 1991, by and between Lee County, a political subdivision of the State of Florida, and Hendry County, a political subdivision of the State of Florida.

WITNESSETH

WHEREAS, County governments under Chapter 125, Part I, Chapter 403, Part IV, and Chapter 163, Florida Statutes, and Chapter 85-447, Laws of Florida, Special Acts of 1985, collectively "The Act", are vested with the authority, and charged with the obligation to provide necessary public services to insure the public health, welfare and safety within their boundaries; and,

WHEREAS, the parties to this Agreement are non-charter counties and political subdivisions of the State of Florida; and,

WHEREAS, disposal of solid waste is one of the County's obligations to provide for the public health and welfare; and,

WHEREAS, both Lee and Hendry Counties are experiencing finite limitations with their respective sanitary landfills; and,

WHEREAS, The Act empowers and encourages County governments to develop, implement and utilize efficient and environmentally acceptable solid waste management programs, to include regional-type disposal systems by interlocal or intergovernmental agreements; and,

WHEREAS, Florida Statutes also empowers and encourages County governments to develop, implement and utilize efficient and environmentally acceptable resource recovery systems for the responsible management of air, water and land resources; and,

WHEREAS, both the Lee County and the Hendry County Comprehensive Plans encourage more efficient, effective and environmentally acceptable methods for the disposal of solid waste; and,

WHEREAS, both Lee County and Hendry County desire to enter into an Interlocal Agreement and cooperate in the development, implementation and operation of a solid waste disposal program, to include the use of a resource recovery system; and,

WHEREAS, both Lee County and Hendry County find that it is in the best public interest and to the public benefit that Lee and Hendry Counties enter into this Interlocal Agreement for the development, implementation and operation of such a combined solid waste disposal program; and,

WHEREAS, it has become desirable for the parties to enter into a new agreement which recognizes subsequent events and makes certain changes to the definitions and terms of the

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previous Interlocal Agreements between the parties dated October 17, 1989 and April 11, 1990;

NOW, THEREFORE, IN CONSIDERATION OF THE FOREGOING, AND THE MUTUAL COVENANTS AND PROMISES CONTAINED HEREIN, LEE COUNTY AND HENDRY COUNTY HEREBY AGREE AS FOLLOWS:

DEFINITIONS

0.1 As used in this Agreement, unless the context clearly indicates otherwise, all terms herein that are defined in Section 403.703, Florida Statutes, shall be given the meaning as defined therein.

0.2 As used in this Agreement, unless the context clearly indicates otherwise, the term:

"Ash" means the material including, but not limited to, fly ash, bottom ash and siftings, that remain after solid waste has been processed at a resource recovery facility and any recovered materials have been removed.

"Class III Solid Waste Disposal System" means a Class III landfill as described in Rule 17-701.050, Florida Administrative Code.

"Tipping Fee" means the charge for disposing of solid waste at a solid waste disposal facility or resource recovery facility under this Agreement. For waste generated in Hendry County, the tipping fee shall include the cost of transferring the solid waste from a transfer station to that facility.

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LEE COUNTY OBLIGATIONS

Disposal Site

1.1 Lee County, or its agents or designees, shall acquire, own, permit, develop, operate and maintain land within Hendry County, consisting of 1734± acres, lying in Sections 4, 9 and a portion of 16, Township 45S, Range 28E, Hendry County, Florida, (hereinafter: "Disposal Site") as the combined Solid Waste Disposal Site for both Lee and Hendry Counties.

Facilities Covered by Agreement

1.2(a) Lee County shall obtain all necessary permits for, construct and operate the following solid waste facilities:

1. A Class I solid waste disposal facility for waste generated in both counties;
2. An ash landfill for bottom-ash, fly-ash and siftings from the resource recovery facility for solid waste generated in both counties;
3. A Class III solid waste disposal facility for waste generated in both counties;
4. A resource recovery facility for waste generated in both counties;
5. A materials recycling facility or facilities for solid waste generated in both counties;
6. A sludge disposal and composting facility or facilities for waste generated in both counties;

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7. A used tire and white goods disposal facility or facilities;

8. Not more than two transfer stations within Hendry County for the transfer of waste generated in Hendry County; and

9. Such ancillary property and facilities as are necessary for the efficient and proper operation of a complete solid waste disposal system for both counties.

(b) The ash landfill, Class I and Class III solid waste disposal facilities referred to in subsection (a) shall be located at the Disposal Site. The resource recovery facility shall be located at the Disposal Site or at a site located in Lee County. The transfer stations referred to in subsection (a) 8. shall be located at sites designated by Hendry County. The other facilities referred to in subsection (a) may be located at the Disposal Site or at a site or sites designated by Agreement of both counties. Hendry County shall not unreasonably withhold Agreement for sites selected in Lee County.

(c) The proposed location of the resource recovery facility on property in Lee County generally described as:

Parcel "C"

A tract or parcel of land lying in Sections 24 and 25, Township 44 South, Range 25 East, Lee County, Florida,

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shall be deemed by Hendry County to be in compliance with this Section.

Responsibilities for Construction, Operation, and Closure

- 1.3(a) Lee County, or its agents or designees, shall be the owner of the Disposal Site and of the facilities established under this Agreement.
- (b) Lee County shall pay all costs and expenses for the purchase, permitting, construction, operation and closure of the land, equipment and facilities established under this Agreement, except such costs and expenses that are specifically required for Hendry County by this Agreement.
- (c) Lee County shall be solely responsible for the design, construction and operation of the facilities established under this agreement and the solid waste management program for both counties, subject to the terms and exceptions of this Agreement.
- (d) Lee County shall construct, operate, and cause the closure of the facilities set forth in paragraph 1.2(a) above in a manner which, in conjunction with the existing facilities in both counties, will allow Lee County and Hendry County to comply with the requirements of Chapter 403, Florida Statutes, pertaining to recycling and solid waste management, and with the requirements of all applicable local, state and federal statutes, rules, procedures and

permits pertaining to the construction, operation and closure of solid waste disposal facilities and solid waste management programs.

- (e) Upon specific requests by Lee County, Hendry County shall use its power of eminent domain to obtain real property in Hendry County for the Disposal Site, facilities, and roadways necessary to construct and operate the facilities established under this Agreement. Lee County shall pay all costs and judgments of such condemnation proceedings and shall reimburse Hendry County for reasonable attorney fees and costs which are incurred by Hendry County as the result of a request under this subsection. Upon receipt of payment for all such costs, Hendry County shall convey all of its title in property, other than roadways, obtained under this paragraph to Lee County.

Class I and Ash Landfills

- 1.4 The Class I solid waste disposal facility and the ash landfill established at the Disposal Site shall each be constructed with a minimum of two (2) impervious bottom liners with a minimum of 60 millimeter thickness per liner, and each shall have a leachate collection and treatment system. A methane gas recovery system may be included upon further Agreement of the parties.

Transfer Stations

- 1.5 Each transfer station established under this Agreement shall have separate receptacles for Class I and Class III

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solid wastes and shall include a truck scale. The transfer stations shall be completed and operational upon the opening of the Class I and Class III solid waste disposal facilities at the Disposal Site or upon the closure of the Hendry County Pioneer Plantation Solid Waste Disposal Facility, whichever first occurs.

Resource Recovery Facility

1.6 Lee County shall use its resources and best effort to complete construction and begin operation of the resource recovery facility within 60 months from the opening date of the Class I solid waste disposal facility at the Disposal Site. In the absence of any culpable action or inaction by Lee County or its agents or designees which would contribute to any delay, failure to commence operation of the resource recovery facility within the 60 months shall not be considered a breach of this Agreement.

Additional Lands

1.7 Lee County shall pay all costs and expenses for the acquisition of any additional lands adjacent or proximate to the disposal site which may be required for the efficient and environmentally responsible operation of the disposal site.

Disposal Site Access Roads

1.8 (a) Lee County shall acquire, design, construct, and maintain a paved Disposal Site access route within Hendry County for the transportation of solid waste and/or

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resource recovery by-products to the Disposal Site. Such route shall consist of approximately nine (9) miles of Church Road from State Road 82 to the Disposal Site, and thence east to State Road 29. If approved by Hendry County, Lee County shall have the right to determine, select and develop an alternate alignment of such Disposal Site access route.

(b) Subsequent maintenance costs for the above Disposal Site access route shall be funded by Lee County for the first ten (10) years of operation of the Disposal Site. Beginning with the eleventh (11th) year of operation of the Disposal Site, maintenance costs for the Disposal Site access route shall be included as a cost of the operation of the Disposal Site until closure of the Disposal Site.

Changes in Technology

1.9 Lee County shall assume all responsibility and liability for any changes in the operation of the Disposal Site and the facilities thereon as the result of any changes in technology, which by permit, law, statute or rule of any federal, state or local government or their agencies, mandates that such changes be implemented at any of the facilities at the Disposal Site.

Resource Recovery Facility Not Constructed

1.10 In the event that the Resource Recovery Facility portion of the Solid Waste Management Program as described herein is abandoned by Lee County, either by

act or failure to act by the Lee County Board of County Commissioners, and if any subsequent alternative solid waste reduction methodology proposed by Lee County is unacceptable to Hendry County, Lee County shall not construct the Disposal Site in Hendry County.

OBLIGATIONS OF HENDRY COUNTY

- 1.11 In conjunction with the development of the Disposal Site by Lee County, Hendry County shall use all of its lawfully available governmental condemnation powers for purposes of obtaining any necessary property for the location of the Disposal Site, transfer stations, roadways or other facilities requiring real property necessary for the safe, efficient and environmentally responsible placement and operation of the Solid Waste Disposal System within Hendry County.
- 1.12 Similarly, Hendry County shall cooperate with Lee County and use its best and most expeditious efforts to assist Lee County, its agents or designees, with the development of the Disposal Site, to include assistance with the obtaining of all necessary permits, approvals or re-zonings of any property within Hendry County for the placement, construction and operation of the Disposal Site, transfer stations

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or any of the associated Solid Waste Disposal Facilities.

1.13 Hendry County shall honor and accommodate Lee County's reasonable requests through its agents or designees with respect to the placement of any or all of the Disposal Site facilities as outlined in paragraph 1.2, above.

1.14 Hendry County shall honor and accommodate Lee County's reasonable requests through its agents or designees with respect to the obtaining of any property, permits, approvals, or zonings necessary for the placement, construction and operation of the Disposal Site and any of the associated Solid Waste Disposal Facilities.

1.15 Hendry County shall grant to Lee County, its agents or designees, the right to free and unimpeded access and travel with their vehicles, over and across Hendry County roads, as designated by Hendry County, to and from the transfer station(s) and the Disposal Site, subject only to any state or federal regulations governing such transportation of Class I and Class III solid waste. As consideration for this privilege, Lee County shall hold Hendry County harmless, release and indemnify Hendry County for any and all losses or damage by reason of the acts of Lee County, its employees, agents or designees, while operating within Hendry County.

- 1.16 Upon the completion of the respective facilities hereunder, each county shall allow all solid waste generated in Lee and Hendry counties to be disposed of and/or processed at each such facility, subject to the terms of this Agreement, the conditions and limits of applicable permits, and the requirements of local, state and federal law.
- 1.17 Hendry County shall require of its citizens and franchise haulers by appropriate legislation or contract, that all persons utilizing the disposal facilities as contemplated under this Agreement shall abide by all rules and regulations relating to the disposal of solid waste at the solid waste disposal facilities.
- 1.18 Nothing in this Agreement shall be construed as requiring either party to take any action contrary to its own ordinances, policies or procedures, nor to violate any state or federal law, rule, permit or procedure with respect to any activity or obligation set forth herein.

Interim Solid Waste Disposal

2.1 Lee County shall continue to dispose of its solid waste at its currently permitted Disposal Site until the later occurrence of:

- i) attainment of the permitted design height, or

- ii) the opening of the Disposal Site in Hendry County, at which time Lee County reserves the right to determine the site or sites for the placement of its solid waste.

2.2 Hendry County shall continue to dispose of its solid waste at its currently permitted disposal site until the occurrence of:

- i) an order from the Department prohibiting the disposal of solid waste at said landfill, or
- ii) the opening of the Disposal Site in Hendry County.

2.3(a) Lee County shall accept Hendry County solid waste at its currently permitted disposal site if the Florida Department of Environmental Regulation or other similar State of Florida regulatory agency prohibits the placement of solid waste into the existing Hendry County Landfill (Pioneer Plantation Site) prior to the opening of the Class I and Class III facilities at the new Disposal Site.

- (b) Hendry County shall pay the then existing tipping fee at the Lee County (Gulf Coast) Landfill, less Lee County surcharges, if Hendry County disposes its solid waste at that facility.

2.4(a) In the event that the Resource Recovery Facility portion of the Solid Waste Management Program as described herein is abandoned by Lee County, or this Agreement is terminated for any reason other than as

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described at Section 3.13, Lee County shall accept Hendry County solid waste at its then-existing landfill until such time as Hendry County has permitted, constructed and opened a new landfill for Hendry County, or for a period of time not to exceed thirty-six (36) months, whichever first occurs.

(b) Hendry County shall use all of its lawfully available resources and exercise its best efforts to obtain the appropriate permits and construct the new landfill for Hendry County.

(c) For the period of time that Hendry County shall deposit its solid waste in Lee County per the provisions of this paragraph 2.4, Hendry County shall pay a tipping fee to Lee County equal to the then-existing net tipping fee paid by Hendry County residents to deposit solid waste in Hendry County.

2.5 Upon the opening of the Class I and Class III facilities at the Disposal Site, Hendry County shall not construct or operate another sanitary landfill or resource recovery facility, and shall require of its citizens, by means of appropriate legislation, that all Hendry County solid waste shall be disposed of at the Disposal Site and/or resource recovery facility.

2.6 Hendry County shall authorize Lee County's continuous operation of the Disposal Site for the duration of this Agreement, provided that said Disposal Site is operated in accordance with all applicable local, state and federal permits, laws, rules and regulations pertaining to such a

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Disposal Site and its associated solid waste disposal facilities.

Intergovernmental Loan

2.7 To assist with the closure of its existing landfill (Pioneer Plantation Site), Hendry County may request and Lee County shall grant an intergovernmental loan in an amount sufficient to pay for the closure of the landfill. This loan shall be for a term of up to fifteen (15) years, at no interest, shall meet all requirements as contained in §403.7125 (3)(b), relating to the escrow of closure funds, and shall be subject to such additional reasonable terms and conditions to be negotiated and developed in a separate loan agreement between the parties.

2.8 In the event that the Resource Recovery Facility portion of the Solid Waste Management Program as described herein is abandoned by Lee County, or this Agreement is terminated for any reason other than as described at Section 3.13, Lee County shall make the intergovernmental loan to Hendry County for the closure of its existing landfill per the terms of Section 2.7 above, notwithstanding such termination.

GENERAL CONDITIONS OF THE AGREEMENT

Exclusivity

3.1 a) This Agreement is exclusive as between the parties named above, and as such, no other county, municipality or any other governmental agency shall be a party to, or a part of this Agreement without the express approval of the original parties, and in the

manner and form as an amendment to this Agreement, to be executed with all of the same formalities as this original Agreement.

- b) Only persons, units of government, and other entities authorized by this Agreement or by further Agreement of the parties shall be permitted, either directly or indirectly to dispose of any solid waste at the Disposal Site.

Third Party Contractors

3.2 a) It is understood and agreed to by the parties, that Lee County and Hendry County may utilize at their discretion, agents, designees, contractors or other entities in order to fulfill the terms of this Agreement to include those duties as outlined in §1.3, herein. Such agents, designees, contractors or other entities shall be duly authorized to act on behalf of the respective parties by means of an official contract with the respective County. However, no such agency or contract with third party contractors shall diminish or relieve either party to this Agreement from its respective duties, responsibilities or obligations under this Agreement.

- b) Any such third party contractor retained by either Hendry County or Lee County shall be contractually bound to perform all services in such a manner so as to meet or exceed all local, state and federal regulations, laws, rules and permits relating to all

facilities at the Disposal Site and the requirements of this Agreement.

- c) Hendry County has been made aware of, and has reviewed the existing contracts between Lee County and Waste Management, Inc. of Florida, dated June 20, 1984, as amended, and January 11, 1989, respectively, relating to the disposal of Lee County's solid waste. Nothing in this Agreement or any subsequent Agreements between the parties hereto shall impair, conflict with or diminish the rights, duties and obligations as between the parties to those contracts (Lee County and Waste Management, Inc. of Florida) as stated above, and this Agreement shall be so construed.
- d) Hendry County shall be subrogated to the rights and interests of Lee County under Section 7.1, 7.2, 7.3, and 7.4 of its current Solid Waste Disposal Extension Agreement with Waste Management, Inc. of Florida dated January 11, 1989 and any similar rights and interests in rights of indemnification, policies of insurance, bonds, letters of credit, and other instruments to the extent that such subrogation is necessary for Hendry County to fully enforce its rights and benefits under this Agreement.

Third Party Use of Resource Recovery Facility

3.3 Lee County, with the concurrence of Hendry County, may contract with other adjoining counties for the disposal of additional solid waste at the resource recovery facility.

Any such contracts, however, shall expressly provide that the pro rata amount of fly ash and bottom ash for that county's solid waste shall be disposed of by such county using the resource recovery facility, at a licensed disposal facility other than the ash landfill at the Disposal Site.

Hendry County Fees

3.4 (a) Hendry County shall pay tipping fees to Lee County for the use of the Class I and Class III waste disposal and resource recovery facilities at the Disposal Site for solid wastes generated in Hendry County as follows:

- 1) Ten dollars (\$10.00) per ton for the first year of operation of the Class I waste disposal facility and Ten dollars (\$10.00) per ton for the second through tenth years of said operation, plus or minus an amount each year to adjust for inflation or deflation as shown by the Consumer Price Index, Southeast Region. The inflation or deflation adjustment shall be made on the anniversary date of the opening of the Class I waste disposal facility at the Disposal Site.

- 2) Commencing on the eleventh anniversary of the opening of the Class I waste disposal facility at the Disposal Site, an amount determined by adding to the previous year's tipping fee 10% of the difference between the Hendry County tipping fee for the tenth year and the tipping fee then charged for waste generated in Lee County. Commencing on the

twenty-first anniversary of the opening of the Class I and Class III waste disposal facilities, an amount equal to the lesser of (1) the tipping fee less Lee County surcharges charged for waste generated in Lee County, or (2) a proration of the actual net costs for operating the solid waste management system under this Agreement. The actual net costs for operating the solid waste management system shall consist of the operating costs for that year, an amount that recognizes the capital costs attributable to that year, plus an amount reserved for closure and related costs attributable to that year, and less any derived revenues for that year. For those facilities operated by a contractor under Section 3.2, the costs shall be based on the payments made under the contract with the contractor. Actual net costs shall not include any amount reflecting the costs of Disposal Site or adjacent land purchases.

(b) Hendry County shall not be required to pay any fees or costs for the use of the Class I and Class III waste disposal and resource recovery facilities covered by this Agreement for waste generated in Hendry County except as specifically set forth in this Agreement.

Derived Revenues

3.5 It is understood and agreed to by the parties, that any derived revenues from the operation of the ancillary solid waste disposal facilities, to include recycling, methane

gas recovery, generation of electricity, or composting, shall be shared and expended by the parties solely for the purpose of meeting capital, operational and maintenance costs for the disposal of the parties' solid waste, and bond obligations as may be incurred by Lee County for the design and construction of the Disposal Site, the resource recovery facility, and other related facilities.

Term of the Agreement

3.6 Except as required under paragraph 3.13 herein, and as otherwise required by permit or law, the term of this Agreement shall extend uninterrupted from the date as first indicated above, for a period through and until the expiration of twenty (20) years following final closure of the Disposal Site.

Books and Records

3.7 It is understood and agreed to by the parties, that either party shall have reasonable access to the books, records and accounts of the agents, designees or contractors duly contracting with either party for the purpose of fulfilling any of their obligations under this Agreement.

Amendments to the Agreement

3.8 This Agreement may be amended by the mutual acceptance of the amendments made in writing and signed to by both Hendry County and Lee County. Such amendments shall be incorporated into the body of this original Agreement. All provisions of the original Agreement shall remain in full force and effect with the exception of the amending

language, which shall control.

Applicable Law

- 3.9 a) This Agreement shall be controlled and interpreted according to the laws, rules and regulations of the State of Florida, and the United States Government, when applicable.
- b) None of the terms, conditions or provisions herein shall be construed or interpreted to relieve either party from any local, state and federal laws, rules or requirements as applicable to such party, or that one party has assumed any such obligations for or on behalf of the other, except as specifically provided herein.
- c) In addition to all other remedies in law and equity, this Agreement shall be enforceable by specific performance and by injunction. No waiver by either party of any breach of a provision herein shall be considered to be a waiver of any succeeding breach of such provision or a waiver of any other provision.

Scope of Agreement

- 3.10 (a) This Agreement, including any incorporated exhibits and amendments, constitutes the entire Agreement between the parties and shall supersede and replace any and all prior agreements or understandings, either written or oral, relating to the matters herein.
- (b) The headings used herein are for convenience only

and are not to be construed as part of this Agreement.

Severability

3.11 A determination that a provision of this Agreement is illegal, void, or unenforceable shall not cause the entire Agreement to be void unless the provision determined to be illegal, void, or unenforceable is a provision relating to a significant item of consideration for the benefit of either party.

Indemnification

3.12 Lee County shall hold Hendry County harmless and shall release and indemnify Hendry County for all claims, actions, judgments, losses, damages, and expenses by reason of the construction, operation, or closure of any facility referenced in paragraph 1.2 above, or by reason of the acts or omissions of Lee County, its employees, agents or designees in connection with this Agreement. This paragraph does not preclude the recognition of reasonable liability insurance premiums and/or other costs of risk assumption as operational costs for the facilities operated under this Agreement.

Termination of the Agreement

3.13 (a) Except as set forth in paragraph (b) and (c) below, this Agreement shall terminate when any of the Class I, Class III, or ash landfills at the Disposal Site reach capacity and cannot be permitted for the disposal of additional solid waste.

(b) Notwithstanding any other provision of this Agreement, the responsibility of Lee County under this Agreement, or under any local, state or federal permit, law or regulation, for the closure of facilities at the Disposal Site and follow-up monitoring of same shall not terminate until full compliance with all such requirements has been completed.

(c) If this Agreement should terminate under paragraph (a) above before Lee County ceases the operation of the resource recovery facility constructed hereunder, Hendry County shall have the option to have solid waste that is generated in Hendry County processed at the resource recovery facility as follows:

(1) if the resource recovery facility is located at the Disposal Site or at another site in Hendry County, for so long as the resource recovery facility is operated.

(2) if the resource recovery facility is located in Lee County, for so long as the resource recovery facility is operated, but not longer than forty (40) years from the time such facility commences operation.

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(d) The tipping fee for the use of the resource recovery facility after the Agreement has been otherwise terminated under paragraph (a) above shall be at the rate set forth in Section 3.4.

(e) Lee County shall annually submit to Hendry County an engineering projection of the remaining life expectancy for each facility under this Agreement and shall give 24 month notice, if possible, to Hendry County prior to the closure of any facility constructed and operated under this Agreement.

Notices

3.14 All Notices or other communications to be given hereunder shall be in writing and shall be deemed given when mailed by Registered or Certified United States mail:

To Lee County: Director
 Division of Solid Waste Management
 Lee County Board of County
 Commissioners

2013 Altamont Avenue
Fort Myers, Florida 33902-0398

With a Copy to: Office of the Lee County Attorney
 P.O. Box 398
 2115 Second Street
 Fort Myers, Florida 33902

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To Hendry County: Director,
Division of Solid Waste Management
Hendry County Board of County
Commissioners
P.O. Box 1760
LaBelle, Florida 33935

With a Copy to: Office of the Hendry County
Attorney
P.O. Box 1760
LaBelle, Florida 33935

Any change of address by either party shall be by notice given to the other in the same manner as specified above.

Entire Agreement

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

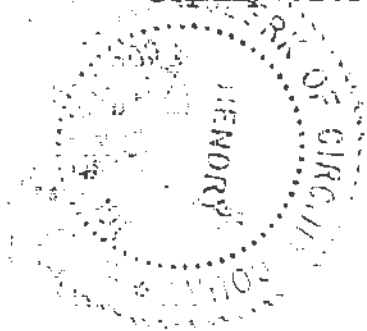
Acceptance

3.16 This Agreement shall become effective upon the signing of the Agreement by the official representative of both Hendry County and Lee County, and with the appropriate filing with the Clerks of the Circuit Court of the respective counties.

3.17 This Agreement shall supersede and replace all previous agreements between the parties pertaining to the disposal of solid waste for both Counties.

ATTEST:
CHRISTINE PRATT,
CLERK OF THE CIRCUIT COURT

By: Christine Pratt
Deputy Clerk



BOARD OF COUNTY COMMISSIONERS
OF HENDRY COUNTY, FLORIDA

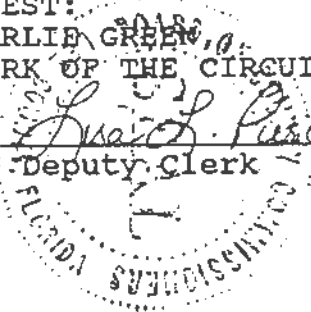
By: Joseph B. Spratt, Jr.
Chairman

Approved As To Form:

J. Paul [Signature]
County Attorney for
Hendry County

ATTEST:
CHARLIE GREEN,
CLERK OF THE CIRCUIT COURT

By: Lisa S. Pierce
Deputy Clerk



BOARD OF COUNTY COMMISSIONERS
OF LEE COUNTY, FLORIDA

By: [Signature]
Chairman

Approved As To Form:

[Signature]
County Attorney for
Lee County

EXHIBIT H
GUARANTEE AGREEMENT

SCHEDULE H

GUARANTEE

This Guarantee is made as of this _____ day of _____, by Waste Management Inc., a _____ corporation ("Guarantor"), having its principal place of business in Oakbrook, Illinois, to and for the benefit of Lee County, a Florida political subdivision of the State of Florida, ("County").

WITNESSETH:

WHEREAS, Waste Management Inc. of Florida, a Florida corporation, (the "Contractor") has entered into the Amended and Restated Solid Waste Disposal Agreement (the "Agreement") with the County dated as of _____;

WHEREAS, Guarantor is willing to guarantee, as set forth below, the performance of the Contractor under the Agreement; and

WHEREAS, County would not enter into the Agreement unless the Guarantor provided this Guarantee;

NOW, THEREFORE, as an inducement to the County to enter into this Agreement, Guarantor agrees as follows:

1. Guarantor hereby absolutely and unconditionally guarantees the full and prompt performance by the Contractor of all of the Contractor's obligations under the Agreement in accordance with the terms and conditions therein, subject to all of the rights of the Contractor therein, and all defenses of Contractor arising thereunder.

2. This Guarantee shall be governed by the laws of the State of Florida exclusive of the choice of law rules thereof, and Guarantor hereby agrees to the service of process in Florida for any claim or controversy arising out of this Guarantee or relating to any breach hereof, and to submit to the exclusive jurisdiction of any court of competent jurisdiction in the State of Florida in connection therewith.

3. This Guarantee shall be binding upon and enforceable against the Guarantor, its successors, or assigns (including any successor by merger or consolidation or any transferee of all or substantially all of the properties of Guarantor), whether or not such obligations are expressly assumed by such successor, assignee or transferee and is for the benefit of the County, and any permitted successors and assigns under the Agreement.

4. Each and every Event of Default under the Agreement shall give rise to a separate cause of action hereunder, and separate actions may be brought hereunder by the County as each cause of action arises.

5. No waiver, amendment, release or modification of this Guarantee shall be established by conduct, custom or course of dealing between the Parties, but solely by a written instrument duly executed by the Party against whom any such waiver, amendment, release or modification is sought to be enforced.

6. Guarantor shall not assign its obligations hereunder, except to a successor by merger or consolidation or to a transferee of all or substantially all of the assets of the

Guarantor. Notice of any such assignment shall be given in writing to the County within thirty (30) days after the effective date of any such merger, consolidation or transfer.

7. This Guarantee may be enforced immediately by the County upon Contractor's default and failure to cure any such default, pursuant to the provisions of Section 10. of the Agreement. This Guarantee shall not be subject to any claim of Guarantor against any other person, including the County, other than a claim that the matter giving rise to the County claim is the subject of dispute resolution in good faith under the Agreement or in the courts of the United States or the State of Florida.

8. This Guarantee may be executed simultaneously in several counterparts, each of which shall be deemed an original, and all of which together shall constitute one and the same instrument. The invalidity or unenforceability of one or more provisions of this Guarantee shall not affect the validity or enforceability of the remaining portions of this Guarantee. This Guarantee is entered into by Guarantor solely and exclusively for the benefit of the County and the Trustee, to the extent the rights of the County hereunder have been assigned to a Trustee, and may be enforced against Guarantor by the County or, to the extent of any such assignment, by the Trustee.

9. Any term used not otherwise defined herein and defined in the Agreement, shall have the meaning attributed to it in the Agreement.

10. Notices pursuant to this Guarantee and as provided in the Agreement for default, unless otherwise stated shall be in writing and shall be served personally or sent by certified mail, return receipt requested, to:

To County: Director
Division of Solid Waste Management
Lee County
2013 Altamont Avenue
Fort Myers, Florida

With a Copy to: Office of the County Attorney
Post Office Box 398
2115 Second Street
Fort Myers, Florida 33902-0398

Waste Management, Inc.: General Counsel
Waste Management, Inc.
3001 Butterfield Road
Oakbrook, Illinois 60521

or to such other address as shall be designated by such party in a written notice to the other party hereto. Any notice given pursuant to this Section if transmitted by certified mail shall be effective immediately upon receipt and if delivered by hand upon delivery.

IN WITNESS WHEREOF, Guarantor has executed this instrument the day and year first above written.

WASTE MANAGEMENT, INC.

By: 
Its _____

Witness: 1. 

2. 

EXHIBIT I

(Insert First Amendment to Solid Waste Extension Agreement)

FIRST AMENDMENT TO
SOLID WASTE DISPOSAL EXTENSION AGREEMENT

THIS AMENDMENT is entered into as of this 17th day of June, 1992 by and between Lee County, a political subdivision of the State of Florida ("County") and Waste Management, Inc. of Florida, a Florida corporation ("Contractor").

WITNESSETH

WHEREAS, County and Contractor entered into a Solid Waste Disposal and Narrative Agreement dated June 20, 1984 (Lee County Contract #C83-1154), as amended, which provided for the operation and closure of Gulf Coast Landfill ("Gulf Coast Agreement") by Contractor; and,

WHEREAS, County and Contractor subsequently entered into a Solid Waste Disposal Extension Agreement (Lee County Contract #C89-0119) on January 11, 1989 ("Extension Agreement"); and,

WHEREAS, County is willing to grant and the Contractor is willing to accept the additional responsibility of transfer station construction and operation for Hendry County on the terms contained herein; and,

WHEREAS, it is to the public's health, welfare and benefit that this Agreement be executed on an emergency basis in order to alleviate the adverse consequences of the imminent closing of the

Hendry County Landfill, and to mitigate the hazards associated with the hauling of municipal solid waste upon the roadways of Hendry County and Lee County.

NOW THEREFORE, for and in consideration of the respective covenants herein contained, the parties have agreed as follows:

1. A new Section 4.13 of the Extension Agreement shall be added and shall read as follows:

"4.13 Transfer Stations. As provided for in the Interlocal Agreement entered into by Lee and Hendry Counties, two (2) transfer station sites have been selected by Hendry County. As Lee County's designee, Contractor shall immediately commence transfer station services which may include, the permitting, construction, operation and ownership of the two (2) Hendry County transfer stations and arrange for the transportation of Hendry County's solid waste to the Facilities as described in the Interlocal Agreement. Land Costs, if any, for the transfer stations may be calculated and recovered as described in Section 2.1(a) of the Agreement and Exhibit A of this Agreement, as may be amended from time to time by the parties, or may be paid pursuant to the terms and conditions of paragraph 4., herein. Permitting,

construction, operational costs, transportation vehicles and any other related costs shall be calculated and recovered as described in Section 6 of the Extension Agreement and the operational and construction cost categories described in Exhibit A of this Agreement as may be amended from time to time by the parties. It is the intent of the parties that a separate, per ton charge will be made by the Contractor for its transfer station operation and transportation services."

2. A new Section 4.14 of the Extension Agreement shall be added and shall read as follows:

"4.14 Construction Reports. Contractor shall provide the County with the following reports during the permitting and construction of the Transfer Station Facilities:

1. A monthly report summarizing the prior month's activities, status of the project and expenses incurred during the prior month and cumulatively. The Contractor shall attempt to schedule a monthly meeting with the County staff and consulting engineers, if any, to review the report.

2. A quarterly report summarizing the prior quarter's activities, status of the project and expenses incurred shall be presented to the County Board of County Commissioners together with projections of future activity. The County shall provide input and recommendations regarding the Transfer Station Facilities during such presentations.

3. In addition to the reports, meetings and presentation described above, Contractor shall notify the County of any services or materials it intends on acquiring without soliciting competitive proposals, quotes or bids when such services or materials, in aggregate, exceed a cost of \$200,000. The Contractor shall state in the notice the reason why it does not intend on seeking competitive prices.

3. A new Section 4.15 of the Extension Agreement shall be added and shall read as follows:

"4.15 Interlocal Agreement Obligations. The County and Contractor hereby acknowledge the existence of the Interlocal Agreement entered

into by Lee County and Hendry County dated April 11, 1989 ("Interlocal Agreement"). The relevant terms and conditions of the Interlocal Agreement are hereby incorporated herein by reference."

4. County shall have the right to pay Contractor for the construction of the transfer stations by either:

1. Lump sum payment to Contractor for actual construction costs, to include reasonable management costs, and any land costs, either by one time payment or monthly payments,

/or/

2. By including same in the tip fee calculations as further outlined in Section 6 of the Extension Agreement.

5. Contractor shall use due diligence and its best efforts to develop the transfer stations in Hendry County and will use such alternative transfer methods as are lawfully available to Contractor in order to meet the requirements of the Lee County/Hendry County Interlocal Agreement, and shall indemnify and hold harmless Lee County from any liability relative to any potential delay in completion of the two (2) Hendry County transfer stations for the transfer of solid waste from Hendry County to Lee County.

TOTAL BASE COSTS PER TON _____

E. LAND COSTS PER TON³

- Purchase price of Transfer Site Property _____
- Interest, as defined in Section 1.7, on the purchase price of Transfer Site Property _____

TOTAL COSTS PER TON _____

\$ _____

1. The total gross cost of items A, B, C, AND D, shall be divided by the actual tonnage capacity of the Transfer Facility to determine the cost per ton.

IN WITNESS WHEREOF, the parties have executed this First Amendment as of the day and year first written above.

Witness:
~~ASSET:~~

WASTE MANAGEMENT, INC.
OF FLORIDA

By: [Signature]

By: [Signature]

Its: [Signature]

Its: President

ATTEST: CHARLIE GREEN
CLERK OF COURT

BOARD OF COUNTY COMMISSIONERS
OF LEE COUNTY, FLORIDA

By: [Signature]
Deputy Clerk

By: [Signature]
Chairman

Waste Management, Inc., hereby guarantees the performance of the foregoing Amendment according to the terms and provisions by its indirect subsidiary, Waste Management, Inc. of Florida.

WASTE MANAGEMENT, INC.

By: [Signature]

Its: President Authorized Agent

APPROVED AS TO FORM:

By: [Signature]
Office of County Attorney

2-2-94

A8a

3-3-a4
A8a

AN EQUAL OPPORTUNITY AFFIRMATIVE ACTION EMPLOYER

RECYCLED PAPER



AN EQUAL OPPORTUNITY AFFIRMATIVE ACTION EMPLOYER

RECYCLED PAPER





BOARD OF COUNTY COMMISSIONERS

WMIF
AGREEMENT

P.O. Box 398
Fort Myers, Florida 33902-0398
(813) 335-2111

Waste Management, Inc.

John E. Manning
District One

Douglas R. St. Cerny
District Two

Ray Judah
District Three

Franklin B. Mann
District Four

John E. Albion
District Five

Donald D. Stilwell
County Administrator

James G. Yaeger
County Attorney

Diana M. Parker
County Hearing Examiner

February 2, 1994

Mr. James O'Connor, President
Waste Management Inc. of Florida
500 Cypress Creek Road, W., Suite 300
Fort Lauderdale, Florida 33309

RE: DISPOSITION OF THE WMIF "SITE H" PROPERTY

Dear Mr. O'Connor:

As consideration for the resolution and settlement of all matters relating to the Lee County/Waste Management Inc. of Florida (WMIF) landfill contract issues, and relative to the above, Lee County offers the following options for the disposition of the "Site H" property:

1. Lee County and the Lee County Port Authority shall use all reasonable efforts to perfect the sale of all or part of the remainder of "Site H" (approximately 1200± A.), by WMIF to the Lee County Port Authority or other interested parties for a purchase price at appraised value, with a closing on the sale no more than one hundred twenty (120) days following execution of a contract to purchase by WMIF. Lee County recognizes, and shall pay to WMIF, the difference between the appraised purchase price of the Port Authority or other interested party, and WMIF's original purchase price, up to \$1.5 million of such difference on the sale, plus

the remaining simple interest computed from the date of WMIF's original purchase date to closing, within thirty (30) days after the closing with the Port Authority or other interested party.

2. In the event Option No. 1 fails to be consummated between the Lee County Port Authority or other interested parties and WMIF, the County may purchase at its sole option, all or part of the remainder of "Site H" (approximately 1200± A.), at the Port Authority's appraised value, and shall pay the difference between the appraised purchase price and WMIF's original purchase price, up to \$1.5 million of such difference on the sale, plus the remaining simple interest computed from the date of WMIF's original purchase date, to closing.
3. In the event the County does not elect to exercise its option under No. 2. above, WMIF shall use its best efforts to market and sell the remainder of "Site H" (approximately 1200± A.), at the Port Authority's appraised value or greater, within one hundred eighty (180) days following the County's election not to exercise Option No. 2, above, by entering into a contract for such sale with a closing date of not greater than one hundred twenty (120) days following execution of the contract. In the event WMIF wishes to accept an offer from a purchaser that is below the Lee County Port Authority appraisal, County shall have the right to approve such sale, such approval not to be unreasonably withheld. Lee County will continue to apply Gulf Coast Landfill rebate funds to the accrued simple interest on "Site H" until a contract is signed, which in no event shall extend beyond October 1, 1994. At closing, Lee County will pay the difference between the contract sale price and WMIF's original purchase price up to \$1.5 million, and the remainder of any simple interest

Mr. James O'Connor
February 2, 1994
Page -3-

still due on the property, computed from the date of WMIF's original purchase date, to closing.

4. In the event Option No. 3. above, is not perfected by WMIF by the signing of a contract for sale within the one hundred eighty (180) days as provided therein, Lee County will tender to WMIF, a sum equal to the difference between WMIF's original purchase price and the value of \$3,000.00 per acre, up to \$1.5 million plus any remaining simple interest due on "Site H", computed from the date of WMIF's original purchase date to closing, as full satisfaction of its obligations to WMIF pursuant to the disposition of the "Site H" property. If WMIF rejects such tender, Lee County and WMIF shall each have all rights and claims they would otherwise have had regarding the amount owed to WMIF in connection with the disposition of Site H (including any rights and claims which may accrue as a result of said tender having occurred) pursuant to the terms and conditions of the original 1989 Solid Waste Disposal Extension Agreement, dated January 11, 1989.

For all options above, Lee County recognizes the simple interest due for the 320± acres of "Site H" through the closing date of the sale between WMIF and Florida Rock Corporation.

Notwithstanding any of the foregoing, and for all options above, any amount owed by Lee County shall be computed to reflect any amounts previously applied against principal or simple interest as a result of rebates due Lee County from WMIF under the Amended and Restated Solid Waste Disposal Contract or sale(s) of "Site H" property.

Please signify your acknowledgment and acceptance of the above options by signing this letter in the space provided below.

Mr. James O'Connor
February 2, 1994
Page -4-

Thank you for your continued consideration and cooperation in these matters.

Cordially,



Ray Judah, Chairman
Board of County Commissioners
Lee County

I acknowledge and accept the above options from Lee County for the disposition of "Site H", and so signify by my signature hereto.

WASTE MANAGEMENT INC. OF FLORIDA

By: 

James O'Connor,
President
Waste Management Inc. of Florida
Authorized Representative

**AMENDMENT NUMBER 1
TO THE AMENDED AND RESTATED SOLID WASTE
DISPOSAL EXTENSION AGREEMENT**

This Amendment No. 1 to the Amended and Restated Solid Waste Disposal Extension Agreement dated February 2, 1994 (as amended, the "Agreement") between LEE COUNTY, FLORIDA (the "County") and WASTE MANAGEMENT, INC. OF FLORIDA (the "Contractor") is made on this 7 day of Feb 2002.

WHEREAS, the Contractor has notified the County as to certain proposed changes to the Agreement that may be to the advantage of both the County and the Contractor, and has provided the County with information regarding such proposed changes, and;

WHEREAS the County has reviewed the proposed changes to the Agreement and considered the benefits of such changes to the County and the Contractor, and;

WHEREAS the County and the Contractor have established that the proposed changes as articulated by this Amendment No. 1 to the Agreement are mutually beneficial, and;

WHEREAS, on the 19th day of February 2002, the Board of County Commissioners has approved this Amendment No. 1 and has authorized it's Chairman to execute this Amendment No. 1 on the County's behalf.

NOW, THEREFORE, IN CONSIDERATION OF THE FOREGOING AND THE MUTUAL COVENANTS CONTAINED HEREIN, IT IS AGREED by and between the County and the Contractor that the following changes to the Agreement are hereby made.

Part I – GENERAL

1. Any capitalized term used herein and not defined by this Amendment, but which is defined in the Agreement shall have the meaning given such term in the Agreement.
2. Any exhibits attached hereto are hereby incorporated into and made a part of this Amendment No. 1.
3. The Agreement shall remain in full force and effect, unmodified except as expressly set forth in this Amendment.
4. In the event that any provision of this Amendment is determined to be void, invalid, illegal or unenforceable in any respect for any reason by a State court of competent jurisdiction in Lee County, the Parties hereto shall negotiate in good faith and agree to such amendments, modifications or other supplements to this Amendment or to such other appropriate actions as shall, to the extent reasonable in light of such determination,

implement and give effect to the intentions of the Parties as reflected herein, and the other terms of this Amendment, as may be so amended, modified, or supplemented, shall remain in full force and effect.

5. The Contractor hereby represents to the County that neither the Contractor nor the County is, or will be required to obtain or purchase, any licenses, patent rights and/or franchises from the Contractor in order to install, and provide maintenance to the landfill gas utilization system as defined herein.

PART II – AGREEMENT CHANGES

Pursuant to SECTION ELEVEN, SUBSECTION 11.11 of the Agreement, the Parties agree to the following changes to the Agreement by the adoption of this Amendment as executed below by both Parties through their respective duly authorized representatives.

A. SECTION FOUR SCOPE OF SERVICE

Subsection 4.13, Ash Transfer

Delete Subsection 4.13 in its entirety.

B. SECTION FOUR SCOPE OF SERVICE

Subsection 4.14, Hendry County Transfer Stations

Insert the following paragraph after the first paragraph of this Section:

Additionally, that certain “First amendment to the Solid Waste Disposal Extension Agreement” shall terminate on May 31, 2002 and all obligations of the Parties hereto, each to the other relating to the construction, operation, and maintenance of the Hendry County Transfer Stations, shall cease. The Contractor hereby agrees and confirms that all equipment and facilities owned by the County shall be cleaned and maintained in good working order and in good repair until the termination date. The Contractor shall reimburse the County for any necessary repairs and/or replacements of parts or equipment that exhibit deficiencies other than normal wear and tear. Immediately prior to the expiration date, the Parties shall conduct a walk-through of the facilities for the purposes of inspecting the buildings and equipment and identifying any deficiencies therein.

C. SECTION FIVE COMPENSATION TO CONTRACTOR

Subsection 5.1, Operating Rate

Replace "0.76" with "0.77" in the final sentence of this Subsection.

Subsection 5.3, Additional Compensation

Replace "Seventy-Six One-Hundredths (0.76)" with "Seventy-Seven One Hundredths (0.77)" in the final sentence of paragraph (a) of this Subsection.

D. SECTION ELEVEN MISCELLANEOUS

Subsection 11.10, Notices

Change the address of the Division of Solid Waste Management to the following:

To the County: Director
Lee County Solid Waste Division
10500 Buckingham Rd., Suite 200
Ft. Myers, Fl. 33905

E. EXHIBIT E OPERATING PLAN AND PAYMENTS

Section II Operating Rate

Replace "0.76" with "0.77" in the second paragraph of this Section.

Replace "0.76" with "0.77" in Subpart B of this Section.

Replace "0.76" with "0.77" in Subpart C of this Section in each of the sentences where this factor is used (paragraphs C.1 and C.2).

Replace "0.76" with "0.77" in Subpart D (final sentence).

F. EXHIBIT E OPERATING PLAN AND PAYMENTS

Section III Construction Management

Replace "0.76" with "0.77" in the final sentence of this Section.

G. EXHIBIT E OPERATING PLAN AND PAYMENTS

Section IV Closure Activities

Replace "0.76" with "0.77" in the final sentence of this Section.

IN WITNESS WHEREOF, the Parties have hereunto set their hands and seals on the date above written by their respective duly authorized representatives.

ATTEST: CHARLIE GREEN
CLERK OF COURTS

BOARD OF COUNTY COMMISSIONERS
OF LEE COUNTY, FLORIDA

By: *Isa Pierce*
Deputy Clerk

By: *Ray Judal*
Vice-Chairman

APPROVED AS TO FORM:

By: *[Signature]*
Office of the County Attorney



Witness: *Christa Johnson*
CHRISTA JOHNSON

WASTE MANAGEMENT, INC.
OF FLORIDA

Witness: _____

By: *[Signature]*
GLENN R. HOLCOMB
Title: *Vice President*

(SEAL)

Agenda Item Summary

1. ACTION REQUESTED/PURPOSE: Consider, approve and authorize the Chairman to sign Amendment No. 2 to the Amended and Restated Solid Waste Disposal Contract (Original Lee Contract No. C940234) and Amendment No. 2 to the Amended and Restated Solid Waste Disposal Extension Agreement (Lee Contract No. 2061). The 'Contract' and the 'Extension Agreement' are between Lee County, Fl. and Waste Management, Inc. of Florida (WMI).

2. WHAT ACTION ACCOMPLISHES: For the Gulf Coast Landfill: Removes the contractual limitation of construction debris (Class III) landfill activities for the WMI property and provides a host fee for Lee County. For the Lee/Hendry Landfill: Provides for early termination of WMI's operations of the Lee Hendry landfill.

3. MANAGEMENT RECOMMENDATION: Staff recommends approval of the motion.

4. Departmental Category: <u>B A8A</u>		5. Meeting Date: <u>JAN 30 2007</u>
6. Agenda: <input type="checkbox"/> Consent <input checked="" type="checkbox"/> Administrative <input type="checkbox"/> Appeals <input type="checkbox"/> Public <input type="checkbox"/> Walk-On	7. Requirement/Purpose: (specify)	
	<input type="checkbox"/> Statute	8. Request Initiated: Commissioner Department <u>Public Works</u> Division <u>Solid Waste</u> By: <u>Lindsey J. Sampson</u> <i>Lindsey J. Sampson</i>
	<input type="checkbox"/> Ordinance	
	<input type="checkbox"/> Admin. Code	
	<input checked="" type="checkbox"/> Other <u>Agmt Amdmt.</u>	

9. Background: On February 2, 1994 the County and Waste Management, Inc. (WMI) approved two agreements establishing terms, conditions and responsibilities, etc. for landfill operations; one agreement for the operation of the Gulf Coast Landfill (GCLF) and one for the operation of the Lee/ Hendry Landfill (LHLF).

The GCLF Agreement limited WMI's landfill operation to parcel 3 only and to an elevation of 100 ft. NGVD in the parcel 3 area. Amendment No. 1 to this Contract, dated 2/7/02, removed the contractual limitation for landfilling in the parcel 2 area up to an elevation of 100 ft. NGVD and limited such landfill activity to Class III (C&D) materials only. Amendment No. 2 further reduces the contractual limitation for C&D disposal activity and allows the current active area (parcel 2) to continue to a height of 120 ft. NGVD. It also allows the Contractor to permit and operate an additional Class III area of approx. 57 acres and to a height of 120 ft. NGVD.

Amendment No. 1 to the LHLF Agreement removed the ash transfer option and specified May 31, 2002 as the termination date for WMI's operation of the Hendry Transfer Stations. Amendment No. 2 establishes an early termination of WMI's operation of the Lee/Hendry landfill contingent upon WMI receiving all approvals to construct the new, 57 acre C&D disposal area at Gulf Coast landfill.

Approval of these amendments will provide Lee County with C&D landfill capacity at a known location for the next 8 to 12 years. Cost for operating the Lee/Hendry Landfill is expected to be reduced by 20%.

Additional SW Division personnel will be required for the Lee/Hendry landfill for FY08 as the County takes over this operation. Required future budget impacts are not expected to exceed the current costs or negatively impact SW rates.

10. Review for Scheduling:

Department Director	Purchasing or Contracts	Human Resources	Other	County Attorney	Budget Services				County Manager/P.W. Director
					Analyst	Risk	Grants	Mgr.	
<i>J. Stander</i> 10.17.06	<i>CL by J/S.</i>	<i>N/A.</i>		<i>[Signature]</i> 10/17/06	<i>[Signature]</i> 10/18/06	<i>[Signature]</i> 10/19	<i>[Signature]</i> 10/19/06	<i>[Signature]</i> 10.17.06	

11. Commission Action: ON 1-16-07 2
Approved *WPD 11/30/07*

Deferred ON 10-31-06 1

Denied WKT 11-27-06

Other ON 11-7-06 1 WK
to 11-14-06 - Judah/Hall

ON 11-14-06 FOR (60) days - St/Hall
2-1 Judah - NAY

CO. MTA
FORWARDED
TO CO. ADMIN.
10/17/06 1:46 PM

RECEIVED BY
COUNTY ADMIN
10/17/06 2:05 PM
COUNTY ADMIN
FORWARDED TO
10/19/06

AGENDA REVISION RECAP
Revision #1
MEETING DATE: November 14, 2006

ITEMS TO BE DEFERRED/CONTINUED

<u>Agenda/Item #</u>	<u>Purpose</u>	<u>Requested by</u>
C8A	Item to be deferred for two weeks. <i>ST Judah</i>	Solid Waste

REVISIONS & CORRECTIONS

<u>Agenda/Item #</u>	<u>Purpose</u>	<u>Requested by</u>
C6C	Amend "ACTION REQUESTED/PURPOSE" section to read, Approve the public official bonds of certain public officials as required by Florida Statute 137 and to fulfill County ordinance 00-25.	Public Resources <i>ST Judah</i>

ITEMS MOVED FROM CONSENT TO ADMINISTRATIVE AGENDA

<u>Agenda/Item #</u>	<u>Purpose</u>	<u>Requested by</u>
----------------------	----------------	---------------------

WALK - ONS OR CARRY - OVERS

Walk-on #/Carry-Over#

Presented
WO #1 **ACTION REQUESTED/PURPOSE:**
 Ceremonial Resolution recognizing Alzheimer's Awareness Month
REASON FOR WALK ON:
 In order to recognize the request in a timely manner
 (#20061506 – County Commission)

Judah ST.
WO #2 **ACTION REQUESTED/PURPOSE:** *(PUSA)*
 Authorize the Chairwoman to execute Modification #4 to agreement with the Department of Community Affairs Contract #05DS-2N-09-46-01-105 to reinstate and extend the agreement to November 30, 2006.
REASON FOR WALK ON:
 To meet State required time lines for extending the agreement.
 (#20061508 – Public Safety)

ST Hall Presented to 6-25-06
CO #1 **ACTION REQUESTED/PURPOSE:**
 Consider, approve and authorize the Chairman to sign Amendment No. 2 to the Amended and Restated Solid Waste Disposal Contract (Original Lee Contract No. C940234) and Amendment No. 2 to the Amended and Restated Solid Waste Disposal Extension Agreement (Lee Contract No. 2061). The 'Contract' and the 'Extension Agreement' are between Lee County, Fl. and Waste Management, Inc. of Florida (WMI).
REASON FOR CARRY OVER:
 Board directed at November 7, 2006 regular Board meeting.
 (#20061406 – Solid Waste)
2-1 Judah NTH AS recommended/directed

DATE AND TIME DISTRIBUTED: 11-13-06 4:40 PM

**AMENDMENT NUMBER 2
TO THE AMENDED AND RESTATED SOLID WASTE DISPOSAL
CONTRACT**

This Amendment No. 2 to the Amended and Restated Solid Waste Disposal Contract (as amended, the "Contract") between LEE COUNTY, FLORIDA (the "County") and WASTE MANAGEMENT, INC. OF FLORIDA (the "Contractor") is made on this _____ day of _____ 2006.

WHEREAS, the Contractor has notified the County as to certain proposed changes to the Contract that may be to the advantage of both the County and the Contractor, and has provided the County with information regarding such proposed changes, and;

WHEREAS the County has reviewed the proposed changes to the Contract and considered the benefits of such changes to the County and the Contractor, and;

WHEREAS the County and the Contractor have established that the proposed changes as articulated by this Amendment No. 2 to the Contract are mutually beneficial, and;

WHEREAS, on the 7 day of February, 2002, the Board of County Commissioners approved Amendment No. 1 and authorized it's Chairman to execute said Amendment No. 1 on the County's behalf, and;

NOW, THEREFORE, IN CONSIDERATION OF THE FOREGOING AND THE MUTUAL COVENANTS CONTAINED HEREIN, IT IS AGREED by and between the County and the Contractor that the following changes to the Contract are hereby made.

Part I – GENERAL

1. Any capitalized term used herein and not defined by this Amendment, but which is defined in the Contract shall have the meaning given such term in the Contract.
2. Any exhibits attached hereto are hereby incorporated into and made a part of this Amendment 2.
3. The Contract shall remain in full force and effect, unmodified except as expressly set forth in this Amendment.
4. In the event that any provision of this Amendment is determined to be void, invalid, illegal or unenforceable in any respect for any reason by a State court of competent

jurisdiction in Lee County, the Parties hereto shall negotiate in good faith and agree to such amendments, modifications or other supplements to this Amendment or to such other appropriate actions as shall, to the extent reasonable in light of such determination, implement and give effect to the intentions of the Parties as reflected herein, and the other terms of this Amendment, as may be so amended, modified, or supplemented, shall remain in full force and effect.

5. The Contractor hereby represents to the County that neither the Contractor nor the County is, or will be required to obtain or purchase, any licenses, patent rights and/or franchises from the Contractor in order to install, and provide maintenance to the landfill gas utilization system as defined herein.

PART II – CONTRACT CHANGES

Pursuant to SECTION NINETEEN of the Contract, the Parties agree to the following changes to the Contract by the adoption of this Amendment as executed below by both Parties through their respective duly authorized representatives.

SECTION TWO - CONSTRUCTION

Add the following words at the end of the second paragraph: “except as described below”

Insert the following language immediately before the last paragraph of this Section:

“The Parties agree that the Contractor may apply to the DEP and such other regulatory entities as may be required to receive a permit and approval to construct and operate a Class III landfill, at its own expense and risk, as a vertical expansion to the existing portion of Parcel 2 and the valley located between Parcels 2 and 3, currently at approximately 90 feet NGVD (hereinafter “Vertical Expansion”), and to fill these areas up to a final elevation of 120 feet NGVD including final cover. This area, consisting of approximately 44 base footprint acres, may receive exclusively Class III material as defined by Rule Chapter 62-291, FAC. The Contractor shall close this Parcel 2 area in accordance with DEP permit requirements once this area reaches 120 feet NGVD, at its sole expense. The Contractor may also accept and dispose of Class III material at the Parcel 2 area from solid waste generators outside of Lee County, with the exception of waste material generated as the result of a natural disaster. However, the Contractor shall accept waste material generated from within Lee County as a result of a natural disaster. Receipt of natural disaster debris from within Lee County (and as delivered or caused to be delivered by the County) shall be accepted at the landfill for a fee not to exceed \$24.94 per ton (subject to escalation in accordance with Section Seven). Natural disaster debris delivered by the County will not be subject to the host fee as set forth in Section Six but such waiver of this host fee shall not impact the total host fee as set forth in Section Six. Acceptance by the Contractor of natural disaster debris will be contingent upon a determination by Contractor that sufficient airspace exists to accept same given the operational requirements of the landfill (defined to mean at least three months

of remaining capacity based on the most current Remaining Capacity Report submitted to DEP). Further, the parties agree that any previous utilization of the Landfill for receipt and disposal of non-Lee County debris resulting from a natural disaster is for all purposes deemed cured as the result of the agreement to pay Host Fees set forth in Section Six. ”

“The Parties agree that the Contractor may apply to the DEP and such other regulatory entities as may be required to receive a permit and approval to construct and operate a lined Class III landfill, with a leachate collection system, at its own expense and risk, as a lateral expansion to the Gulf Coast Landfill consisting of approximately 57 acres immediately to the north and east of Parcels 2 and 3, and to fill this area up to a final elevation of 120 feet NGVD including final cover (hereinafter “Northeast Area”). This area, may receive exclusively Class III material as defined by Rule Chapter 62-701, FAC. The Contractor shall close this new disposal area in accordance with DEP permit requirements once this area reaches 120 feet NGVD, at its sole expense. The Contractor may also accept and dispose of Class III material at this new disposal from solid waste generators outside of Lee County including but not limited to waste material generated from outside of Lee County as a result of a natural disaster and shall accept waste material generated from within Lee County as a result of a natural disaster. Receipt of natural disaster debris from within Lee County (and as delivered or caused to be delivered by the County) shall be accepted at the landfill for a fee not to exceed \$25.94 per ton until December 31, 2011 (subject to escalation in accordance with Section Seven). Acceptance by the Contractor of natural disaster debris will be contingent upon a determination by Contractor that sufficient airspace exists to accept same given the operational requirements of the landfill (defined to mean at least three months of remaining capacity based on the most current Remaining Capacity Report submitted to DEP).”

“The Parties agree that the Contractor may apply to the DEP and such other regulatory entities as may be required to receive a permit and approval to construct and operate a lined Class III landfill, with a leachate collection system, at its own expense and risk, as an additional lateral or vertical expansion to the Gulf Coast Landfill, not otherwise described herein, and to fill this area up to a final elevation of 120 feet NGVD including final cover (hereinafter “Future Area”). This area, may receive exclusively Class III material as defined by Rule Chapter 62-701, FAC. The Contractor shall notify the County no later than two years prior to the closure of the “Northeast Area” of the Contractor’s intentions regarding the permitting and development of this ‘Future Area’. The Contractor shall close this Future disposal area in accordance with DEP permit requirements once this area reaches 120 feet NGVD, at its sole expense. The Contractor may also accept and dispose of Class III material at this new disposal area from solid waste generators outside of Lee County including but not limited to waste material generated from outside of Lee County as a result of a natural disaster and shall accept waste material generated from within Lee County as a result of a natural disaster. Receipt of natural disaster debris from within Lee County is contingent upon the negotiation of a mutually agreeable rate and upon a determination by Contractor that sufficient airspace exists to accept same given the operational requirements of the landfill (defined to mean at least three months of remaining capacity based on the most current Remaining Capacity Report submitted to DEP).”

“The County shall take no unreasonable action to delay, hinder, or restrict the Contractor in its efforts to obtain all permits, licenses and governmental approvals (“Approvals”) acceptable to Contractor in final and un-appealable form necessary for the construction and operation of the Northeast Area and the Future Area as a lined Class III landfill with a leachate collection system. Contractor shall diligently pursue all such Approvals at Contractor’s sole cost and expense.”

The parties agree that the Contractor will proceed diligently and use all reasonable efforts to obtain all Approvals in final and un-appealable form to construct and operate the Northeast Area as a lined Class III landfill by December 31, 2007. Provided Contractor continues to diligently pursue such Approvals, there shall be no adverse consequences to Contractor should the Approvals acceptable to Contractor in final and un-appealable form not be obtained by December 31, 2007. However, should Contractor abandon such efforts or should the Approvals be denied or refused by Contractor in final and un-appealable form, and further provided that Contractor has obtained the Approvals in final and un-appealable form for the Vertical Expansion, in that event, Contractor shall pay to County the sum of \$1,900,000 by way of a single payment. Contractor must accept the Approvals unless same (i) reduce or prevent the Contractor from utilizing the designed airspace capacity of the Class III landfill in the Northeast Area by more than 14.5% of such capacity set forth in Permit Application 0128933-015-SC/T3 (i.e the design capacity in cubic yards; any condition, restriction or limitation that reduces usable airspace to 85.5% or less of the DEP permitted time pursuant to the application referenced above, allows Contractor to decline to accept Approval); or (ii) reduce or restrict operating hours such that Contractor is unable to lawfully receive waste deliveries at least 90% of the total hours per operating week as set forth in Permit Application 0128933-015-SC/T3.

“Upon commencement of disposal activities in the Northeast Area, the Contractor shall also begin a C&D material recycling operation such that a minimum of 10% by weight of all C&D material received at the landfill shall be recycled (excluding debris received from off-site, DEP permitted, C&D recycling facilities). Recycled materials that will count toward the 10% minimum may include any C&D material that the Contractor decides to separate and recycle but shall not include vegetative waste. A credit or reduction of “Host Fees” for recycled C&D material shall not be applicable.”

SECTION SIX – FEES

Insert a new Subsection entitled “Host Fee” as follows:

“In consideration of the County interest in the Contractor’s development of Class III landfill area as specified in SECTION TWO of the Contract, the Contractor agrees to pay to the County on a monthly basis, beginning on the date of this Amendment No. 2, a “Host Fee” equal to \$1.35 per ton (as adjusted annually pursuant to Section Seven with first adjustment to be October 1, 2007) for all Class III materials received at the Gulf Coast Landfill, regardless of whether other disposal fees are collected or whether the accepted material is

actually placed in a disposal area, and including Contractor generated material) except for vegetative waste material that is not placed in a disposal area and as further described below.

- a. For the "Vertical Expansion", the total host fee shall be an amount of \$1,012,500.00 or the available airspace consumed in filling the Vertical Expansion to capacity expressed in tons times \$1.35, whichever is greater; the total host fee shall be paid in full to the County no later than the earlier of March 1, 2008 or the date on which the Vertical Expansion reaches capacity.
- b. For the "Future Area", \$1.35 per ton (as adjusted annually pursuant to Section Seven with first adjustment to be October 1, 2007) for all Class III materials received for disposal or recycling at the Gulf Coast Landfill, (regardless of whether other disposal fees are collected or whether the accepted material is actually placed in a disposal area, and including Contractor generated material) except for vegetative waste material that is not placed in the disposal area and material received in final form that is used for construction or maintenance of the Facility.
- c. For the "Northeast Area" there shall be no host fee.

C. SECTION TWENTY ONE – LANDFILL GAS

Add the following to the end of the second paragraph of this Section:

"The parties recognize that if and when the County determines to proceed with utilization of landfill gas as set forth in this Agreement there will be both legal and operating issues to be set forth in a further Amendment to this Agreement or in a separate contract. The parties agree to negotiate same in good faith. The parties also understand that any future amendment will be for the sole purpose of defining roles and responsibilities related to the inherent overlap of mechanical, operational, and regulatory activities due to the addition of landfill gas utilization equipment but that this will by no means alleviate or release the Contractor from its ongoing and future regulatory compliance requirements. Future contract amendments will reflect an appropriate and reasonable division of responsibility for costs related to the addition of landfill gas utilization equipment and related activities.

IN WITNESS WHEREOF, the Parties have hereunto set their hands and seals on the date above written by their respective duly authorized representatives.

ATTEST: CHARLIE GREEN
CLERK OF COURTS

BOARD OF COUNTY COMMISSIONERS
OF LEE COUNTY, FLORIDA

By: _____
Deputy Clerk

By: _____
Chairwoman

*SIGNED ORIGINALS
IN LEE CARES OFFICE.*

APPROVED AS TO FORM:

By: _____
County Attorney

Business: _____

WASTE MANAGEMENT, INC.
OF FLORIDA,

By: _____

Title: _____

(SEAL)

**AMENDMENT NUMBER 2
TO THE AMENDED AND RESTATED SOLID WASTE DISPOSAL EXTENSION
AGREEMENT**

This Amendment No. 2 to the Amended and Restated Solid Waste Disposal Extension Agreement (as amended, the "Agreement") between LEE COUNTY, FLORIDA (the "County") and WASTE MANAGEMENT, INC. OF FLORIDA (the "Contractor") is made on this _____ day of _____ 2006.

WHEREAS, the Contractor has notified the County as to certain proposed changes to the Contract that may be to the advantage of both the County and the Contractor, and has provided the County with information regarding such proposed changes, and;

WHEREAS the County has reviewed the proposed changes to the Contract and considered the benefits of such changes to the County and the Contractor, and;

WHEREAS the County and the Contractor have established that the proposed changes as articulated by this Amendment No. 2 to the Contract are mutually beneficial, and;

WHEREAS, on the 7 day of February, 2002, the Board of County Commissioners approved Amendment No. 1 and authorized it's Chairman to execute said Amendment No. 1 on the County's behalf, and;

WHEREAS, Pursuant to Section Eleven, Subsection 11.11 of the Agreement, the Parties agree to the following changes to the Agreement by the adoption of this Amendment, as executed below by both Parties, through their respective duly authorized representatives.

NOW, THEREFORE, IN CONSIDERATION OF THE FOREGOING AND THE MUTUAL COVENANTS CONTAINED HEREIN, IT IS AGREED by and between the County and the Contractor that the following changes to the Agreement are hereby made.

PART I – GENERAL

1. Any capitalized term used herein and not defined by this Amendment, but which is defined in the Contract shall have the meaning given such term in the Agreement.
2. Any exhibits attached hereto are hereby incorporated into and made a part of this Amendment 2.
3. The Agreement shall remain in full force and effect, unmodified except as expressly set forth in this Amendment.
4. In the event that any provision of this Amendment is determined to be void, invalid, illegal or unenforceable in any respect for any reason by a State court of competent jurisdiction in Lee County, the Parties hereto shall negotiate in good faith and agree to such amendments, modifications or other supplements to this Amendment or to such other appropriate actions as shall, to the extent reasonable in light of such determination, implement and give effect to the

intentions of the Parties as reflected herein, and the other terms of this Amendment, as may be so amended, modified, or supplemented, shall remain in full force and effect.

PART II – AGREEMENT CHANGES

A. SECTION THREE – TERM OF AGREEMENT

New Subsection 3.4 is added as follows:

“3.4 The parties agree that the Agreement shall terminate prior to the end of the renewal term pursuant to the provisions of this Subsection 3.4 (“Early Termination”).

a) Unless waived in writing by Contractor, “Early Termination under this Subsection 3.4 shall be contingent upon the Contractor obtaining all permits, licenses and governmental approvals (“Approvals”) necessary for the construction and operation of the Northeast Area of the Gulf Coast Landfill as a lined Class III landfill acceptable to Contractor in final and unappealable form pursuant to the terms and conditions set forth in that certain Amendment No. 2 to the Amended and Restated Solid Waste Disposal Contract executed simultaneously with this Amendment.

b) Prior to the early termination pursuant to this Subsection 3.4, the Contractor shall have a third-party environmental audit conducted of the Landfill Facilities to be used as an indication of the parties’ status of compliance with the terms of the Agreement, applicable laws, rules, regulations and permits relating to the ownership and operation thereof, and to identify and determine the corrective actions that may be required as a result of any deficiencies or violations occurring prior to the Contractor’s termination of operation of the Landfill Facilities. The environmental audit shall include such on-site testing as the Contractor deems necessary to adequately evaluate the existing environmental condition of the Landfill Facilities, including but not limited to soil borings, installation of temporary groundwater, gas and/or leachate monitoring wells and such non-destructive tests as the Contractor and the County deem reasonably necessary to determine the Landfill Facilities’ environmental condition. The environmental audit shall be conducted by an engineering firm selected by the Contractor and approved by the County in its reasonable discretion. The scope of work for the environmental audit to be performed by the engineering firm shall be determined by Contractor. The Contractor shall bear the costs of the audit. Contractor shall provide copies of the audit documents to County. All environmental audit test data shall be collected no sooner than 150 days and no later than 90 days prior to the anticipated Early Termination date. The Contractor shall bear all cost to remedy any deficiencies or violations that are reasonably demonstrated to have been caused by the activities (or lack thereof) of the Contractor pursuant to this Agreement.

c) The Contractor shall provide written notice pursuant to Subsection. 11.10 to the County of:

(i) its receipt of Approvals acceptable to Contractor and in final and unappealable form as set forth above in (a);

(ii) the date on which Contractor’s obligations to operate and conduct activities under the Agreement shall terminate (“Effective Termination Date”) which shall be sixty (60) days after Contractor obtains all Approvals acceptable to Contractor in final and unappealable form but in no event earlier than December 31, 2007.

d) County shall, at the Effective Termination Date, assume responsibility and liability for operation, closure and post-closure of the Landfill Facilities. At the Effective Termination Date Contractor shall have no obligations to County pursuant to the Agreement, the Interlocal Agreement, or the Duda Agreement except for those obligations that are specifically designated as surviving termination. Further, should the environmental audit reveal conditions that the County believes require Contractor to provide remedial action, repairs or corrections or provide indemnification to the County, it shall provide notice to Contractor of same within 60 days of receipt of the environmental audit or same shall be deemed waived.

e) At the Effective Termination Date, the equipment and personal property set forth in Attachment No. 1 hereto shall be sold to the County for the nominal consideration of \$1.00. The equipment and personal property is sold "as is, where is" without warranties of merchantability or fitness for use; provided, however, the Contractor shall continue to provide routine maintenance to the equipment in the normal course of business until the Effective Termination Date. Contractor shall provide an appropriate bill of sale for the equipment and personal property.

IN WITNESS WHEREOF, the Parties have hereunto set their hands and seals on the date above written by their respective duly authorized representatives.

TEST: CHARLIE GREEN
CLERK OF COURTS

BOARD OF COUNTY COMMISSIONERS
OF LEE COUNTY, FLORIDA

By: _____
Deputy Clerk

By: _____
Chairwoman

*SIGNED ORIGINAL
IN Lee CARES OFFICE*

APPROVED AS TO FORM:

By: _____
County Attorney

Witness: _____

WASTE MANAGEMENT, INC.
OF FLORIDA,

By: _____

Title: _____

(SEAL)

Attachment No. 1
Solid Waste Disposal Agreement Amendment No. 2

Equipment Description	Serial Number	Type
2002 Ford F250 4X4 SD	1FTNF21L02EC92473	Pickup
2002 Ford F250 4X4 Crew	1FTNW21LX2EB24095	Pickup
		Utility Service Truck
		Roll Off Water Tank Truck
CAT D6R LGP	9PN01718	Dozer
CAT D8R	7XM04983	Dozer
CAT 826G	7LN00169	Compactor
CAT 826G II	AYH00506	Compactor
CAT 725	AFX00293	Articulated Truck
CAT 330BL	6DR04031	Excavator
D250E	5TN01809	Water Wagon
Light Plant	RL 4021	Light Plant
D&D Hydraulic Pump	10T93	Water Pump
Towable Litter Fences		Misc.

THIRD AMENDMENT OF THE AMENDED AND RESTATED
SOLID WASTE DISPOSAL EXTENSION AGREEMENT

THIS THIRD AMENDMENT OF THE AMENDED AND RESTATED SOLID WASTE DISPOSAL EXTENSION AGREEMENT, made and entered into by and between the Lee County Board of County Commissioners, a political subdivision of the State of Florida ("County") and Waste Management, Inc. of Florida ("Contractor"), collectively, the "Parties."

WHEREAS, the County executed an Amended and Restated Agreement for the purchase of solid waste disposal services services with Contractor on the 2nd day of February, 1994, ("Agreement");

WHEREAS, the Agreement term of 10 years officially began in September of 2002, when the Gulf Coast Landfill had closed, was automatically extended for another 10 year term in September of 2012, and is now set to expire in September of 2022 ; and,

WHEREAS, the Parties desire to extend the Agreement an additional 3 years; and,

WHEREAS, the County and Contractor desire to enter into this Third Amendment to modify the Section 3. TERM OF AGREEMENT to extend the Agreement the additional 3 years; and,

WHEREAS, the Parties desire to modify the Agreement pursuant to SECTION 11.11, ENTIRE AGREEMENT, of the Agreement.

NOW, THEREFORE, IN CONSIDERATION OF THE FOREGOING AND THE MUTUAL COVENANTS CONTAINED HEREIN, IT IS AGREED AS FOLLOWS:

1. The Parties agree that the Section 3. TERM OF AGREEMENT of the Agreement shall be supplemented by:
"This Agreement is extended for an additional three (3) year term, following the expiration of the current term, and will now expire on September 30, 2025."

IN WITNESS WHEREOF this Third Amendment of the Agreement has been signed and sealed,
in duplicate, by the respective Parties hereto.

WITNESS: [Signature] Waste Management, Inc. of Florida
Signed By: [Signature] Signed By: David M. Myhan
Print Name: James F. Lambros Print Name: DAVID M. MYHAN
Title: PRESIDENT
Date: 03/26/21

LEE COUNTY

BOARD OF COUNTY COMMISSIONERS
OF LEE COUNTY, FLORIDA

BY: [Signature]
CHAIR
DATE: 3/26/21

ATTEST:
CLERK OF THE CIRCUIT COURT
Linda Doggett, Clerk

BY: [Signature]
DEPUTY CLERK



APPROVED AS TO FORM FOR THE
RELIANCE OF LEE COUNTY ONLY:

BY: [Signature]
OFFICE OF THE COUNTY ATTORNEY