

C04-09-407

**EXCLUSIVE RESIDENTIAL
COLLECTION SERVICE AGREEMENT**

By and Between

ST. LUCIE COUNTY, FLORIDA

and

WASTE PRO OF FLORIDA, INC.

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**EXCLUSIVE RESIDENTIAL
COLLECTION SERVICE AGREEMENT**

THIS AGREEMENT is made and entered into as of September 28, 2004, by and between St. Lucie County, a political subdivision of the State of Florida (the "County"), and Waste Pro of Florida, Inc. (the "Contractor").

WITNESSETH:

WHEREAS, the County, in exercise of its powers to regulate the health, safety and welfare of its citizens and visitors, has selected Contractor to provide collection service for residential waste and recyclable material within all or a portion of the unincorporated area of the County; and

WHEREAS, Contractor is willing to provide collection service for such residential waste and recyclable material;

NOW THEREFORE, in consideration of the mutual promises, covenants and agreements contained herein, the County and Contractor mutually undertake, promise and agree for themselves, their successors and assigns as follows:

ARTICLE I

DEFINITIONS AND CONSTRUCTION

SECTION 1.01. DEFINITIONS. As used in this Exclusive Residential Collection Service Agreement, the following terms shall have the following meanings unless the context hereof otherwise requires.

"Agreement" means this Exclusive Residential Collection Service Agreement.

"Back Door" means a location at the side or rear of a Dwelling Unit acceptable to both the customer and Contractor; provided however, that if an appropriate location cannot be agreed upon, the issue shall be resolved pursuant to Section 6.22 hereof.

"Back Door Surcharge" means the amount payable by a customer to Contractor for providing Back Door Collection Service to a Dwelling Unit, which shall be (A) \$11.00 per month for Dwelling Units located in the County Urban Service Area, and (B) \$11.00 per month for Dwelling Units located in the County Rural Service Area.

"Biomedical Waste" means any solid waste or liquid residue which may present a threat of infection to humans. The term "Biomedical Waste" includes, but is not limited to, nonliquid human tissue and body parts; laboratory and veterinary waste which contain human-disease-causing agents; discarded disposable sharps; human blood, and human blood products and body fluids; and other materials which in the opinion of the Department of Health represent a significant risk of infection to persons outside the generating facility. The term "Biomedical Waste" does not include human remains that are disposed of by persons licensed under Chapter 470, Florida Statutes.

"Biological Waste" means solid waste that causes or has the capability of causing disease or infection and includes, but is not limited to, Biomedical Waste, diseased or dead animals, and other wastes capable of transmitting pathogens to humans or animals. The term "Biological Waste" does not include human remains that are disposed of by persons licensed under Chapter 470, Florida Statutes.

"Board" means the Board of County Commissioners of St. Lucie County, Florida.

"Building" means any structure, whether temporary or permanent, built for the support, shelter or enclosure of Persons, chattel or property of any kind.

"Bulk Items" means items that require special handling and management because of their volume, e.g., tires, Construction and Demolition Debris, White Goods, large household goods and furniture. "Bulk Items" must have been previously used by the customer at the Dwelling Unit for which Collection Service is provided. The term "Bulk Items" excludes Exempt Waste.

"Collection Service" means Residential Waste Collection Service and Recyclable Material Collection Service.

"Commercial Collection Service" means the collection of solid waste from Commercial Property. When the context requires, the term includes the collection and proper processing of Recyclable Material from Dwelling Units located on Commercial Property.

"Commercial Property" means all Improved Property other than Residential Property.

"Construction and Demolition Debris" means discarded materials generally considered to be not water soluble and non-hazardous in nature, including but not limited to steel, glass, brick, concrete, asphalt material, pipe, gypsum wallboard, and lumber, from the construction or destruction of a structure as part of a construction or demolition project or from the renovation of a structure, including such debris from construction of structures at a site remote from the construction or demolition project site. The term includes rocks, soils, tree remains, trees, and other vegetative matter which normally results from land clearing or land development operations for a construction project; clean cardboard, paper, plastic, wood, and metal scraps from a construction project; except as provided in Section 403.707(12)(j), Florida Statutes, and FAC 62-701.200(27), unpainted, non-treated wood scraps from facilities manufacturing materials used for construction of structures or their components and unpainted, non-treated wood pallets provided the wood scraps and pallets are separated from other solid waste where generated and the generator of such wood scraps or pallets implements reasonable practices of the generating industry to minimize the commingling of wood scraps or pallets with other solid waste; and de minimis amounts of other nonhazardous wastes that are generated at construction or demolition projects, provided such amounts are consistent with best management practices of the construction and demolition industries. Mixing of Construction and Demolition Debris with other types of solid waste will cause it to be classified as other than Construction and Demolition Debris.

"Collection Service Cost" means Contractor's cost of billing, bill collection, administration, and bad debt for providing Residential Waste and Recyclable Materials Collection Services.

"County" means St. Lucie County, a political subdivision of the State of Florida.

"County Administrator" means the chief executive officer of the County or the designee or designees of the County Administrator which shall represent the County in the administration and supervision of this Agreement.

"County Disposal Charge" means the amount payable to the County for disposal of Residential Waste at a Designated Disposal Facility.

"County Rural Service Area" means that portion of the unincorporated area of the County that is not within the County Urban Service Area.

"County Rural Service Area Fee" means the sum of (A) the Residential Waste Collection Component for the County Rural Service Area, (B) the Waste Disposal Component, and (C) the Yard Trash Disposal Component.

"County Urban Service Area" means that portion of the unincorporated area of the County described in Appendix A.

"County Urban Service Area Fee" means the sum of (A) the Residential Waste Collection Component for the County Urban Service Area, (B) the Recyclable Material Collection Component for the County Urban Service Area, (C) the Waste Disposal Component, and (D) the Yard Trash Disposal Component.

"Customer List" means separate listings of billing names and addresses for (A) all Dwelling Units within the County Urban Service Area, and (B) any Dwelling Units in the County Rural Service Area to which Contractor is providing Residential Waste Collection Service.

"Curbside" means a location that is (A) within three feet of the curb, (B) within six feet of the paved surface of the public roadway if there is no curb, (C) within 6 feet of the closest accessible public right-of-way, or (D) any other location agreed to by the resident and Contractor that will provide a safe and efficient location to Contractor's crew and vehicle. If an appropriate location cannot be agreed upon, the County Administrator shall designate the location for pick-up, considering the presence of threatening or dangerous dogs or other animals.

"Designated Disposal Facility" means the place or places specifically designated by the County for the disposal of Residential Waste.

"Duplex" shall mean a Building that contains two Dwelling Units.

"Dwelling Unit" shall mean a Building, or a portion thereof, lawfully used for residential purposes, consisting of one or more rooms arranged, designed, used, or intended to be used as living quarters for one family only.

"Exempt Waste" means Biological Waste, Hazardous Waste, Sludge, automobiles, automobile parts, boats, boat parts, boat trailers, internal combustion engines, lead acid batteries, used oil, any material for which there is no legally permitted disposal or storage facility within the County. However, tires on rims, rims, small boat and auto parts under 50 lbs are not exempt.

"Fiscal Year" means that period beginning October 1st of each year and ending on September 30th of the subsequent year.

"Franchise Fee" means the amount payable to the County by Contractor pursuant to Section 5.04 hereof.

"Garbage" means all putrescible waste which generally includes, but is not limited to, kitchen and table food waste, vegetative, food or any organic waste that is attendant with, or results from the storage, preparation, cooking or handling of food material.

"Hazardous Waste" means solid waste, or a combination of solid wastes, which, because of its quantity, concentration, or physical, chemical, or infectious characteristics, may cause, or significantly contribute to, an increase in mortality or an increase in serious irreversible or incapacitating reversible illness or may pose a substantial present or potential hazard to human health or the environment when improperly transported, disposed of, stored, treated, or otherwise managed. The term does not include human remains that are disposed of by persons licensed under chapter 470, Florida Statutes.

"Household Waste" means Garbage and Rubbish generated by a Dwelling Unit for which Collection Service is provided hereunder. The term "Household Waste" does not include Exempt Waste or Bulk Items.

"Improved Property" means all property within the County on which a Building or other improvements including, but not limited to, facilities providing retail electrical service to such property have been placed or constructed, which improvements result in such property generating Residential Waste or being capable of generating Residential Waste.

"Land Clearing Debris" means vegetative matter resulting from a comprehensive land clearing operation, but does not include Yard Trash.

"Letter of Credit" means the irrevocable commercial letter of credit, if any, provided by Contractor to the County pursuant to Section 6.10(A) hereof.

"Mobile Home" means manufactured homes, trailers, campers and recreational vehicles.

"Multiple Single-Family Attached Units" means single-family dwelling units constructed in a series, row, or group, including four units or more with common walls or separate walls abutting each other, separated by a nominal space of not less than two inches, or which have an independent entrance.

"Performance Bond" means the performance bond, if any, provided by Contractor to the County pursuant to Section 6.10(B) hereof.

"Public Entity Crime" means a violation of any state or federal law by a person with respect to and directly related to the transaction of business with any public entity in Florida or with an agency or political subdivision of any other state or with the United States, including, but not limited to, any bid or contract for goods or services to be provided to any public entity or an agency or political subdivision of any other state or of the United States and involving antitrust, fraud, theft, bribery, collusion, racketeering, conspiracy, or material misrepresentation.

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

"Recyclable Material" means those materials which are capable of being recycled and which would otherwise be processed or disposed of as Household Waste. The materials initially designated by the County are (A) newspapers and all inserts, (B) #1 through #7 plastic containers (all colors), (C) aluminum cans, (D) steel cans, (E) glass bottles and jars (green, clear, and brown), (F) aluminum foil, (G) aluminum bakeware, (H) aseptic containers, (I) gable top containers, (J) telephone books, (K) magazines and catalogs, (L) paperboard boxes, and (M) corrugated cardboard boxes.

"Recyclable Material Collection Component" means the fee for providing Recyclable Material Collection Service to a Dwelling Unit, which shall be \$1.98 per month for Dwelling Units located in the County Urban Service Area.

"Recyclable Material Collection Service" means the process whereby Recyclable Material is removed from a Dwelling Unit, processed and marketed by Contractor.

"Recycling Bin" means two fourteen-gallon stackable bins suitable for temporary storage of Recyclable Material, one of which shall be colored PMS #715 green for newspapers, and the second of which shall be colored reflex blue for other commingled Recyclable Material.

"Residential Property" means a parcel of Improved Property on which a Single-Family Residence, Mobile Home, Duplex or Triplex is located; provided, however, that "Residential Property" does not include (A) property on which a Mobile Home is located that is classified as either "RMH-5," "PUD," "HIRD," "RE-2", "CG," "CN," "CO," or "RVP" under the County's zoning regulation, or (B) a parcel of property on which more than one Single-Family Residence, Mobile Home, Duplex or Triplex is located; or (C) any Dwelling Unit located on a parcel of property that shares a common wall with one or more other Dwelling Units on other parcels of property not under common ownership. Any disputes concerning the definition of Residential Property shall be resolved as provided for in Section 6.22 of this Agreement. Residential property shall not include any County owned property.

"Residential Waste" means Household Waste, Yard Trash and Bulk Items.

"Residential Waste Collection Component" means the fee for providing Residential Waste Collection Service to a Dwelling Unit, which shall be (A) \$6.75 per month for Dwelling Units located in the County Urban Service Area, and (B) ~~\$6.75~~ per month for Dwelling Units located in the County Rural Service Area.

\$14.75


"Residential Waste Collection Service" means the process whereby Residential Waste is removed from a Dwelling Unit and transported to a Designated Disposal Facility.

"Rubbish" means all refuse, accumulation of paper, excelsior, rags, wooden or paper boxes and containers, sweep-ups and all other accumulations of a nature other than Garbage, which are usual to housekeeping; also any bottles, cans or other containers not containing Garbage.

"Service Day" means the date on which Collection Service is provided.

"Single-Family Residence" shall mean a Building that contains a single Dwelling Unit.

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

"Standard Container" means any commonly available light gauge steel, plastic, or galvanized water tight receptacle of a non-absorbent material, closed at one end and open at the other, furnished with a closely fitted water tight top or lid and handle(s), or for Household Waste only, a heavy duty, securely tied, plastic bag designed for use as a garbage receptacle. A standard container shall not exceed 32 gallons in capacity.

"Tipping Fee" means the disposal fee at the Designated Disposal Facility for Household Waste, Yard Trash and Bulk Items, expressed in dollars per ton.

"Triplex" shall mean a Building that contains three Dwelling Units.

"Waste Disposal Component" means \$3.44 per month, the amount computed by (A) multiplying (1) the generation rate for Household Waste and Bulk Items, which is stipulated during the term of this Agreement to be 1.29 tons per year, by (2) the Tipping Fee, expressed in dollars per ton, at the Designated Disposal Facility for Household Waste, and (B) dividing the result by twelve.

"White Goods" means inoperative and discarded refrigerators, ranges, water heaters, freezers, and other similar domestic appliances that were previously used at the Dwelling Unit from which they are collected.

"Yard Trash" means vegetative matter resulting from yard and landscape maintenance. The term "Yard Trash" does not include Exempt Waste.

"Yard Trash Disposal Component" means \$.77 per month, the amount computed by (A) multiplying (1) the Yard Trash generation rate, which is stipulated during the term of this Agreement to be 0.46 tons per year, by (2) the Tipping Fee, expressed in dollars per ton, at the Designated Disposal Facility for Yard Trash, and (B) dividing the result by twelve.

SECTION 1.02. CONSTRUCTION AND INTERPRETATION.

(A) Words importing the singular number shall include the plural in each case and vice versa, and words importing persons shall include firms and corporations. The terms "herein," "hereunder," "hereby," "hereto," "hereof," and any similar terms, shall refer to this Agreement; the term "heretofore" shall mean before the date of adoption of this Agreement; and the term "hereafter" shall mean after the initial date of adoption of this Agreement.

(B) No provision of this Agreement is to be interpreted as a penalty upon any party to this Agreement. The parties hereby agree that the rights of the County in the event Contractor takes or fails to take certain actions pursuant to this Agreement, are reasonable, and that the parties desire such certainty with regard to such matters.

(C) This Agreement shall not be construed more strongly against any party regardless that such party, or its counsel, drafted this Agreement.

SECTION 1.03. SECTION HEADINGS. Any headings preceding the texts of several Articles and Sections of this Agreement and any table of contents or marginal notes appended to copies hereof, shall be

solely for convenience of reference and shall neither constitute a part of this Agreement nor affect its meaning, construction or effect.

ARTICLE II

REPRESENTATIONS

SECTION 2.01. REPRESENTATIONS OF THE COUNTY. The County makes the following representations as the basis for the undertakings on the part of Contractor herein contained:

(A) The County is duly organized and validly existing as a political subdivision of the State of Florida.

(B) The County has full power and authority to enter into the transactions contemplated by this Agreement.

SECTION 2.02. REPRESENTATIONS OF CONTRACTOR. Contractor makes the following representations as the basis for the undertakings on the part of the County herein contained:

(A) Contractor is a corporation duly organized, validly existing and in good standing under the laws of the State of Florida, authorized to do business in the State of Florida, and has all requisite corporate power and authority to enter into and fully perform this Agreement. All necessary corporate action on the part of Contractor relating to the authorization of its execution and delivery of this Agreement and its performance of its duties and obligations contained herein have been duly taken, and this Agreement, when executed and delivered, will be valid and enforceable against Contractor in accordance with its terms, except to the extent that the enforceability thereof may be limited by any applicable bankruptcy, insolvency, moratorium, reorganization or other similar laws affecting creditors' rights generally, or by the exercise of judicial discretion in accordance with general principles of equity.

(B) There are no actions, suits or proceedings pending or, to the knowledge of Contractor, threatened against or affecting Contractor, at law or in equity or before or by any Federal, state, municipal or other governmental department, commission, board, bureau, agency or instrumentality wherein an unfavorable decision, ruling or finding would adversely affect the validity of this Agreement or any agreement or instrument to which Contractor is a party and which is used or contemplated for use in the consummation of the transactions contemplated hereby.

(C) Contractor is willing, ready and able to fully perform the duties and obligations contained herein.

ARTICLE III

RESIDENTIAL WASTE COLLECTION SERVICE

SECTION 3.01. GENERAL DESCRIPTION.

(A) Contractor shall provide Residential Waste Collection Service to all Residential Property located within the County Urban Service Area. In addition, Contractor shall provide Residential Waste Collection Service, upon request and continued payment of the County Rural Service Area Fee, to Residential Property located within the County Rural Service Area.

(1) Upon the request of the owner of any Multiple single-family attached units within the County Urban Service Area that utilizes Standard Containers and payment of the County Urban Service Area Fee, Contractor shall provide Residential Waste Collection Service and Recyclable Material Collection Service to such Multiple single-family attached units.

(2) Upon the request of the owner of any Multiple single-family attached units within the County Rural Service Area that utilizes Standard Containers and payment of the County Rural Service Area Fee, Contractor shall provide Residential Waste Collection Service to such Multiple single-family attached units.

(B) Adjustments to County Urban Service Area or County Rural Service Area boundaries due to municipal annexation or contraction will be as provided by Section 171.062, Florida Statutes.

(C) The County agrees to provide or identify one or more Designated Disposal Facilities at all times. All Residential Waste collected by Contractor will be delivered to a Designated Disposal Facility and the applicable disposal charge shall be paid by Contractor. If Contractor delivers Residential Waste to any facility other than a Designated Disposal Facility, Contractor agrees to pay to the County, as liquidated damages and in addition to any other remedy available to the County pursuant to this Agreement, an amount equal to three times the Tipping Fee that would have been paid if such Residential Waste had been delivered to a Designated Disposal Facility. At the County's direction, Contractor shall segregate and separately dispose of Bulk Items at specified areas of a Designated Disposal Facility.

(D) Contractor acknowledges that the County intends to authorize one or more persons or entities to provide Commercial Collection Service within the County Urban Service Area and the County Rural Service Area and that the County has no jurisdiction over the collection of Residential Waste within the City or Commercial Collection Service within the City. In addition, the County may authorize one or more persons or entities to provide Residential Waste Collection Service in the County Rural Service Area. The County shall have the right at any time to authorize any other person or entity to engage in the on-site collection of Construction and Demolition Debris, Contractor Generated Waste and Hazardous Waste.

(E) Contractor shall be subject to all laws, rules and regulations applicable to Residential Waste Collection Service as adopted by the County. This Agreement does not and shall not be construed to relieve Contractor from any obligation to address any permit, condition, term, approval or restriction and shall not relieve Contractor, or its successors, of the obligation to comply with any law, ordinance, rule or regulation governing said permitting requirements, terms, approvals or restrictions.

SECTION 3.02. COLLECTION OF HOUSEHOLD WASTE.

(A) Household Waste will be placed in Standard Containers and placed at Curbside prior to 7:00 a.m. on the Service Day. Household Waste will not be placed in the same Standard Container as Yard Trash. All Household Waste shall be properly containerized in Standard Containers or placed at Curbside. No filled Standard Container or individual item shall exceed 50 pounds in weight.

(B) Subject to the holiday provisions set forth in Section 6.04 hereof, (1) two weekly Household Waste Service Days will be scheduled for Residential Property in the County Urban Service Area at regular intervals of not less than forty-eight nor more than ninety-six hours apart, and (2) one weekly Household Waste Service Day will be scheduled for Residential Property located within the County Rural Service Area. On or prior to October 1, 2004, Contractor will deliver a detailed route schedule (including maps) to the County Administrator. Revised route schedules and maps shall be provided not less than five days prior to any change.

(C) All Standard Containers placed at Curbside will be emptied and all plastic bags and individual items placed at Curbside will be removed by Contractor. Other than plastic bags, each Standard Container shall be opened, emptied at truck-side, and left at the same point it was collected in an upside down position with the lid beside the Standard Container. No Standard Container shall be left in a driveway, ditch, or public roadway.

(D) Exempt Waste or Standard Containers holding Exempt Waste may be left at Curbside by Contractor. Contractor agrees to attach a prominent written three part notice (one (1) for the Customer, one (1) for the County, and one (1) for the Contractor) to the Standard Container explaining why the Standard Container was not emptied or the Exempt Waste was not removed. The notice shall include a telephone number to be called if the customer desires to contest Contractor's determination that any material constitutes Exempt Waste. If Contractor and the customer cannot agree, Contractor shall immediately notify the County Administrator and the issue shall be resolved pursuant to Section 6.22 hereof.

SECTION 3.03. COLLECTION OF YARD TRASH.

(A) Yard Trash will be placed in Standard Containers or separately at Curbside prior to 7:00 a.m. on the Service Day. All Yard Trash generated by Residential Property shall be prepared for collection as follows:

(1) All stumps, trees, and limbs, except for palm fronds, shall be cut into lengths no longer than four (4) feet and stacked in piles. No single stump, tree, or limb shall exceed fifty pounds in weight.

(2) All palm fronds shall be stacked in neat piles. No single palm frond shall exceed fifty pounds in weight.

(3) All grass clippings, leaves, and similar small vegetative debris, shall be placed in Standard Containers.

(4) Yard Trash will not be placed in the same Standard Container as Household Waste. Each Residential Container shall be opened and emptied at truck-side. Lids shall be replaced or left adjacent to the Residential Container.

(B) Subject to the holiday provisions set forth in Section 6.04 hereof, one weekly Yard Trash Service Day will be scheduled for Residential Property located within the County Urban Service Area and the County Rural Service Area. On or prior to October 1, 2004, Contractor will deliver a detailed route schedule (including maps) to the County Administrator. Revised route schedules and maps shall be provided not less than five days prior to any change.

(C) Contractor shall not knowingly commingle Yard Trash with Household Waste or Recyclable Material.

SECTION 3.04. COLLECTION OF BULK ITEMS. Collection Service shall be provided for all Bulk Items generated in the normal course of use at the Dwelling Unit for which Residential Waste Collection Service is provided. No additional charge shall be made for the collection of Bulk Items. Bulk waste shall be picked up in the same manner and schedule as other household garbage.

SECTION 3.05. BACK DOOR COLLECTION SERVICE.

(A) Upon request of any customer and payment of the Back Door Surcharge, Contractor shall provide Back Door Collection Service. Back Door Collection Service shall include Household Waste and Recovered Material. Collection Service for Bulk Items and Yard Trash will be provided at Curbside.

(B) Contractor will also provide Back Door Collection Service to handicapped persons if the customer provides to Contractor proof of handicapped status as required by Section 320.0848(1)(a), Florida Statutes, and certifies that no other able-bodied person resides in the household. Back Door Collection Service will be provided to handicapped persons for Household Waste and Recyclable Material without payment of the Back Door Surcharge. Collection Service for Yard Trash and Bulk Items will be provided at Curbside.

SECTION 3.06. MANNER OF COLLECTION. Contractor shall collect Residential Waste from Residential Property with as little disturbance as possible. Any Standard Container damaged by Contractor will be replaced or repaired promptly by Contractor. Any property of others damaged by Contractor shall be repaired or replaced to the satisfaction of the owner. Contractor shall not litter or cause any spillage to occur upon the premises or the right-of-way wherein the collection shall occur. During hauling, all Residential Waste shall be contained, tied, or enclosed so that leaking, spilling, and blowing is prevented. In the event of any spillage, the Contractor shall promptly clean up all spillage.

SECTION 3.07. NATURAL DISASTERS.

(A) In the event of a natural disaster, Contractor agrees to do all work as required by the County Administrator, both within the County Urban Service Area and the County Rural Service Area. All equipment and personnel of Contractor or its subsidiaries or affiliates, shall be available to the County in the event of a natural disaster; provided however, that if Contractor or its subsidiaries or affiliates provide service to other jurisdictions affected by the same natural disaster, Contractor and its subsidiaries and affiliates shall use their best efforts to equally assist all affected jurisdictions, including the County. In the event the County Administrator requires services beyond what is required of Contractor hereunder, considering any reduction of regular service during such disaster, Contractor shall receive extra compensation above the normal compensation contained in this Agreement to cover documented actual costs for such extra services provided by Contractor, provided Contractor has first secured written authorization and approval from the County Administrator. The extra compensation shall be reasonable and if Contractor and County Administrator cannot agree on the amount of extra compensation, the Board shall make the final determination. Contractor agrees to provide the emergency services immediately upon request and the fact that the extra compensation has not been determined shall not delay the provision of service.

(B) In the event Contractor, through no fault of its own, is incapacitated by a hurricane, tornado, major storm or other natural disaster, the County Administrator may grant Contractor a variance from regular routes and schedules. Such variance shall not be withheld unreasonably. In such event, the County Administrator may authorize other service providers to temporarily provide Collection Service within the County Urban Service Area and the County Rural Service Area after such natural disaster. As soon as practicable after such natural disaster, Contractor shall advise the County Administrator when it is anticipated normal routes and schedules can be resumed.

SECTION 3.08. HAZARDOUS WASTE. Contractor shall not be required to collect and dispose of Hazardous Waste under this Agreement. All such collection and disposal of Hazardous Waste are not regulated under this Agreement, unless and until a separate agreement therefore is entered into by and between County and Contractor.

SECTION 3.09. USE OF DESIGNATED DISPOSAL FACILITY.

(A) As a material consideration for this Agreement, Contractor agrees that all Residential Waste collected by Contractor will be delivered to a Designated Disposal Facility and the applicable disposal charge shall be paid by Contractor.

(B) On or before the tenth day of each month, Contractor shall pay the full County Disposal Charge incurred by Contractor for the prior month. County Disposal Charges shall be based upon the records maintained by the County indicating the total weight of Residential Waste deposited at each Designated Disposal Facility by Contractor's vehicles. County Disposal Charges shall be computed in accordance with the schedule of charges approved by the Board, as the same may be amended from time to time.

(C) Contractor shall post security in a form acceptable to the County Attorney in the amount of \$200,000, which is Contractor's estimated total County Disposal Charges for two months, rounded to the

nearest thousand dollars. The security shall insure Contractor's faithful and timely payment of all County Disposal Charges. The parties agree that this security amount is an estimate by the County and may be reviewed in April 2005 and semiannually thereafter. If there is a significant increase in Contractor's monthly total County Disposal Charge, the County reserves the right to review the security amount at any time. Based upon any such review, the security amount shall be adjusted to the revised estimated total County Disposal Charge for two months, rounded to the nearest thousand dollars. Any adjustment of the security amount may also include an adjustment for a Tipping Fee increase authorized by the Board if such increase is due to take effect prior to the next regularly scheduled review.

(D) Contractor agrees to comply with the provisions of all permits, rules, regulations, laws and ordinances adopted or issued by the County, State of Florida, or United States of America and applicable to the Designated Disposal Facility.

(E) Contractor hereby releases the County from all liability and shall indemnify and hold the County, its agents, and employees harmless from any and all claims and causes of action for loss of property, accident, personal injury or death by reason of any act or omission of Contractor, its agents, or employees in the use of the Designated Disposal Facility and for all claims and causes of action for violation of all permits, rules, regulations, laws and ordinances adopted or issued by the County, State of Florida, or United States of America due to the placement or disposal of Hazardous Waste at the Designated Disposal Facility by reason of any act or omission of Contractor, its agents or employees in the use of the Designated Disposal Facility.

(F) The County shall have the right, in its sole discretion, to direct Contractor to dispose of the Residential Waste collected pursuant to this Agreement at any Designated Disposal Facility. In the event that the County chooses or is obliged to change the location of such disposal to any site other than the current landfill on Glades Cutoff Road, Contractor and the County shall in good faith negotiate a new rate for affected

services, based on the difference in total transportation costs of all collection vehicles caused by the change in location of the new Designated Disposal Facility. Should the County and Contractor be unable to agree upon new rates when and if the County designates a new disposal site, the existing rates shall continue to apply for a period of 90 days at which time either party may terminate the Agreement. Notwithstanding the existence of any contract between Contractor and any owner or occupant of Residential Property, if this Agreement is terminated the County shall be immediately entitled to secure the Customer List in order to provide or contract for interim collection service.

ARTICLE IV

RECYCLABLE MATERIAL COLLECTION SERVICE

SECTION 4.01. RECYCLABLE MATERIAL COLLECTION SERVICE.

(A) Contractor shall provide Collection Service for Recyclable Material from all Residential Property located within in the County Urban Service Area. Within the County Urban Service Area, the charge for the Recyclable Material Collection Service shall be included in the charge for the Residential Waste Collection Service but will be separately stated on each bill.

(B) Subject to the holiday provisions set forth in Section 6.04 hereof, one weekly Recyclable Material Service Day will be scheduled for Residential Property located within the County Urban Service Area. The Recyclable Material Service Day will coincide with one of the Household Waste Service Days. On or prior to October 1, 2004, Contractor will deliver a detailed route schedule (including maps) to the County Administrator. Revised route schedules and maps shall be provided not less than five days prior to any change.

(C) All Recyclable Material to be collected from Residential Property shall be in approved Recycling Bins placed at Curbside.

SECTION 4.02. RECYCLING BINS.

(A) Not more than three and not less than two weeks prior to the commencement of Recyclable Material Collection Service, Contractor at its own expense shall provide and deliver Recycling Bins to any Dwelling Unit in the County Urban Service Area for which a request is made in response to the new service information provided pursuant to Section 6.19 hereof.

(B) The size, shape, and color of the Recycling Bins, and the configuration of any printing shall be approved by the County Administrator.

(C) Upon delivery to each customer, the title to the Recycling Bins shall be transferred to the County.

(D) Contractor shall replace at its own expense any Recycling Bin that is (1) lost, (2) rendered unserviceable through normal wear and tear of collection services, or (3) damaged through the fault or negligence of Contractor or its employees. The replacement Recycling Bin shall be delivered on the next Recovered Material Service Day following the customer's request.

(E) Contractor must purchase Recycling Bins manufactured with a minimum of 25 percent post-consumer plastic.

(F) The County shall notify Contractor of the issuance of certificates of occupancy within the County Urban Service Area. Recycling Bins for newly constructed Dwelling Units shall be provided and delivered by Contractor within ten days of Contractor's receipt of such notice.

SECTION 4.03. MANNER OF COLLECTION. Contractor shall collect Recyclable Material with as little disturbance as possible and shall leave the Recycling Bins at the same point they were collected. To be

eligible for pick-up, Recyclable Material must be placed in Recycling Bins and the Recycling Bins must be placed at the usual accessible pick-up location. If materials other than Recyclable Material are improperly placed in a Recycling Bin, Contractor shall return such material to the Recycling Bin and place a brightly colored "friendly" reminder notice on the inside of the Recycling Bin informing the customer of the error.

SECTION 4.04. MARKETING RECYCLABLE MATERIAL.

(A) Contractor shall not return collected Recyclable Material to the waste stream. If the market ceases to exist for any Recyclable Material, alternate disposal options for such Recyclable Material must be approved in advance by the County Administrator. Such approval shall not be unreasonably withheld.

(B) Contractor shall be responsible for processing and marketing all Recyclable Material collected and shall take all reasonable commercial action to assure that the Recyclable Material are separated, processed and marketed or otherwise disposed of in a manner that assures reuse or return to use in the form of raw materials or products.

SECTION 4.05. RECYCLING COLLECTION EQUIPMENT.

(A) Contractor shall have on hand at all times and in good working order such recycling collection service equipment as to permit Contractor to adequately and efficiently perform the contractual duties specified in this Agreement. Vehicles for Recyclable Material Collection Service shall be designed to separate various types of Recyclable Material and shall be enclosed or otherwise properly covered so as to prevent litter or discharge. Vehicles used for Recyclable Material Collection Service must be a different color than vehicles used for Residential Waste Collection Service. The color of vehicles used for Recyclable Material Collection Service shall be approved by the County Administrator. All equipment used for Recyclable Material Collection Service shall be kept in good repair and appearance, and in a sanitary, clean condition at all times.

(B) No advertising, except signage approved by the County to promote recycling will be permitted on recycling collection vehicles. Contractor name, corporate logo, and telephone number must be displayed on all vehicles at all times.

SECTION 4.06. REVENUE FROM SALE OF RECYCLABLE MATERIAL.

Contractor shall at all times hold title and ownership to all Recyclable Material collected by Contractor pursuant to this Agreement and shall retain the revenues obtained from its sale of Recyclable Material.

ARTICLE V

FEES, BILLING AND COLLECTION

SECTION 5.01. COUNTY URBAN SERVICE AREA FEES.

(A) During the term of this Agreement, Contractor shall charge the County Urban Service Area Fee to Dwelling Units located in the County Urban Service Area.

(B) On the date any change in the Tipping Fee for Household Waste becomes effective, the Waste Disposal Component of the County Urban Service Area Fee will be adjusted to reflect (1) the new Tipping Fee, and (2) an amount equal to the Franchise Fee payable pursuant to Section 5.04 hereof in respect of the increase or decrease resulting from the adjustment of such Tipping Fee. The County agrees to notify Contractor 120 days in advance of any change in the Tipping Fee for Household Waste.

(C) On the date any change in the Tipping Fee for Yard Trash becomes effective, the Yard Trash Disposal Component of the County Urban Service Area Fee will be adjusted to reflect (1) the new Tipping Fee, and (2) an amount equal to the Franchise Fee payable pursuant to Section 5.04 hereof in respect of the increase or decrease resulting from the adjustment of such Tipping Fee. The County agrees to notify Contractor 120 days in advance of any change in the Tipping Fee for Yard Trash.

(D) If during the term of this Agreement the State of Florida imposes a sales tax on Residential Waste Collection Service or Recyclable Material Collection Service, the amount of such tax may be collected by Contractor from the customers in addition to the County Urban Service Area Fee. In such event, the amount of such tax collected by Contractor shall not be deemed gross revenues of Contractor for purposes of computing the Franchise Fee payable pursuant to Section 5.04 hereof.

SECTION 5.02. COUNTY RURAL SERVICE AREA FEES.

(A) During the term of this Agreement, Contractor shall charge the County Rural Service Area Fee to Dwelling Units located in the County Rural Service Area.

(B) On the date any change in the Tipping Fee for Household Waste becomes effective, the Waste Disposal Component of the County Rural Service Area Fee will be adjusted to reflect (1) the new Tipping Fee, and (2) an amount equal to the Franchise Fee payable pursuant to Section 5.04 hereof in respect of the increase or decrease resulting from the adjustment of such Tipping Fee. The County agrees to notify Contractor 120 days in advance of any change in the Tipping Fee for Household Waste.

(C) On the date any change in the Tipping Fee for Yard Trash becomes effective, the Yard Trash Disposal Component of the County Rural Service Area Fee will be adjusted to reflect (1) the new Tipping Fee, and (2) an amount equal to the Franchise Fee payable pursuant to Section 5.04 hereof in respect of the increase or decrease resulting from the adjustment of such Tipping Fee. The County agrees to notify Contractor 120 days in advance of any change in the Tipping Fee for Yard Trash.

(D) If during the term of this Agreement the State of Florida imposes a sales tax on Residential Waste Collection Service, the amount of such tax may be collected by Contractor from the customers in addition to the County Rural Service Area Fee. In such event, the amount of such tax collected by Contractor

shall not be deemed gross revenues of Contractor for purposes of computing the Franchise Fee payable pursuant to Section 5.04 hereof.

SECTION 5.03. RESIDENTIAL BILLING, COLLECTION AND PAYMENTS.

(A) Contractor shall be responsible for the billing and collection of County Urban Service Area Fees and County Rural Service Area Fees. Customers shall be billed, in advance, at the beginning of each calendar quarter. Fees shall be deemed delinquent fifteen days after the end of the calendar quarter. Interest shall accrue on delinquent Urban Service Area Fees and County Rural Service Area Fees at the same rate provided in Section 55.03, Florida Statutes. Customers shall not be billed for any services provided in excess of one (1) year from the date the services were provided.

(B) To the full extent permitted by law, Contractor is hereby authorized to impose a lien against Residential Property as to which County Urban Service Area Fees or County Rural Service Area Fees are delinquent in the amount of such delinquent Urban Service Area Fee and County Rural Service Area Fee, plus interest to the date of payment. Provided however, Contractor agrees to use its best efforts to collect delinquent fees by means other than the imposition of liens. All liens for delinquent payments shall be imposed within one (1) year of becoming delinquent. In consideration of the payment of One Hundred Dollars (\$100.00) by the County to the Contractor, the Contractor agrees to save harmless and assume the defense of and indemnify the County and its officers, employees, contractors and consultants against and from any and all claims, costs, charges and expenses (including without limitation, fees and expenses of attorneys, expert witnesses and other consultants) which may be imposed against the County and their officers, employees, contractors and consultants by reason of any lien imposed by Contractor pursuant to this Section 5.03(B). In case any claim shall be made or action brought against any person or entity in respect of which indemnity may be sought against Contractor, such indemnified person or entity shall promptly notify Contractor in writing

setting forth the particulars of such claim or action. The indemnified person or entity shall be entitled to select and retain counsel of his or her choice and Contractor shall be responsible for the payment or immediate reimbursement for all reasonable fees and expenses incurred in the defense of such claim or action.

(C) Contractor shall not terminate Residential Waste Collection Service or Recyclable Material Collection Service for non-payment of County Urban Service Area Fees. Uncollectible accounts shall not be the responsibility of the County. No owner or occupant shall avoid the use of, or be excused from the payment of, Residential Waste Collection Service or Recyclable Material Collection Service by virtue of non-payment.

(D) On or before October 1, 2004, and at the County's request thereafter (which shall not exceed four times per year), Contractor shall provide to the County a copy of the Customer List. The Customer List shall designate the Dwelling Units receiving Back Door Collection Service as handicapped customers and the Dwelling Units receiving Back Door Collection Service upon payment of the Back Door Surcharge. If requested by the County Administrator, Contractor shall provide the Customer List on electronic media in a format compatible with the County's data processing system.

SECTION 5.04. FRANCHISE FEES.

(A) To compensate the County for the cost of administration, supervision and inspection rendered for the effective performance of this Agreement, Contractor shall pay to the County a Franchise Fee equal to four percent of all gross revenues collected or received from its customers within the County Urban Service Area and the County Rural Service Area for Residential Waste Collection Service and Recyclable Material Collection Service. For the purposes of determining the Franchise Fee due the County, gross revenues shall encompass all fees charged for Residential Waste Collection Service and Recyclable Material Collection Service, including the Tipping Fee paid by Contractor at any Designated Disposal Facility.

(B) Franchise Fees shall be payable monthly in arrears. Any amounts not paid when due shall earn interest at the same rate provided in Section 55.03, Florida Statutes. Adjustments to the Franchise Fees due the County, based upon additional information on the gross revenues revealed by the reporting requirements in Section 6.13 hereof, or otherwise, shall be made from time to time. Any further amounts which may be due County as a result of changes or additional information relating to the gross revenues shall be made with the next monthly payment.

SECTION 5.05. NON-AD VALOREM ASSESSMENT PROVISIONS. Notwithstanding any other provision of this Agreement to the contrary, the provisions of this Section 5.05 shall apply during any Fiscal Year for which the County has imposed non-ad valorem assessments against Residential Property located within the County Urban Service Area to fund all cost of Collection Service.

(A) The provisions of this Section 5.05(A) shall apply to Collection Service provided in the County Urban Service Area.

(1) Upon notification from the County that it intends to impose non-ad valorem assessments against Residential Property located within the County Urban Service Area to fund all cost of Collection Service, Contractor will deliver to the County its current County Urban Service Area Customer List and any other information within its control to assist the County with revisions to the Urban Service Area Customer List that are required to facilitate its use as a special assessment roll. Following imposition of the non-ad valorem assessments, the County will be responsible for maintaining the County Urban Service Area Customer List. The County Urban Service Area Customer List will be updated to reflect the Dwelling Units to which Collection Service is to be provided by adding any Dwelling Units for which a new certificate of occupancy is issued and deleting any Dwelling Units which can no longer be occupied due to eminent domain, code enforcement, natural disaster or other

reasons. Adjustments to the County Urban Service Area Customer List shall be made within five days after notification by the party discovering the need for adjustment.

(2) Effective October 1 of any Fiscal Year for which the County has imposed non-ad valorem assessments against Residential Property located within the County Urban Service Area to fund the cost of the Residential Waste Collection Component, the Recyclable Materials Collection Component, the Waste Disposal Component and the Yard Trash Disposal Component, the County agrees to pay Contractor for providing Collection Service to property located within the County Urban Service Area. Beginning on the fifteenth day of November and the fifteenth day of each month thereafter, the County agrees to pay the Contractor for services provided in the prior month in the amount of \$12.94 per each Dwelling Unit on the County's Urban Service Customer List as of the last day of the immediate prior calendar month, less the four percent Franchise Fee imposed pursuant to Section 5.04. The amount to be paid each month, less the Franchise Fee, will be \$12.42 ($\$12.94 - .52 = \12.42). Contractor shall be solely responsible for billing and collecting the Back Door Surcharge.

(3) Amounts payable to Contractor pursuant to this Section 5.06 shall constitute "gross revenue" for purposes of computing the Franchise Fee.

(B) This Section 5.05 shall not affect any terms of this Agreement related to the provision of Residential Waste Collection Service in the County Rural Service Area.

ARTICLE VI

OPERATIONS

SECTION 6.01. OFFICE.

(A) Contractor shall maintain an office within the County where complaints can be received. It shall be equipped with sufficient telephones, and shall have responsible person in charge during collection

hours and at minimum shall be open during normal business hours, 8:00 a.m. to 5:00 p.m. Monday through Friday and at all other times that service is being provided. All telephone numbers used by Contractor shall allow for toll free use for any call originating from within the County. Any call received after hours shall be recorded electronically and returned prior to noon of the next business day.

(B) During normal business hours, Contractor shall allow the County to inspect and copy all records, papers, letters, or other documents related to Contractor's performance of this Agreement.

SECTION 6.02. HOURS FOR SERVICE. Residential Waste Collection Service and Recyclable Material Collection Service shall be provided between the hours of 7:00 a.m. and 6:00 p.m. Monday through Saturday. The hours of Collection Service may be extended due to extraordinary circumstances or conditions with the prior consent of the County Administrator.

SECTION 6.03. ROUTES AND SCHEDULES. Contractor shall provide the County Administrator, in a format acceptable to the County Administrator, the schedules of all routes for Residential Waste Collection Service and Recyclable Material Collection Service and keep such information current at all times. In the event of a permanent change in routes or schedules that will alter the day of pick-up, Contractor shall immediately notify the customer affected in writing or other manner approved by the County Administrator not less than two weeks prior to the change.

SECTION 6.04. HOLIDAYS.

(A) The dates on which the County observes the following holidays shall be holidays for Contractor: Thanksgiving Day, Christmas Day and July 4th. Contractor is not required to provide Residential Waste Collection Service, Recyclable Material Collection Service or maintain office hours on the holidays set forth above.

(B) Contractor is not required to make up Residential Waste Collection Service or Recyclable Material Collection Service that is not provided on Thanksgiving Day and July 4th; provided however, that (1) Residential Waste Collection Service for Household Waste shall be provided at least one time during each week, and (2) Recyclable Material Collection Service shall be provided at least one time during each two week period. Residential Waste Collection Services and Recyclable Material Collection Services that are not provided on Christmas Day will be provided on the next regularly scheduled collection day immediately following Christmas Day.

SECTION 6.05. CONTRACTOR PERSONNEL.

(A) Contractor shall assign qualified persons to be in charge of the operations within the County Urban Service Area and the County Rural Service Area and shall provide the name of each person to the County Administrator.

(B) Contractor shall not discriminate against any employee or applicant for employment to be employed in the performance of this Agreement with respect to hiring, tenure, terms, conditions or privileges of employment, or any matter directly or indirectly related to employment because of age, sex or physical handicaps (except where based on a bonafide occupational qualification); or because of marital status, race, color, religion, national origin or ancestry.

(C) Contractor shall bear the responsibility for verifying the employment status, under the Immigration Reform and Contract Act of 1986, of all persons it employs in the performance of this Agreement.

(D) Contractor's collection employees and field supervisors shall wear a uniform or shirt bearing the name of Contractor.

(E) Each driver of a collection vehicle shall at all times carry a valid Florida driver's license for the type of vehicle that is being driven.

(F) Contractor's name and office telephone number shall be prominently displayed on all vehicles used to collect Residential Waste and Recyclable Material and on all vehicles used by field supervisors. Contractor shall provide the County at all times with a current list of the vehicles used for Residential Waste Collection Service and Recyclable Material Collection Service.

(G) Contractor shall provide operating and safety training for all personnel.

(H) Contractor's employees shall treat all customers in a polite and courteous manner.

SECTION 6.06. COLLECTION EQUIPMENT. All equipment used to fulfill this contract shall be new at the institution of services. All vehicles shall be new rear or side loaded vehicles. Contractor shall have on hand at all times and in good working order such equipment as shall permit Contractor to adequately and efficiently perform the contractual duties specified in this Agreement. Contractor's proposal to enter into this Agreement included a list of the specific equipment to be used by Contractor in its provision of Collection Service hereunder. The parties agree that the equipment list is made a part hereof by reference and may not be changed without prior written approval by the County Administrator. All collection equipment shall be kept in good repair, appearance, and in a sanitary, leak-proof, clean condition at all times. Contractor shall have available sufficient reserve equipment to provide the service within the hours and days of collection required hereunder. Such reserve equipment shall correspond in size and capacity to the equipment used by Contractor to perform its contractual duties. Equipment is to be painted uniformly with the name of Contractor, business telephone number and the number of the vehicle in letters not less than 3 inches high on each side of the vehicle. All vehicles shall be numbered and a record kept of the vehicle to which each number is assigned. No advertising shall be permitted on vehicles, except for events sponsored by the County, which shall be advertised on request.

SECTION 6.07. COMPLAINTS.

(A) All service complaints shall be directed to Contractor unless otherwise directed by the County Administrator. The County Administrator shall notify Contractor of each complaint communicated to the County. All complaints shall be immediately recorded on a complaint log by Contractor. Contractor shall provide a substantive response to each complaint within 24 hours after it is received by Contractor. When the complaint is received after 12:00 noon on a Saturday or the day preceding a holiday, as specified in this Agreement, a substantive response shall be made by Contractor no later than the next regular working day. Each complaint shall be fully resolved within 96 hours after it is received by Contractor.

(B) Contractor shall supply the County Administrator on a monthly basis with a typed statement of all oral or written complaints (including copies of written complaints received) on a complaint form or other written format approved by the County Administrator, from any source and whether or not received and forwarded to Contractor by the County. Such statement shall be in the format approved by the County indicating the date and hour of inquiry or complaint receipt, the nature of the complaint; if received on the day preceding a holiday or a weekend, it shall be addressed on the next working day if a resolution cannot be reached on the date of receipt. Contractor shall provide the County Administrator with a full explanation of the disposition of any complaint involving a claim of damage to persons or property as the result of actions of Contractor or its employees or agents. Contractor shall provide individual written notice to all of its Residential Waste Collection Service and Recyclable Material Collection Service customers about complaint procedures, rules and regulations, and days of collection on an annual basis and whenever there is a change in service, days of collection or other procedures. Such notice materials must be approved by the County Administrator prior to distribution. The County may from time to time contact customers directly regarding the quality of service and the disposition of complaints.

SECTION 6.08. QUALITY OF PERFORMANCE OF CONTRACTOR.

(A) It is the intent of the County to ensure that Contractor provides a high quality level of Collection Service. To this end, all complaints received by the County Administrator and reported to Contractor shall be promptly resolved pursuant to the provisions of this Agreement. In the event legitimate complaints, as determined by the County Administrator, shall exceed one percent of the total customers including those billed by Contractor, within the County Urban Service Area and the County Rural Service Area during any Fiscal Year, or one-quarter of one percent of the total customers including those billed by Contractor, during any one calendar month, the County Administrator may levy administrative charges for those complaints as set forth in Sections 6.08(A)(1) and 6.08(A)(2) hereof which exceed the percentage levels specified herein.

(1) Failure to clean-up spilled Residential Waste and Recyclable Material; \$10.00 per incident per location.

(2) Failure or neglect to collect Solid Waste or Recyclable Material from any premises at or within the times specified within this Agreement; \$50.00 per incident per location.

(B) For performance failures by Contractor as specified in Sections 6.08(B)(1) through (7) hereof, the County Administrator may levy administrative charges as follows:

(1) Failure or neglect to complete each route on the regular Service Day; \$1,000.00 for each route not completed each day.

(2) Failure to keep vehicles and equipment in good repair and maintained in clean, safe, and sanitary manner; \$1,000.00 per vehicle incident per day.

(3) Failure to have vehicle operators properly licensed; \$1,000.00 per day per incident.

- (4) Failure to maintain office hours in the manner specified in this Agreement; \$100.00 per day per incident.
- (5) Failure to replace or repair any container damaged as specified in this Agreement; \$25.00 per incident per location.
- (6) Failure to file and keep current all documents and reports required by this Agreement; \$100.00 per day per incident.
- (7) Failure to resolve any complaint as specified in this Agreement. \$25.00 per day per incident.

(C) The County Administrator may assess administrative charges pursuant to this Section 6.08 on a monthly basis in connection with this Agreement and shall at the end of each month during the term of this Agreement notify Contractor and the Board in writing of the administrative charges assessed and the basis for each assessment. In the event Contractor wishes to contest such assessment it shall provide written objections to each contested assessment or charge and, within five days after receiving such monthly notice, request in writing an opportunity to be heard and present its written defense to such administrative assessment. If the County Administrator and Contractor cannot agree on the contested assessment within ten days after receipt of Contractor's written defense, the County Administrator shall forward Contractor's written objection and defense to the Board for consideration and shall notify Contractor of the date on which the matter will be considered by the Board. The County shall notify Contractor in writing of any action taken with respect to Contractor's claims and the decision of the Board will be final administrative action.

(D) The assessment of administrative charges pursuant to this Section 6.08 is a supplementary remedy and does not replace any other remedies available to the County under this Agreement, or otherwise, for failure of Contractor to provide a high quality level of service.

SECTION 6.09. PERMITS AND LICENSES. Contractor shall obtain, at its own expense, all permits and licenses required by law or ordinance and maintain same in full force and effect.

SECTION 6.10. SECURITY FOR PERFORMANCE. Contractor shall secure its performance of this Agreement and all obligations arising hereunder either by furnishing a Letter of Credit, as described in Section 6.10(A) or by furnishing a Performance Bond, as described in Section 6.10(B). The Letter of Credit or Performance Bond shall be delivered to the County simultaneously with the execution of this Agreement.

(A) The Letter of Credit shall be issued by a federally insured and regulated savings and loan association or commercial bank, having offices in the State of Florida, must be rated at least "A" by Moody's Investors Service, Inc. or "A" by Standard and Poor's Corporation. The Letter of Credit shall secure the faithful performance of this Agreement and all obligations arising hereunder in the amount of \$500,000 and be in substantially the form set forth in Appendix B hereto. The Letter of Credit initially provided shall be valid and remain in effect throughout the term of this contract. It shall thereafter be automatically renewed for successive one year periods unless, at least 60 days prior to the Letter of Credit's date of expiration, the issuer of the Letter of Credit notifies the County in writing by registered mail that the issuer elects not to so renew the Letter of Credit. If at any time the County has been notified that the issuer of the Letter of Credit has elected not to renew the Letter of Credit for a successive period of at least one year and Contractor has failed to deliver to the County a replacement Letter of Credit meeting the standards set forth in this Section 6.10(A) or a Performance Bond meeting the standards set forth in Section 6.10(B) at least 15 days prior to the date on which the Letter of

Credit expires, the County shall be entitled to draw the full amount of the Letter of Credit and hold the funds derived therefrom to secure Contractor's performance of this Agreement.

(B) The Performance Bond shall be issued by a surety licensed to do business in the State of Florida, having an office in the State of Florida, and rated A-VII, B-X, or better according to Best's Key Rating Guide. The Performance Bond shall secure the faithful performance of this Agreement and all obligations arising hereunder in the amount of \$500,000 and shall be in substantially the form set forth in Appendix C hereto. A Performance Bond provided shall be valid and remain in effect throughout the terms of the contract. It shall thereafter be automatically renewed for successive one year periods unless, at least 90 days prior to its date of expiration, the issuer of the Performance Bond notifies the County in writing by registered mail that the issuer elects not to so renew the Performance Bond. If at any time the County has been notified that the issuer of the Performance Bond has elected not to renew the Performance Bond for a successive period of at least one year and Contractor has failed to deliver to the County a replacement Performance Bond meeting the standards set forth in this Section 6.10(B) or a Letter of Credit meeting the standards set forth in Section 6.10(A) not later than 15 days following the County's receipt of such notice, the County, at its sole option, may terminate this Agreement as of the date on which the Performance Bond expires.

SECTION 6.11. WORKER'S COMPENSATION INSURANCE. Worker's Compensation coverage must be maintained in accordance with statutory requirements as well as Employer's Liability Coverage in an amount not less than \$1,000,000 per incident.

SECTION 6.12. LIABILITY INSURANCE.

(A) Contractor shall, during the term of this Agreement and any extensions hereof, maintain in full force and effect general and automobile liability insurance which specifically covers all exposures incident to Contractor's operations under this contract. Such insurance shall be with a company acceptable to the County,

in the broadest form available, in an amount of not less than \$5,000,000.00 Combined Single Limit for personal injury, including death, and property damage liability and shall include, but not be limited to, coverage for Premises/Operations Products/Completed Operations, Contractual to support Contractor's agreement or indemnity. All policies shall be endorsed to show the County, a political subdivision of the State of Florida, as an additional insured as its interests may appear, and shall also provide that insurance shall not be canceled, limited or non-renewed until after 45 days written notice has been given to the County.

(B) Current certificates of insurance evidencing required coverage must be on file with the County at all times.

(C) Contractor expressly understands and agrees that any insurance protection furnished by Contractor shall in no way limit its responsibility to indemnify and save harmless County under the provisions of this Agreement. Deductibles shall not exceed \$10,000. As to the County's interest therein, no policy shall be invalidated by any act or neglect of, or breach or violation of any warranties, declarations or conditions by Contractor or its agents, and such insurance shall be primary without right of contribution of any other insurance carried by or on behalf of the County. Contractor hereby irrevocably waives all claims against the County for all losses of and damages to property or injuries or death to persons resulting from risks insurable under the insurance described above.

SECTION 6.13. REPORTING REQUIREMENTS, BOOKS AND RECORDS.

(A) In addition to any other requirements of this Agreement, Contractor shall be required to file pertinent statistical and aggregate cost information pertaining to Residential Waste Collection Service and Recyclable Material Collection Service that is requested by the County to comply with the provisions of Chapter 403, Florida Statutes, and other pertinent laws and regulations. At a minimum, Contractor shall submit a

monthly report within ten working days after the last day of each month consisting of the number of Dwelling Units served.

(B) The County or its designee shall have the right to review all records maintained by Contractor on 5 days written notice.

(C) An annual audit of Contractor's gross revenues collected or received from its customers for Residential Waste Collection Service and Recyclable Material Collection Service and the Franchise Fees paid to the County pursuant to Section 5.04 hereof shall be prepared by an independent Florida certified public accounting firm acceptable to the County in accordance with generally accepted accounting principles and shall be delivered to the County at Contractor's expense within 120 days of the 12 month period ending Contractor's fiscal year. Contractor shall establish and maintain at its own expense during the term of this Agreement, a bookkeeping, accounting and record keeping system to facilitate the preparation of said audit and shall preserve for at least 6 years from the date of their preparation, full, complete and accurate books, records and accounts in accordance with generally accepted accounting principles consistently applied and in the form and manner prescribed by the County from time to time.

(D) If requested by the County Administrator, Contractor shall provide the Customer List on electronic media in a format compatible with the County's data processing system.

SECTION 6.14. USE OF RECYCLED PRODUCTS. When available, Contractor shall procure products or materials with recycled content with respect to work performed or products supplied under this Agreement. A decision to not procure such items must be based on a determination that such procurement is not available within a reasonable period of time, fails to meet the performance standards set forth in applicable specifications or fails to meet the reasonable performance standards of Contractor or the County. On an annual basis Contractor shall provide the County with a written statement indicating what recycled products

were used or supplied in its performance under this Agreement. If a decision was made not to use recycled products, Contractor shall provide the County with a written statement indicating the basis for the decision using the above criteria.

SECTION 6.15. POINT OF CONTACT. All dealings, contacts, notices, and payments between Contractor and the County shall be directed by Contractor to the County Administrator unless otherwise specifically provided for herein.

SECTION 6.16. INDEPENDENT CONTRACTOR. Nothing herein contained is intended or shall be construed as in any way establishing the relationship of co-partners between the parties hereto, or as constituting Contractor as the agent, representative or employee of the County for any purpose whatsoever. Contractor is to be and shall remain an independent contractor with respect to all services performed under this Agreement. Contractor shall be solely responsible for the acts and omissions of its officers, employees, agents, or any permitted subcontractors.

SECTION 6.17. LOCAL IMPROVEMENTS. County reserves the right to construct any improvement or to permit any construction in any street or alley, which may have the effect of temporarily preventing Contractor from traveling his accustomed route or routes for collection. Contractor, however, by an acceptable method, shall continue to collect the Residential Waste and Recyclable Material to the same extent as though no interference existed upon the streets or alleys formerly traversed. This shall be done without extra cost to the customers.

SECTION 6.18. TITLE TO WASTE. Contractor shall have title to all Residential Waste upon its collection; provided, however, that the County reserves the right at all times to elect to hold title and ownership to all or a portion of the Residential Waste collected (except Recyclable Material) by Contractor pursuant to this Agreement. Such election by County shall be in writing signed by the County Administrator.

SECTION 6.19. NEW SERVICE INFORMATION. Approximately one month prior to initiating service, Contractor shall mail, at its own expense, an initial package of service information material to each customer. The customer information package shall be approved by the County Administrator and include (A) the Service Days for Residential Waste, Yard Trash and Recyclable Material, (B) a summary of the customers' responsibilities, (C) the procedure for delivery of a Recycling Bin, and (D) Contractor's customer service telephone number. In addition, Contractor shall mail, at its own expense, new customer information packages shall be mailed whenever a customer name or billing address changes.

SECTION 6.20. PROMOTIONAL REQUIREMENTS.

(A) The County shall be responsible for the development and production of promotional material, including but not limited to brochures, radio advertisements and newspaper advertisements, to introduce the Residential Waste Collection Service and Recyclable Material Collection Service. In addition, the County shall develop periodic promotional programs to encourage increased participation and enhance public awareness.

(B) Contractor agrees to reimburse the County for the cost of development and production of such promotional material; provided however, that Contractor's obligation for reimbursement shall be limited as follows: (1) during the initial calendar year of this Agreement, Contractor's obligation shall not exceed an amount equal to the sum of two percent of Contractor's projected gross revenues from Residential Waste Collection Service and Recyclable Material Collection Service within the County Urban Service Area assuming service to 19,300 Dwelling Units and a ninety-nine percent collection rate, and (2) during each subsequent calendar year of this Agreement, Contractor's obligation shall not exceed an amount equal to the sum of two percent of the gross revenues collected or received from its customers for Residential Waste Collection Service and Recyclable Material Collection Service within the County Urban Service Area during the immediate prior calendar year. During any calendar quarter, Contractor's reimbursement obligation shall not exceed fifty

percent of the maximum annual reimbursement obligation. Amounts due to the County for reimbursement shall be paid within thirty days of the County's invoice.

(C) To expedite timely preparation of the initial campaign, the County may incur costs to develop and produce promotional material prior to the effective date of this Agreement. Contractor will be required to reimburse such amounts upon submission of an invoice by the County on or after the effective date of this Agreement.

(D) At the County's request (but not more than once during each calendar quarter), Contractor shall insert packages of promotional material developed and prepared by the County in Recycling Bins placed at the usual accessible pick-up location.

(E) Contractor shall also distribute any brochures developed and prepared by the County in the same envelope as the quarterly customer bills. Within thirty days of the effective date of this Agreement, Contractor shall notify the County of a reasonable size and shape of brochures that can be delivered with the quarterly customer bills and a reasonable number of days prior to the quarterly billing date that brochures must be delivered to Contractor.

SECTION 6.21. CHANGES IN SCOPE OF COLLECTION SERVICE. From time to time, at the sole option of the County, it may be necessary to modify the scope of the Residential Waste Collection Service and/or Recyclable Material Collection Service to be provided hereunder. In such event, the County will provide notice to Contractor not less than 45 days prior to the proposed effective date. Any change in scope that does not increase Contractor's actual cost shall be implemented on the specified date without modification to this Agreement. If the change in scope does increase Contractor's actual cost, Contractor shall notify the County Administrator within 15 days of the notice and Contractor shall be entitled to an increase in Residential Waste Collection Component and/or Recyclable Material Collection Component of the Urban Service Area Fees,

County Rural Service Area Fees and City Service Area Fees equal to the incremental increase in its actual cost. If Contractor and County Administrator cannot agree on the incremental increase in actual cost, the Board shall make the determination, which shall be final and binding on Contractor.

SECTION 6.22. DISPUTE RESOLUTION. Except as provided in Section 6.21 and to the extent permitted by law, the County Administrator shall be responsible for interpreting this Agreement to resolve disputes that may arise hereunder. The parties agree that any decision rendered by the County Administrator in connection with such matters shall be final and binding upon Contractor, the customer and the County.

ARTICLE VII

GENERAL PROVISIONS

SECTION 7.01. TERM OF AGREEMENT. The term of this Agreement shall be for the period beginning October 1, 2004, and terminating September 30, 2009.

SECTION 7.02. NOTICE. All notices, certificates or other communications hereunder shall be sufficiently given and shall be deemed given when hand delivered or mailed by registered or certified mail, postage prepaid, to the parties at the following addresses:

St. Lucie County
2300 Virginia Avenue
Fort Pierce, Florida 34982
Attention:
Chairman, Board of County Commissioners
County Administrator
County Attorney

Contractor

Waste Pro of Florida, Inc.
101 North U.S. Highway 1, Suite 111 4100 Selwitz Road
Fort Pierce, Florida 34950
Attention: 82 

Robert J. Hyres
Vice President-Municipal Contracts

SECTION 7.03. DEFAULT OF CONTRACT.

(A) The County may terminate this Agreement, except as otherwise provided in this Section 7.03, by giving Contractor thirty days advance written notice, upon the happening of any one of the following events:

(1) If Contractor shall take the benefit of any present or future insolvency statute, or shall make a general assignment for the benefit of creditors, or file a voluntary petition in bankruptcy or a petition or answer seeking an arrangement for its reorganization or the readjustment of its indebtedness under the Federal bankruptcy laws or under any other law or state of the United States or any state thereof, or consent to the appointment of a receiver, trustee or liquidator of all or substantially all of its property; or

(2) By order or decree of a Court, Contractor shall be adjudged bankrupt or an order shall be made approving a petition filed by any of its creditors or by any of the stockholders of Contractor, seeking its reorganization or the readjustment of its indebtedness under the Federal bankruptcy law or under any law or statute of the United States or of any state thereof, provided that if any such judgment or order is stayed or vacated within sixty days after the entry thereof, any notice of cancellation shall be and become null, void and of no effect; unless such stayed judgment or order is reinstated in which case, said default shall be deemed immediate; or

(3) By or pursuant to or under authority of any legislative act, resolution or rule or any order or decree of any Court or governmental board, agency or officer having jurisdiction, a receiver, trustee or

liquidator shall take possession or control or all or substantially all of the property of Contractor, and such possession or control shall continue in effect for a period of sixty days; or

(4) If Contractor is convicted or found guilty of a Public Entity Crime with or without an adjudication of guilt, in any federal or state trial court of record as a result of a jury verdict, nonjury trial, or entry of a plea of guilty or nolo contendere, and is placed on the convicted vendor list pursuant to Section 287.133, Florida Statutes; or

(5) Contractor has defaulted, by failing or refusing to perform or observe the terms, conditions or covenants in this Agreement or any of the rules and regulations promulgated by the County pursuant thereto or has wrongfully failed or refused to comply with the instructions of the County Administrator relative thereto and said default is not cured within thirty days of receipt of written notice by County to do so, or if by reason of the nature of such default, and the same cannot be remedied within thirty days following receipt by Contractor of written demand from County to do so, Contractor fails to commence the remedy of such default within said thirty days following such written notice, or having so commenced shall fail thereafter to continue with diligence the curing thereof (with Contractor having the burden of proof to demonstrate (a) that the default cannot be cured within thirty days, and (b) that it is proceeding with diligence to cure said default, and such default will be cured within a reasonable period of time). No notice to cure a default shall be required if Contractor fails to perform under Sections 7.03(A)(1), 7.03(A)(2), 7.03(A)(3), 7.03(A)(4), 7.03(B) and 7.03(C) hereof.

(B) Notwithstanding anything contained herein to the contrary, if Contractor fails to provide Collection Service for a period of five consecutive scheduled working days the County may secure Contractor's billing records on the sixth working day in order to provide interim Collection Service until such time as the matter is resolved and Contractor is again able to perform pursuant to this Agreement. If Contractor is unable

for any reason or cause to resume performance at the end of fifteen working days all liability of the County under this Agreement to Contractor shall cease and this Agreement may be terminated by the County.

(C) Notwithstanding anything contained herein to the contrary, in the event Contractor delivers Residential Waste to a facility other than the Designated Disposal Facility, the County may secure Contractor's billing records and this Agreement may be terminated by the County.

(D) Notwithstanding the foregoing and as supplemental and additional means of termination of this Agreement under this Section 7.03, in the event that Contractor's record of performance shows that Contractor has frequently, regularly or repetitively defaulted in the performance of any of the covenants and conditions required herein to be kept and performed by Contractor, in the opinion of County and regardless of whether Contractor has corrected each individual condition of default, Contractor shall be deemed a "habitual violator", shall forfeit the right to any further notice or grace period to correct, and all of said defaults shall be considered cumulative and collectively, shall constitute a condition of irredeemable default. The County shall thereupon issue Contractor a final warning citing the circumstances therefor, and any single default by Contractor of whatever nature, subsequent to the occurrence of the last of said cumulative defaults, shall be grounds for immediate termination of this Agreement. In the event of any such subsequent default, County may terminate this Agreement upon the giving of written final notice to Contractor, such cancellation to be effective upon the fifteenth consecutive calendar day following the date of the final notice, and all contractual fees due hereunder plus any and all charges and interest shall be payable to said date, and Contractor shall have no further rights hereunder. Immediately upon receipt of said final notice, Contractor shall proceed to cease any further performance under this Agreement.

(E) In the event of the aforesaid events specified in Sections 7.03(A), 7.03(B), 7.03(C) and 7.03(D) hereof and except as otherwise provided therein, termination shall be effective upon the date specified in

County's written notice to Contractor and upon said date this Agreement shall be deemed immediately terminated and upon such termination all liability of the County under this Agreement to Contractor shall cease, and the County shall have the right to collect on the full amount of the Letter of Credit or utilize the Performance Bond and shall be free to negotiate with other contractors for the operation of the herein specified services. For failure to perform, Contractor shall reimburse the County all direct and indirect costs of providing interim Collection Service. The County shall tender to Contractor any funds drawn on the Letter of Credit and not used as provided herein.

(F) In the event this Agreement is abandoned by Contractor during the term thereof as a result of Contractor's failure to perform as set forth in Section 7.03(B) hereof, or for any other reason Contractor ceases operations under this Agreement or in the event Contractor delivers Residential Waste to a facility other than the Designated Disposal Facility on more than three different days during any Fiscal Year, in addition to the other remedies provided herein, the County is hereby given the option to purchase all or any part of the equipment owned or leased by Contractor which is currently being used in the performance of services under this Agreement, especially including, but not restricted to, that equipment owned by Contractor and listed on the yearly equipment schedule as required hereunder.

(1) The purchase price of such equipment shall be that to be mutually agreed upon by Contractor and the County, but in no event shall the County be required to pay more than the lower of the figures stated as: (a) the fair market value determined from a current appraisal of similar equipment, or (b) book depreciated value.

(2) The County shall have sixty days from the time Contractor ceases operations or from the third day on which Residential Waste is delivered to a facility other than the Designated Disposal Facility in which to exercise its option to purchase all or any part of Contractor's equipment, and the purchase price for

such equipment shall be withheld or placed in escrow at the County's option until it has been determined that all liens, attachments and obligations which might result in liens or attachments upon such equipment have been fully satisfied. If the County shall find it necessary to pay any such obligations in order to secure equipment subject to this provision, such payments shall be charged against and paid from the purchase price withheld or in escrow, and the escrow agent shall be authorized to make such payments by direction of the County Administrator only.

(3) Upon notice given Contractor under this Section 7.03 that the County will exercise its rights under the option to purchase any equipment, Contractor shall immediately give possession and control of such equipment to the County, which shall then become responsible for all care, maintenance and operation of such equipment until the purchase agreement has been made final, or the equipment is returned to Contractor, or other final disposition of the equipment has been made. The County shall make payment to Contractor within 60 days of its possession or control of such equipment.

(G) Contractor recognizes that the failure on the part of Contractor to comply with the terms of this Agreement is likely to cause irreparable damage to the County and damages at law would be an inadequate remedy. Therefore, Contractor agrees that in the event of a breach or threatened breach of any of the terms of the Agreement by Contractor, the County shall be entitled to an injunction restraining such breach and/or to a decree of specific performance, without showing or proving any actual damage, together with recovery of reasonable attorneys' fees and costs incurred in obtaining said equitable relief until such time as a final and binding determination is made by the court. The foregoing equitable remedy shall be in addition to, and not in lieu of, all remedies or rights which the County may otherwise have by virtue of any breach of this Agreement by Contractor. The County shall be entitled to seek injunctive relief without the posting of any bond or security to obtain the entry of temporary and permanent injunctions and order of specific performance enforcing the

provisions of this Agreement. The County shall also be able to seek injunctive relief to prohibit any act or omission by Contractor or its employees that constitutes a violation of any applicable law, is dishonest or misleading. Contractor expressly consents and agrees that the County may, in addition to any other available remedies, obtain an injunction to terminate or prevent the continuance of any existing default or violation, or to prevent the occurrence of any threatened default by Contractor of this Agreement.

SECTION 7.04. INDEMNITY. For the additional consideration of \$10 and other good and valuable consideration, the receipt and sufficiency of which is acknowledged by the execution of this Agreement, Contractor hereby covenants and agrees to defend fully, protect, indemnify and hold harmless the County from and against each and every claim, demand or cause of action and any and all liability, cost, expense (including but not limited to reasonable attorneys' fees, costs and expenses incurred in defense of the County, even if incident to appellate, post-judgment or bankruptcy proceedings), damage or loss in connection therewith which may be made or asserted by Contractor's employees or agents, or any third parties (including but not limited to the County) on account of personal injury, death, damage or property damage caused by, arising out of or in any way incidental to or in connection with its performance hereunder. At the election of the County, Contractor shall contest and defend the County against any such claims of liability against the County. The County shall in any event, have the right, through counsel of its choice, to control the defense or response to any such claim to the extent it could affect the County financially. This indemnification shall also include any claim or liability arising from or in any way related to actual or threatened damage to the environment, agency costs by investigation, personal injury or death, or damage to property, due to a release, alleged release, or improper handling by Contractor of Hazardous Waste regardless of the merits of the claim. Only those matters which are determined by a final, nonappealable judgment to be the result of the negligence of the County or

the negligence of a third party who is not an agent, employee, invitee, or subcontractor of Contractor shall be excluded from Contractor's duty to indemnify the County, but only to the extent of negligence of the County or such third party. For the purpose of this Section 7.04, the term "County" shall be deemed to include the Board and its agents, employees and affiliates. For purposes of this indemnification, "claims" shall mean and include all obligations, actual and consequential damages and costs reasonably incurred in the defense of any claim against the County, including, but not limited to, reasonable accountants', attorneys' and expert witness fees, costs of investigation and proof of facts, court costs, other litigation expenses, and travel and living expenses. The County shall have the right to defend any such claim against it in such manner as the County deems appropriate or desirable in its sole discretion. This indemnity shall continue in full force and effect subsequent to and notwithstanding the expiration or termination of this Agreement.

SECTION 7.05. CHANGE OF LAW.

(A) The parties understand and agree that changes in law in the future, including, but not limited to, legislative, judicial or administrative changes, which mandate certain actions or programs for counties or municipalities may require changes or modifications in some of the terms, conditions or obligations under this Agreement. Nothing contained in this Agreement shall require any party to perform any act or function contrary to law.

(B) To the extent that any current law or any law effective after execution of this Agreement is in conflict with, or requires changes in, the provisions of Collection Service or exclusive rights set out in this Agreement, the parties agree to enter into good-faith negotiations for the resolution of any such changes in this Agreement as a result of a change in law.

(C) Except as otherwise expressly provided herein, no remedy herein conferred upon any party is intended to be exclusive of any other remedy. Each and every such remedy shall be cumulative and shall be

in addition to every other remedy given hereunder or now or hereafter existing at law or in equity or by statute or otherwise. No single or partial exercise by any party of any right, power or remedy hereunder shall preclude any other or further exercise thereof.

SECTION 7.06. APPLICABLE LAW, JURISDICTION AND VENUE.

(A) This Agreement shall be governed by and construed in accordance with the laws of the State of Florida.

(B) The parties to this Agreement expressly consent to the jurisdiction of and agree to suit in any court of general jurisdiction in the State of Florida, whether state, local or federal, and further agrees that venue shall lie in St. Lucie County, Florida.

SECTION 7.07. ATTORNEY'S FEES. In the event of any dispute hereunder or of any action by any party to this Agreement to judicially interpret or enforce this Agreement or any provision hereof, or in any manner arising from this Agreement, the prevailing party shall be entitled to recover its reasonable costs, fees and expenses, including but not limited to, witness fees, expert fees, consultant fees, attorney, paralegal and legal assistant fees, costs and expenses and other professional fees, costs and expenses, whether suit be brought or not, and whether any settlement shall be entered in any declaratory action, at trial or on appeal.

SECTION 7.08. AMENDMENTS AND WAIVERS. No amendment, supplement, modification or waiver of this Agreement shall be binding unless executed in writing by all parties hereto. No waiver of any of the provisions of this Agreement shall be deemed or shall constitute a waiver of any other provision of this Agreement, whether or not similar, unless otherwise expressly provided. Each such amendment, supplement, modification or waiver of this Agreement shall be filed with the Clerk of the Circuit Court of St. Lucie County.

SECTION 7.09. ASSIGNMENT. No assignment or subcontract of this Agreement or any right occurring under this Agreement shall be made in whole or in part by Contractor without the express written

consent of the Board, which consent shall not be unreasonably withheld. Assignment shall include any transfer of 20% or more of stock or control in Contractor. The Board shall have full discretion to approve or deny, with or without cause, any subcontract, any proposed assignment or assignment by Contractor. Any assignment or subcontract of this Agreement made by Contractor without the express written consent of the Board shall be null and void and shall be grounds of the Board to declare a default of this Agreement, and immediately terminate this Agreement by giving written notice to Contractor, and upon the date of such notice this Agreement shall be deemed immediately terminated, and upon such termination all liability of the County under this Agreement to Contractor shall cease and Contractor shall be deemed to have failed to perform its obligations under this Agreement, and County shall have the right to draw and collect on the Letter of Credit or require performance or indemnification from any surety and shall be free to negotiate with other contractors or any other person or company to provide service to the County Urban Service Area. In the event of any assignment with the consent of County, the assignee shall fully assume all the liabilities of Contractor, provided, however, that such assignment and assumption shall not relieve Contractor of any liability or responsibility under this Agreement.

SECTION 7.10. ENTIRE AGREEMENT. This Agreement constitutes the entire agreement between the parties pertaining to the subject matter hereof, and supercedes all prior and contemporaneous agreements, understandings, negotiations and discussions of the parties, whether oral or written, and there are no warranties, representations or other agreements between the parties in connection with the subject matter hereof, except as specifically set forth herein.

IN WITNESS WHEREOF, the Board of County Commissioners of St. Lucie County, Florida, has caused this Agreement to be executed and delivered as of the day and year first above written.

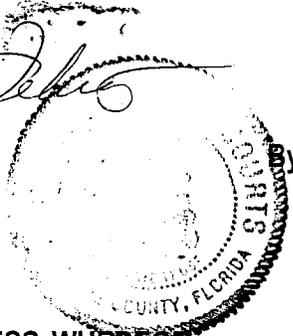
**BOARD OF COUNTY COMMISSIONERS
ST. LUCIE COUNTY, FLORIDA**

By: *Paula A. Lewis*
Chairman 9/23/04

ATTEST:

M. DeFuria

Deputy Clerk
(SEAL)



APPROVED AS TO FORM AND
CORRECTNESS:

[Signature]

IN WITNESS WHEREOF, _____ has caused this Agreement to be
executed and delivered as of the day and year first above written.

WASTE PRO OF FLORIDA, INC.

By: *[Signature]*
President

ATTEST:

[Signature]
[Signature]

Secretary
(SEAL)

Vice President

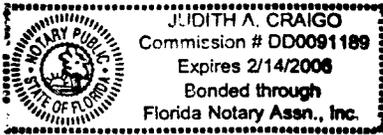
STATE OF
COUNTY OF

The foregoing instrument was acknowledged before me by David Hayward and Robert
J. Hayes President and Secretary of Waste Pro of Fla., Inc. on behalf of the corporation. They are personally
known to me or have produced _____ as identification.

WITNESS my hand and official seal, this 23rd day of Sept, A.D., 2004.

Notary Public Judith A. Craig
State of Florida

My Commission Expires: 2/14/06



APPENDIX A
DESCRIPTION OF COUNTY URBAN SERVICE AREA

The County Urban Service Area is described as that portion of the unincorporated area of the County lying to the east of the following described line: begin at the point Interstate 95 enters the County from Indian River County and run southerly along Interstate 95 to Angle Road; then run westerly along Angle Road to Florida's Turnpike; then run southerly along Florida's Turnpike to Picos Road; then run westerly along Picos Road to Gentile Road; then run southerly along Gentile Road to Okeechobee Road; then run easterly along Okeechobee Road to Florida's Turnpike; then run southerly along Florida's Turnpike to Interstate 95; then run southerly along Interstate 95 to Glades Cutoff Road; then run westerly along Glades Cutoff Road to C-24 Canal; then run southerly along C-24 Canal to Juliette Avenue; then run westerly along Juliette avenue to Salvatierra Boulevard; then run southerly along Salvatierra Boulevard to Tanforan Boulevard; then run easterly along Tanforan Boulevard to Interstate 95; then run southerly along Interstate 95 to the point at which it enters Martin County.

**APPENDIX B
FORM OF LETTER OF CREDIT**

Any Letter of Credit provided under this Agreement shall be in substantially the following form or contain minimally the elements as illustrated hereby and shall in any event be subject to the review and approval of the St. Lucie County Attorney:

**IRREVOCABLE STANDBY LETTER OF
CREDIT NO. [insert Issuer's identifying number]**

ISSUER: *[insert full name and street address of Issuer]* (hereinafter "Issuer").

PLACE AND DATE OF ISSUE: *[insert address where credit is issued and date of issue.]*.

PLACE OF EXPIRY: At Issuer's counters

DATE OF EXPIRY: This credit shall be valid until September 30, 2009, and shall thereafter be automatically renewed for successive one year periods unless at least 60 days prior to expiry, the Issuer notifies the Beneficiary in writing by registered mail that the Issuer elects not to so renew this Credit.

APPLICANT: Waste Pro of Florida, Inc. (hereinafter "Applicant"), 101 North U.S. Highway 1, Suite 111, Fort Pierce, Florida 34950.

BENEFICIARY: The Board of County Commissioners, St. Lucie County Florida (hereinafter "Beneficiary") 2300 Virginia Avenue, Fort Pierce, Florida, 34982. Attn: County Administrator

AMOUNT: \$500,000 (U.S.) up to an aggregate thereof.

CREDIT AVAILABLE WITH: Issuer.

BY: Payment against documents detailed herein and Beneficiary's drafts at sight drawn on the Issuer.

DOCUMENTS REQUIRED: AVAILABLE BY BENEFICIARY'S DRAFT(S) AT SIGHT DRAWN ON THE ISSUER AND ACCOMPANIED BY BENEFICIARY'S STATEMENT PURPORTEDLY SIGNED BY THE COUNTY ADMINISTRATOR, CERTIFYING THAT: [Insert Name of Contractor] has failed to meet or complete the requirements of performance or other obligations under the St. Lucie County Exclusive Residential Collection Service Agreement between Waste Pro of Florida, Inc. and St. Lucie County, dated _____, 2004 (a copy of which has been filed in the Official Minutes of the Board of County Commissioners and is made a part hereof), or that the Beneficiary has been notified that the Issuer has elected not to renew this Credit for a successive period of at least one year and the Applicant has failed to deliver to the Beneficiary a replacement letter of credit 15 days prior to the Date of Expiry which meets the standards set forth in the aforementioned St. Lucie County Exclusive Residential Collection Service Agreement.

DRAFT(S) DRAWN UNDER THIS LETTER OF CREDIT MUST BE MARKED: "Drawn under *[insert name of Issuer]* Credit No. *[insert Issuer's number identifying this letter of credit]*, dated *[insert original date of issue.]*
The original letter of credit and all amendments, if any, must be presented for proper endorsement.

This letter of credit sets forth in full the terms of the Issuer's undertaking and such undertaking shall not in any way be modified, amended, or amplified by reference to any documents, instrument, or agreement referenced to herein or in which this letter of credit relates, and any such reference shall not be deemed to incorporate herein by reference any document, instrument or agreement.

Issuer hereby engages with Beneficiary that draft(s) drawn under in compliance with the terms of this credit will be duly honored by Issuer if presented within the validity of this credit.

This credit is subject to the Uniform Customs and Practice Documentary Credits (1983 Revisions) International Chamber of Commerce Publication No. 400.

[Name of Issuer]

By:

*[insert title of corporate officer -
must be signed by President,
Vice President, or
Chief Executive Officer]*

APPENDIX C

FORM OF PERFORMANCE BOND

FORM OF PERFORMANCE BOND

Any Performance Bond provided under this Agreement shall be in substantially the following form or contain minimally the elements as illustrated hereby and shall in any event be subject to the review and approval of the St. Lucie County Attorney:

PERFORMANCE BOND

KNOW ALL PERSONS BY THESE PRESENTS: that Contractor, WASTE PRO OF FLORIDA, INC., 101 North US Highway 1, Suite 111, Ft. Pierce, Florida 34950, a Florida Corporation, hereinafter called Contractor, and _____, a Florida Corporation, hereinafter called Surety, are held and firmly bound unto St. Lucie County, Florida, hereinafter called County, in the total aggregate penal sum of Five Hundred Thousand Dollars (\$500,000.00) in lawful money of the United States, for the payment of which sum well and truly to be made, we bind ourselves, our heirs, executors, administrators, successors, and assigns, jointly and severally, firmly by these presents.

THE CONDITION OF THIS OBLIGATION is such that:

WHEREAS, Contractor entered into a certain Exclusive Residential Collection Service Agreement with St. Lucie County, Florida, dated _____, 2004, (a copy of which has been filed in the Official Minutes of the Board of County Commissioners and is made a part hereof) for residential waste and recyclable material collection service to be performed by Contractor in St. Lucie County, Florida; and

WHEREAS, the County has a material interest in the performance of said Agreement.

NOW, THEREFORE, if Contractor shall, well, truly and faithfully perform its duties, all the undertakings, covenants, terms, conditions, and agreements of said Agreement during the original term thereof, and any extensions thereof, with or without notice to the Surety and thereafter, and if Contractor shall satisfy all claims and demands incurred under this Agreement, and shall fully indemnify and save harmless County from all costs and damages which it may suffer by reason of failure to do so, and shall perform Contractor's duties and responsibilities under the Agreement and reimburse and immediately repay the County all outlay and expense which the County may incur in making good any default, then this obligation shall be void, otherwise to remain in full force and effect. This Performance Bond shall be valid until September 30, 2009, and shall thereafter be automatically renewed for successive one year periods unless at least 90 days prior to its date of expiration, the Surety notifies the County in writing by registered mail that the Surety elects not to so renew this Performance Bond. [appropriate execution required]