

**CONTRACT AGREEMENT  
FOR THE OPERATIONS AND MAINTENANCE OF INDIAN RIVER COUNTY  
LANDFILL**

**Between**

**Indian River County Solid Waste Disposal District  
(SWDD)**

**And**

**Republic Services of Florida, Limited Partnership  
(Republic Services)**

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## CONTRACT AGREEMENT

### OPERATIONS AND MAINTENANCE OF THE INDIAN RIVER COUNTY LANDFILL

This Contract Agreement ("Agreement") is entered into this \_\_\_\_ of \_\_\_\_\_ ("Effective Date") by and between INDIAN RIVER COUNTY SOLID WASTE DISPOSAL DISTRICT, a dependent special district of Indian River County, Florida, whose address is c/o Department of Utility Services, 1801 27<sup>th</sup> Street, Vero Beach, Florida 32960 (hereinafter referred to as the "District" or "SWDD"), and Republic Services of Florida, Limited Partnership whose address is 3905 Oslo Road, Vero Beach, FL 32968, (hereinafter referred to as the "Contractor"), for the services set forth herein.

#### **WITNESSETH:**

**WHEREAS**, the County through its Solid Waste Disposal District, hereinafter referred to as the SWDD, is responsible for the Operations of publicly contracted residential refuse disposal in the County; and

**WHEREAS**, the purpose of managing refuse disposal in the County is to provide for the disposal of refuse by a contractor performing under a public contract; and

**WHEREAS**, on April 8, 2025, the SWDD Board awarded Bid No. 2025028 to Republic Services of Florida, Limited Partnership as the lowest, responsive, responsible bidder for the Operation and Maintenance of the Indian River County Landfill to be operated 7-days per week with the vendor providing cover material for an annual grand total in the amount of \$5,591,681.08; and

**WHEREAS**, on September 23, 2025, the SWDD Board approved the negotiated agreement with Republic Services of Florida, Limited Partnership to include a fixed based contract based on average 220,000 tons per year at a rate of \$18.70 per ton with SWDD providing daily cover for a cost of \$4,114,000 with a 10% margin up or down in tonnages that protects both parties and allows for a 3% annual adjustment in tonnages with the total annual grand total in the amount of \$5,591,681.08; and

**WHEREAS**, the Chairman of the Board of County Commissioners is the Chairman of the SWDD Board of Commissioners and is the duly-authorized designee of the Board to act as signatory of this instrument on behalf of the SWDD and is responsible for all contractual changes and modifications hereto; and

**WHEREAS**, the Managing Director of the SWDD as designee of the Board shall serve as the SWDD's Contract administrator for this contract and shall approve all services rendered hereunder;

**NOW, THEREFORE**, in consideration of these premises, and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties hereto, intending to be legally bound, covenant and agree to as follows:

#### **Article 1. Introduction**

##### **1.1 Intent and Purpose**

The Contractor shall provide continuing operation of the Indian River County Landfill that serves the unincorporated and incorporated areas of the County. The Contractor's responsibility includes but not limited to the following:

- a. Operation of the Class I Landfill,
- b. Material Recycling Facility (MRF),
- c. Management of Waste Tires,
- d. Management of Scrap Metal/White Goods Storage Area,
- e. Management of Clean Concrete Storage Area,
- f. Household Hazardous Waste (HHW) Operations and Maintenance at Landfill,
- g. Small Load Drop Off Area (SLD) Operations and Maintenance,
- h. Other Auxiliary facilities, and
- i. General services as identified below.

## **1.2 Definitions**

Definitions of words and phrases are as stated in Exhibit 1. To the extent that any definition contained herein conflicts with any similar definition contained in any federal, state, or local law, the definition herein shall prevail for the purposes of this Agreement. However, nothing contained herein shall be interpreted to require Contractor to undertake any conduct that is prohibited by Applicable Law. If a word is not defined herein, the definition of such word or phrase as contained in the Code of Ordinances of Indian River County, Florida shall apply.

## **Article 2. Term**

### **2.1 Effective and Commencement Dates**

The Effective Date is the date the Agreement has been fully executed by both SWDD and the Contractor. The Commencement Date shall be October 1, 2025, the date services pursuant to this Agreement shall commence.

### **2.2 Initial Term**

The term of this Agreement shall be for a period of ten (10) years beginning at 12:00 a.m. on the Commencement Date, October 1, 2025, and terminating at 11:59 p.m. on September 30, 2035.

### **2.3 Renewal Option**

At mutual agreement, between the SWDD and Contractor, this Agreement may be renewed for one (1) additional term of ten (10) years under the same terms and conditions as the initial term, including amendments. The Contractor and the SWDD shall mutually notify the other party no later than September 30, 2033, of its intent to renew or not to renew the Agreement. If renewed, per a written and executed extension agreement, the additional ten (10) year term will begin on October 1, 2035, and terminate on September 30, 2045.

### **Article 3. Obligations of the SWDD**

- 3.1 The SWDD shall do all things necessary to properly administer the terms and conditions of this Agreement, including but not limited to:
  - a) Examination of all products and services delivered or supplied by Contractor for conformance with the terms of this Agreement; and
  - b) Periodic reviews of the work of the Contractor as necessary for the completion of the Contractor's services during the period of this Agreement; and
  - c) Review of all Contractor documents and payment requests for approval or rejection.
- 3.2 The SWDD shall not provide any services to the Contractor in connection with any claim brought on behalf of or against the Contractor.
- 3.3 The SWDD retains the right to modify accepted and non-accepted materials during the term of this Agreement for the purposes of increasing diversion and furthering County waste reduction goals. The SWDD does not guarantee the quality or quantity of materials which will be provided over the life of any agreement. In the event of any such modification, the SWDD and the Contractor shall in good faith negotiate and mutually agree upon adjusted pricing or such other mechanism as will adequately compensate the Contractor for the effects of such modifications.

### **Article 4. Contractor Responsibilities**

Contractor shall be responsible for the professional operation, management, and maintenance of the County-owned Indian River County Landfill site which accepts commingled Municipal Solid Waste (MSW) and Construction and Demolition Material (C&D). All activities, actions, and requirements associated with proper operations and maintenance of a Class I Landfill and Contractor designated facilities in the State of Florida shall be the responsibility of the Contractor unless specifically excluded in this Agreement or any Amendments to this Agreement. In general, Contractor responsibilities include:

#### **4.1 Management, Operation, and Maintenance of the Class I Landfill**

1. Providing equipment that is common for Class I Landfill Operations and Maintenance in quantity, type, and serviceability that allows for the proper operation of a Class I Landfill. The Contractor shall expand and complete the initial equipment list from the ITB to identify all equipment it intends to maintain on site. Upon approval by SWDD, the list will be incorporated into this Agreement. Any updates to the equipment list shall require approval of SWDD.
2. Accepting, screening, placing, and compacting commingled MSW and C&D in a manner that is consistent with Class I Landfill operations and complies with all applicable permits, plans, policies, regulations, and procedures.
3. The Contractor shall maintain a minimum compaction rate of 1,400 lbs. per cubic yard of space, including cover material. The Contractor will measure the amount of airspace

consumed in the areas where waste was placed during each operational year to determine compliance with the minimum compaction rate. Airspace consumed shall be determined by comparing the topographic survey from the previous year to the current year's topographic survey and determining a boundary of the area where waste was filled during the operational year. The airspace consumed shall be the fill volume within the boundary of where waste was placed for the operational year. The airspace consumed compaction rate must be verified through a standard survey, drone survey, or Global Positioning System (GPS) and all surveys or data will be provided to SWDD for their review. The density will be based on an annual survey in December of each year with final report due no later than January 15<sup>th</sup> of the following year. The Contractor shall use the tonnage report provided by SWDD and a topographic survey provided by the Contractor to calculate the waste density. If the Contractor fails to meet the minimum density of 1,400 lbs/cubic yard, an administrative charge will be assessed at the end of each fiscal year according to Article 10.2. All surveying and photogrammetric services must be performed in accordance with Florida Statutes Ch. 427, Chapter SJ-17, FAC- Professional Surveying and Mapping, and all other local, state, and federal standards as applicable to the survey being performed.

4. Utilize daily and intermediate cover as required by the Class I Landfill Permit or other regulation. The Contractor shall maximize the use of Alternative Daily Cover (ADC) to the extent allowed by the Class I Landfill Permit and approved by the SWDD. If the Contractor desires to utilize an ADC that is not approved in the current permit, the Contractor can petition to modify the permit and bear all costs associated with the permit modification. The County is responsible for providing both daily and intermediate cover at the County's expense.
5. The Contractor shall check elevations and slopes frequently to make sure the Fill Sequence Plans are adhered to. Over the term of the Agreement, Fill Sequence Plans will be developed and may be modified by SWDD. When the Contractor has completed filling an area, the Contractor and SWDD shall confirm that elevation points have been met within five calendar days. Interior elevations shall be within  $\pm 0.5'$ . Final elevation grades on all areas, including benches and other features, shall be no greater than  $\pm 0.1'$ , as confirmed by a licensed surveyor. Maintenance and management of all closed contiguous Class 1 landfill areas to include, but not limited to, landscaping, sodding, erosion control, stormwater control, repair of minor differential settlement areas to maintain positive drainage, etc.
6. Conducting site maintenance activities including mowing of the entire site, trimming, or weed eating around areas as required (fences, wells, ditches, boundaries, etc.), removing trees and stumps, grassing and fertilizing as needed, and maintaining landfill roads. A minimum clearance of 10 feet shall be maintained on both sides of the fence (as applicable). Internal landfill roads shall be maintained in a manner which is two-wheel drive operable and two lanes passable at all times. The Contractor shall control traffic in a way that ensures smooth, safe, and efficient traffic flow and will utilize permanent and temporary signage to direct traffic. All landfill roads must be swept with a magnet a minimum of weekly and swept with a sweeper truck as needed. The Contractor shall to the best of their ability prevent mud from

transferring from site operations onto the roads within the Indian River County Landfill. Also, the Contractor will be responsible for ensuring mud is not tracked from the landfill onto public roads and conveyances. The Contractor is responsible for maintaining the full perimeter fence of the SWDD property for both security purposes and vegetative removal purposes (including the SWDD parcel north of the C-5 Canal). The Contractor is also responsible for maintaining fire breaks on the SWDD northern parcel. The roads for the fire breaks should be able to support ingress/egress of fire apparatus. Traffic control (assist as necessary when the scales are down and/or are being serviced/calibrated and during heavy volume due to storms). The Contractor must maintain all Maintenance of Traffic (MOT) equipment on-site and must have two MOT trained and certified staff on-site or available.

7. The Contractor shall be responsible for the implementation and placement of signage on the Indian River County Landfill site. Signage will be utilized to provide general information to all facility users, direct traffic flow, control speed, alert to potential hazards and restrictions of activities (i.e., cell phone usage and smoking), prohibitions, and changing conditions. The Contractor will provide signage at the facility's entrance including the facility name, hours of operation, prohibited waste, and emergency contact information. The Contractor will be responsible for updating all signage as required. Signage maintenance and replacement of all signs located onsite to include front entrance signage.
8. The Contractor shall be responsible for the care of all cover grasses, landscape plantings, and other site beautification activities for the Indian River County Landfill. Spraying, watering, pruning, replacement, fertilizing, and other operations as required to maintain the entire site in an aesthetically pleasing manner is the Contractor's responsibility. Grass watering will not be required, but new sod or seed and mulch shall be watered as needed to stimulate growth. Growth retardants shall not be used on the grass.
9. Constructing new roads, driveways, pads, and access points as required to support Class I Landfill Operations and other Ancillary site activities. This construction includes recycled rock or gravel type roads and pads as directed by SWDD. The recycled materials (if available) for the construction of these roads and pads will be the responsibility of SWDD, and SWDD will provide the available recycled materials to the Contractor.
10. Controlling litter over the entire Indian River County Landfill site. The Contractor will utilize a combination of permanent and temporary litter screens or fences in the active, operating area of the Class I Landfill and the Material Recycling Facility (MRF) and in other areas of the site where wind-blown litter originates in a manner sufficient to prevent litter from blowing outside of the landfill footprint or scattering over the entire site. The Contractor shall remove all wind-blown litter by the end of each working day. Administrative Charges will apply for wind-blown litter that remains uncollected for more than 24 hours, including litter against temporary or permanent fence. The roads within the Indian River County Landfill site shall be kept free from debris and sharps by daily sweeping. SWDD expects the litter program to be proactive rather than reactive.

11. The Contractor shall be responsible for the collection and disposal of all off-site litter as described below, on an as-needed basis:
  - a. From the landfill entrance: North on 74th Ave SW to 4th Street; South to County Line (25th St SW)
  - b. On Oslo Road: West to I-95; East to 66th Ave
  - c. On 66th Ave: North to 4th Street; South to 17th St SW
  - d. 17th St SW: From 74th Ave SW to 66th Ave

SWDD reserves the right to modify the frequency and the locations to maintain cleanliness leading to the landfill.

12. Dust control on the entire Indian River County Landfill site shall be the responsibility of the Contractor. Dust shall be minimized by frequent spraying of roads, excavation areas, and other areas that generate dust. The Contractor shall keep adequate dust control equipment on site. All dust control measures shall meet the requirements of the Title V Permit and all other permits or rules pertaining to the Indian River County Landfill. A daily Dust Control Log shall be maintained by the Contractor and provided to SWDD as part of the Monthly Report.
13. No open burning will be allowed on the Indian River County Landfill site and the Contractor will be responsible for the implementation and coordination of fire safety for the entirety of the site. The Contractor shall train its personnel in fire control procedures and take immediate steps to thoroughly extinguish any fires that break out at the IRC Landfill including maintenance and use of working stockpiles. The Contractor shall maintain working stockpiles near the landfill face for fire-fighting purposes. The Contractor shall assist and/or cooperate with IRC Emergency Services in combating on-site fires.
14. The operation of equipment, scheduling and work procedures shall be done to reduce noise generated by Contractor activities and comply with all applicable noise ordinances, rules, and regulations.
15. The Contractor shall be responsible for controlling odor and responding to odor complaints originating from the Indian River County Landfill site. Odors are typically controlled through the application of proper cover materials to the Class I Landfill area; however, the Contractor will be responsible for the implementation of other measures as required to control odors.
16. Implementation and maintenance of the site storm water management system, including but not limited to the maintenance and flow of terraces and ditches, prevention of standing water, installation of temporary sediment control features, continued maintenance of all sediment control features, prevention of run-on storm water at the working face as well as run-off. In addition, the Contractor shall mow, repair, reseed, remove sediment, and provide any other maintenance required to keep drainage channels on the entire site in good operating condition which maintains full flow capacity and erosion control. At the start of the

Agreement and annually thereafter, the Contractor shall ensure that all parking lot storm drains are cleaned out using a vac-truck; that all other stormwater conveyances on the primary landfill site (between C-5 and C-6 canals) drain to the main stormwater pond. The Contractor shall dredge and certify that there is positive drainage from the high point to the low point of the main stormwater pond. Maintenance and management of all stormwater infrastructures include stormwater pond and leachate system. This includes all conveyance channels and ditches.

17. The Contractor shall comply with all Federal, State and Local laws, ordinances, and regulations, including the rules and regulations of the EPA and the State of Florida Department of Environmental Protection (FDEP). The Contractor shall ensure all work is performed in compliance with all FDEP rules and regulations; maintaining all pertinent records for work performed and FDEP required documentation; coordinate and assist with FDEP inspections and request for information.
18. The Contractor shall control access to the Class I Landfill area and cooperate with SWDD to facilitate third party services such as ground and surface water monitoring, methane monitoring, operation and maintenance of the Landfill Gas Collection and Control System, operation of the Yard Waste Facility, Biosolids Facility, the Leachate Evaporation System, and the weighing of solid waste.
19. The Contractor shall coordinate for and/or provide deterrence, depredation, and trapping activities for vectors and vermin on the Indian River County Landfill site including but not limited to wild dogs, wild hogs, vultures, crows, seagulls, and any other vectors or vermin that affect the operation of the landfill or landfill activities. All vector and vermin control activities must be approved by SWDD prior to implementation. The Contractor is responsible for the repair of any damage done by vermin or vectors to the Class I Landfill area and the entire Indian River County Landfill Site. Vector and vermin control. The Contractor to provide licensed hog trapping/removal services for the safe operations of the facility.
20. The Contractor shall furnish all equipment, supplies, and labor required for cleaning Contractor's portion of buildings and facilities made available for the Contractor's use on the Indian River County Landfill site. SWDD or the County shall clean the portions of the Administration Building occupied by the SWDD staff and all County-Contractor shared areas in the Administration building. Work areas shall be cleaned and swept daily at a minimum. Wastes shall be removed daily.
21. The Contractor shall be responsible for paying for electrical usage, water usage, maintaining the on-site fuel tanks, and providing fuel and lubricants to support its operations at its own expense.
22. The Contractor shall provide routine operation engineering and surveying as required to operate a Class I Landfill.

23. The Contractor shall abide by the requirements and provide landfill services consistent with the current FDEP Class I Landfill Operating Permit (SO31-128769-018) and a Title V Air Operation Permit (No. 0610015-003-AV), as amended or renewed in the future, and other State and Federal permits for water and air quality, and all local Indian River County ordinances.

#### **4.2 Ancillary Services:**

The Contractor shall be responsible for the professional operation, management, and maintenance of other Ancillary Services as designated below. All activities, actions, and requirements associated with the proper operation and maintenance of these activities shall be the responsibility of the Contractor unless specifically excluded in this Agreement or any Amendments to this Agreement. In general, the Contractor responsibilities include:

1. Providing personnel and equipment necessary to effectively perform these Ancillary Services. A Staffing and Equipment plan shall be provided to the SWDD for approval and updated when any changes occur or are suggested. The SWDD shall not unreasonably withhold, condition or delay its approval of Staffing and Equipment plans or any changes or updates to such plans.

##### **4.2.1 Warehouse Facility**

The Warehouse Facility is contiguous with the SWDD Administration Building and is provided for the use of the Contractor for the various equipment identified below as well as general maintenance items.

1. Provide ice machine for landfill operations.
2. Purchase, install, operate, and maintain a new vertical air compressor. The air compressor will become the SWDD property at the end of the Agreement.
3. Purchase, install and maintain a new eye-wash station.
4. Maintain fixed base and portable generators to include monthly tests, refueling as needed, and documentation of run time as per the Title V Permit requirements.
5. Maintain proper storage and general upkeep of the facility.

##### **4.2.2 Material Recycling Facility (MRF)**

The MRF receives recyclables from the County's "Curb Side Pickup" program as well as from the five "Customer Convenience Centers", businesses, and residents that use the Indian River County Landfill facilities. The Contractor is responsible for coordinating with the SWDD vendor for the collection and removal of MRF Recyclables.

1. Maintenance, management, and general upkeep of single stream recyclables storage area.
2. Sorting, placement, stacking, separation, loading, and unloading materials.
3. Provide semi-annual cleaning services for the big-top tent which is utilized for the storage of the single stream recyclables.
4. Provide quarterly pressure-washing services for the MRF operations to include all the bays.

5. Install and maintain a six ft high litter fence around the MRF facility to include gates, as necessary.
6. Provide daily litter/debris cleanup in and around the site.

#### **4.2.3 Waste Tire Storage Area**

The Contractor will provide all employees and equipment to receive the Waste Tires to include but not limited to, the sorting, placement, stacking, separation of, loading, and unloading of all waste tires received at the Indian River County Landfill. The Contractor will ensure that all FDEP rules and regulations are adhered to. The Contractor will make every effort to keep the tires clean and free of dirt, mud, and foreign debris so that the County's waste tires contractor will not reject or charge extra for any load of waste tires shipped. The Contractor is responsible for coordinating with the SWDD vendor for the collection and removal of waste tires.

1. Maintenance, management, and general upkeep.
2. Sorting, placement, stacking, separation, loading, and unloading materials.
3. Maintain fire protection and make any changes required by the annual fire inspection.

#### **4.2.4 Scrap Metal/White Goods Storage Area**

The Contractor will provide all employees and equipment to operate the Scrap Metal Storage Area at the Indian River County Landfill. The Contractor will ensure that only acceptable items will be placed in the Scrap Metal Storage Area, all hazardous materials will be removed and placed in their proper location and the location is maintained in a manner that allows for loading of trucks. The Contractor will ensure that all liquid propane, natural gas, and all compressed air or gas cylinders are removed from the Scrap Metal Storage Area and placed in their proper location(s). The Contractor will remove all Freon containing devices, i.e. refrigerator, freezer, window AC, etc., from the Scrap Metal Storage Area, remove any doors, and place them so that the SWDD contractor can safely remove the Freon in accordance with FDEP rules and regulations. The Contractor will ensure that the Scrap Metal Storage Area is maintained in a manner that allows for the loading/unloading of trucks and enforces a no scavenging policy. The Contractor is responsible for coordinating with the SWDD vendor for the collection and removal of Scrap Metal / White Goods.

1. Maintenance, management, and general upkeep.
2. Sorting, placement, organization, loading, and unloading materials.
3. Enforcement of no salvaging policy.

#### **4.2.5 Clean Concrete Storage Area**

SWDD receives clean concrete and clay roofing tile at the Indian River County Landfill. Any concrete received at the Indian River County Landfill as "clean" must be free of rebar, paint, and heavy wire. The Contractor will provide employees and equipment to operate the Clean Concrete Storage Area including loading of County vehicles and Customer vehicles as required. The Contractor will ensure that all FDEP rules and regulations are adhered to. The Contractor will keep an area for the placement, sorting by size, and stacking of clean concrete. SWDD is responsible for the crushing of clean concrete material.

1. Maintenance, management, and general upkeep.
2. Sorting, placement, organization, loading, and unloading materials.

3. Provide loading services for customers that purchase crushed concrete.

#### **4.2.6 Household Hazardous Waste (HHW) Operations and Maintenance at Landfill**

The Contractor is responsible for coordinating with the SWDD vendor for the collection and removal of all HHW items.

1. Providing competent and properly trained personnel and all necessary equipment sufficient for the safe and efficient management of the HHW operations including receiving, sorting, stacking, preparations for transport, loading, and unloading of all HHW, old gasoline, and used cooking oil/waste oil received at the Landfill. This shall include the equipment necessary to assist the designated SWDD contractor responsible for the removal of these materials.
2. Ensuring the operational areas remain clean, free of clutter, and all materials are stored properly prior to the cessation of operations each day.
3. All material manifest tickets signed by a site attendant shall be returned to the SWDD office within two (2) business days.
4. Management and processing of white Styrofoam received at the landfill via SLD area or by CCC operations. This shall include the purchase, installation, ongoing operations, and maintenance of a new SK240. 60Hz Compactor EPS w.800mm 45° pre-crusher UL/CSA or equivalent. The EPS equipment becomes SWDD property at the end of the Agreement. This is to be located in the Warehouse Facility at the start of the Agreement.
5. Management and processing of loose Plastic Film received at the Landfill via the SLD area or by CCC operations. This shall include the purchase, installation, ongoing operations, and maintenance of a new single-ram baler. The baler becomes SWDD property at the end of the Agreement. This is to be in the Warehouse Facility at the start of the Agreement.
6. The Contractor will be required to provide personnel and equipment necessary to properly manage and operate the receipt, storage, palletizing and shrink-wrapping of electronics delivered to the Class I Landfill. The Contractor will provide an area for the storage of palletized electronics until shipment, loading trucks for shipment off site, ensuring the area remains free of contamination with other materials, and maintaining the area in a manner that allows for the loading and unloading of electronics.

#### **4.2.7 Small Load Drop Off Area (SLD) Operations and Maintenance**

The SLD area is for the use of customers with small loads, small vehicles, etc., in order to keep them away from the larger/heavier traffic on the Class 1 Landfill.

1. Providing sufficient employees and equipment necessary to operate and service the SLD area in accordance with all FDEP rules and regulations.
2. Providing sufficient containers for the collection of Municipal Solid Waste (MSW), small Construction and Demolition (C&D) debris, and the SWDD program recyclables. The Contractor will be responsible for servicing the containers at the SLD area and delivering

the materials to their designated location(s) in the Landfill in a manner that ensures space is available for the SLD drop-off of materials and does not interfere with the operation of the SLD area. All containers utilized to collect program recyclables shall include a cover to protect the integrity of the materials collected.

3. Providing a minimum of two employees dedicated to monitoring the SLD area and assisting residents with the placement of their materials. These employees must be trained as a Florida Department of Environmental Protection (FDEP) Certified Spotter and may be utilized for the HHW and leachate residual disposal.
4. Ensuring the SLD operational area remains clean, free of clutter, and all materials are stored properly prior to the cessation of operations each day. Where applicable, all recycling collection container lids shall be closed, and all roll off dumpsters emptied at the cessation of operations each day.
5. Contractor is to provide roll off removal, leachate residual disposal, and replacement services for the Leachate Evaporator.

#### **4.2.8 Other General Services**

1. Dirt and paved road maintenance to include those leading to groundwater wells, and gravel walkways where applicable.
2. Parking Lot/Interior Paved Roadway maintenance - needs to be maintained in such a manner to be clear of sand, grit, nails, and other trash. A street sweeper with a magnet shall be utilized on an as-needed daily basis.
3. Pressure Wash all sidewalks around the administration building and the scale-house building at least on a quarterly basis, or when conditions warrant.
4. Contractor to provide operation, maintenance and management of existing fuel storage and dispensing facilities.
5. Contractor to upgrade the existing equipment maintenance building and existing wash-bay.
6. Vacuum-clean all on-site stormwater inlets and pipes on an annual basis or more, as needed.
7. Security – The Contractor shall ensure that all gates and fences around the site are operational and secured daily. All Site Fencing and gate maintenance.
8. General civil site work as needed for maintenance or for operational improvements (For example, Road & Bridge will provide, at no cost to the Contractor, the Contractor with millings that the Contractor will utilize to repair and patch roadways, etc.)
9. Purchase and maintain a portable electronic programable message board that can be utilized in emergency situations.

10. The Contractor will provide general support for SWDD on the site through the use of personnel and equipment including routine and common testing events, loading and unloading SWDD deliveries to the site, grubbing, clearing, and grading of new laydown or holding areas, installation and removal of site signage, and providing barricades for temporary site road closures.
11. The Contractor shall either rent or purchase a new 15-passenger van for educational tours (owned, operated and maintained by the Contractor, if purchased). SWDD will provide a minimum of one week notice to schedule educational tours. The Contractor shall also provide assistance with the annual Mount Vero 5K, and any other special events to be held on the landfill property.

#### **4.2.9 Pre/Post Storm Services**

The Contractor shall be responsible for preparing contingencies for emergency situations, including storms, by providing these pre/post storm services.

1. Provide an annual Storm/Hurricane Operations Plan.
2. Provide at least two big top tent cover removals and re-installations in case of a potential hurricane to the area.
3. Ensure routine testing of the on-site stationery and portable generators and ensure that they are fueled prior to any potential storm event.
4. Debris and trash removal from C-5 and C-6 canals pre/post storm including repairs to any washouts.
5. Pre/Post hurricane season photos/videos of the entire site. Hurricane season is June 1 – November 30.
6. Assist in securing all facilities and equipment on-site prior to any storm event.
7. Maintaining site operations until official closure is provided by the County and resuming site operations post storm event.

#### **4.3 Load Identification and Unauthorized Waste**

Both SWDD and the Contractor share the responsibility of identifying all loads received at the IRC landfill and to keep unauthorized wastes out by following these operational guidelines.

1. SWDD will not knowingly direct any loads containing unauthorized waste to the Contractor's operating areas.
2. SWDD, in its sole discretion, shall identify the type of waste in the loads received at the scale house and will direct the customer to the appropriate area of the Site for processing and/or disposal of the waste.

3. The Contractor shall be responsible for verifying and initialing all scale house tickets to confirm that the customer has been issued a ticket, that the load is at the correct unloading location as indicated on the ticket and agrees that the load is acceptable.
4. The Contractor shall refuse to accept any unauthorized waste delivered to the Site that is revealed by inspection of a load. If any unauthorized waste is delivered in any load, the Contractor shall immediately stop the customer from unloading of the waste. The Contractor shall then notify SWDD and request SWDD to inspect the load. SWDD shall make the final determination as to whether the load is unauthorized for acceptance based on federal, state, and local regulations.
5. If the Contractor finds unauthorized waste in a load of waste and the customer is still in possession of the load, the Contractor shall immediately notify SWDD so that SWDD can follow up with the customer on the proper handling and disposal method for the unauthorized waste.
- 6.. If the Contractor finds unauthorized waste in a load of waste and the customer is no longer in possession of the load, then the Contractor is responsible for properly disposing of the waste according to federal, state, and local regulations or policies at the Contractor's expense. If the Contractor determines who the generator of the waste is, the Contractor may seek recovery for the expenses incurred.

#### **4.4 Capital Expenditures**

Contractor understands that any capital expenditure that the firm makes, or prepares to make, to perform the services required by the County, is a business risk that the Contractor must assume. SWDD will not be obligated to reimburse amortized or unamortized capital expenditure or to maintain the approved status of any Contractor. If the Contractor has been unable to recoup its capital expenditures during the time it is rendering such services, it shall not have any claim upon the County.

### **Article 5. Personnel**

#### **5.1 General Personnel Provisions**

- 5.1.1 Contractor shall be responsible for providing resources to carry out the work specified herein. Contractor shall maintain at all times a work force of adequate size and skill to fully and successfully perform all required services.
- 5.1.2 Contractor shall have one (1) person assigned as a landfill superintendent, responsible for direct oversight of the Class I Landfill Operations at the Landfill, one (1) person assigned as a Landfill foreperson, and one (1) person assigned as a supervisor responsible for direct oversight of the HHW, SLD area, and other Ancillary areas' activities as outlined in this Agreement. In the absence of a primary supervisor, the Contractor will designate an alternate supervisor and provide notification to SWDD. At a minimum, all designated supervisors at the Landfill, shall be trained as a Florida Certified Spotter and hold a current HAZWOPER 40-hour Certification. All vehicle operators shall maintain a valid Florida State Commercial Driver's License (CDL). During all Landfill operating hours an FDEP Landfill

Operator must be on site. At least one person from the Contractor's Management Team shall be trained as an FDEP Certified Stormwater, Erosion, and Sedimentation Control Inspector.

- 5.1.3 Contractor shall be responsible for following all laws and regulations in the recruitment and employment of personnel to fulfill the requirements of this Agreement.
- 5.1.4 Contractor shall develop and implement a background and ongoing drug testing program for all personnel providing services under this Agreement and amendments.
- 5.1.5 At no time shall Contractor's personnel or Contractor's subcontractors be considered employees of the SWDD or Indian River County.
- 5.1.6 All Contractor employees shall be courteous, professional, and refrain from utilizing derogatory or foul language during operating hours.
- 5.1.7 Contractor shall provide a uniform for all employees that, at a minimum, consists of a shirt identifying Contractor personnel. Personnel shall be required to wear such uniform during all operational hours for services identified herein. Uniform shall include name tag or other recognizable means of personnel identification. Such uniform shall be submitted to the SWDD for approval per terms in Article 5.2 Staffing Plan.

## **5.2 Staffing Plan**

- 5.2.1 Contractor shall provide SWDD a Staffing Plan with an organization chart clearly reflecting personnel to conduct the management, supervision and operational activities defined herein. The Staffing Plan shall identify all personnel to be utilized for Agreement, include all certifications held by said personnel that meet requirement identified herein, and provide a narrative and example of required uniform to be worn during all operational hours by personnel. This shall include clearly identifying any subcontractors, subcontractors' qualifications, the services which they will perform, and how the work relates to required operational services. The Staffing Plan shall be submitted to SWDD within thirty (30) Days of Effective Date for approval. SWDD retains the right to ensure the Staffing Plan meets, at a minimum, the personnel and organization chart structure submitted in the ITB Proposal. SWDD shall notify Contractor of any modifications required for approval. Contractor shall have five (5) business Days to perform modifications and resubmit them to the SWDD for final approval. The SWDD shall not unreasonably withhold, condition or delay its approval of the Staffing Plan.
- 5.2.2 Contractor shall notify SWDD of any proposed changes to the approved Staffing Plan during the term of this Agreement. No changes, to include reduction in personnel, shall be implemented without written SWDD approval. The SWDD shall not unreasonably withhold, condition or delay its approval of any changes or updates to the Staffing Plan.
- 5.2.3 SWDD shall notify Contractor of any reasonable objections that SWDD has to Contractor's key personnel identified within the Staffing Plan, and Contractor shall reasonably consider any such objections. From SWDD's perspective, the key personnel include the Agreement Manager and the Solid Waste Activities Foreperson. The Contractor shall immediately provide notification to SWDD of all pending changes in key personnel. Replacements for key personnel shall be required to have similar or more advanced skills and experience as their predecessor. If justification for replacement of key personnel is not adequate and the assignment is not reasonably acceptable to SWDD, Contractor shall be notified by SWDD

within five (5) Days of denial of the replacement and SWDD shall provide justification for not approving the replacement. The process shall continue until the replacement is acceptable to SWDD and Contractor. If SWDD fails to object within five (5) calendar days, the replacement shall be deemed approved. In no event shall SWDD be liable to Contractor or its employees for failing to approve a person or persons selected by Contractor.

### **5.3 Supervision and Management**

- 5.3.1 Contractor shall have one person assigned as a Contract Manager whose office or primary location is in Indian River County. Contract Manager shall be responsible for the supervision and management of this Agreement and all personnel assigned to fulfill services identified herein. Per terms defined in Article 5.2, SWDD reserves the right to approve replacement personnel in the key position of Contract Manager.
- 5.3.2. Contract Manager shall serve as the primary point of contact to SWDD and shall be required to participate in all meetings and inspections. Should Contract Manager be absent from duties related to this Agreement for more than two (2) consecutive Days, Contractor shall provide an alternate Contract Manager and notify SWDD.

### **5.4 Subcontractors**

- 5.4.1 Contractor may utilize subcontractors to fulfill the service requirements herein so long as subcontractors are not utilized for the actual management of the Agreement. All subcontractors shall report directly to the Contractor. SWDD shall not have any responsibility for a subcontractor hired by Contractor.
- 5.4.2 All subcontractors directly involved in providing the services outlined herein shall be subject to SWDD approval through submittal in the Staffing Plan. Suppliers whose primary function is the provision of supplies and equipment required in the operation the Landfill shall not be subject to SWDD approval.
- 5.4.3 Contractor shall bind each subcontractor to the applicable terms and conditions of the Agreement with a written document that incorporates the Contract into the subcontractor's agreement. Nothing in the agreement shall create any contractual or other relationship between SWDD and the subcontractor performing work in connection with this Agreement. SWDD shall have no obligation to pay or ensure the payment of any monies due to the subcontractor, except as may otherwise be required by law. Contractor shall provide a copy of the subcontractor's agreement for review to SWDD prior to execution by the Contractor and subcontractor.
- 5.4.4 It shall be the Contractor's responsibility to manage and supervise the work of its subcontractor. If a subcontractor's performance is inadequate and results in non-compliance or a violation of the services required herein, the Contractor shall be responsible for all resulting damages, associated monetary penalties and costs of corrective measures.

### **5.5 Operational Procedures for HHW and SLD Areas**

- 5.5.1 Contractor shall provide sufficient containers in both size and type for the collection of Solid Waste and Program Recyclables at the HHW and SLD Areas. Contractor will be responsible for servicing the containers and delivering materials to their designated locations within the Landfill in a manner that ensures space is available for the drop-off of materials without

interference of operations at the HHW and SLD Areas. All containers utilized to collect Program Recyclables shall include a cover to be closed at the end of each operational day to protect the integrity of materials collected, minimize stormwater/leachate concerns, and litter.

- 5.5.2 Contractor will advise SWDD when accepted materials at HHW Operations Area have reached a sufficient level needing to be picked up by the designated SWDD contractor. As necessary, Contractor shall provide employees and equipment to assist such designated contractor responsible for the removal of HHW, white Styrofoam, loose plastic film, and waste oil.
- 5.5.3 Contractor shall provide and maintain permanent signage for the HHW & SLD Operation Areas that clearly demonstrates traffic flow, locations for each Accepted Material, and other applicable safety signs, as required. Signage must be permanent in nature and readable. Contractor shall submit any new signage for SWDD approval prior to installation.

## **5.6 Ongoing Maintenance**

- 5.6.1 Contractor shall be responsible for ensuring the HHW & SLD Operation Areas remain clean, free of clutter, and all materials are stored properly and covered prior to the close of operations each day.
- 5.6.2 Loading and staging areas for all equipment shall be maintained and repaired on an as-needed basis and shall remain free of litter and spillage.
- 5.6.3 SWDD permanent assets located at the Class I Landfill, shall be maintained throughout the term of the Agreement to ensure the asset remains in the “as is” condition Contractor assumed at Commencement Date. This maintenance may include but not be limited to surface cleaning and/or painting, litter and spillage cleanup, and general tidiness.

## **5.7 Equipment**

- 5.7.1 Contractor shall provide and maintain all equipment necessary to operate the Landfill and Ancillary Services at the Landfill and shall include any Material Handling Equipment (MHE), truck tractors, refuse or roll-off trucks, trailers, dumpsters, roll-off containers, compactors, balers, conveyors, lawn mowers, and hand tools to perform the required services in an efficient manner.
- 5.7.2 Within thirty (30) Days of Effective Date, Contractor shall submit an Equipment Plan detailing the primary pieces of operational equipment to be utilized on site. This shall include the types and quantities of each container and/or trailer to be utilized, yellow iron, as well as any transport fleet. The Equipment Plan shall provide a minimum of the types and quantities of equipment submitted with the Contractor's ITB Proposal. Transport fleet not permanently assigned must be identified within the Equipment Plan as rotational equipment. SWDD retains the right to approve the Equipment Plan to ensure minimum types and quantities proposed will be utilized at Commencement Date. Should SWDD not approve any part of the Equipment Plan, Contractor shall provide a revised Equipment Plan within five (5) business Days of notification.
- 5.7.3 Changes to the Equipment Plan, other than routine replacement, must be approved in writing by SWDD prior to implementation.

5.7.4 Contractor shall keep all equipment in good repair, appearance, and in sanitary, leak-proof, clean, and odor-free condition throughout the term of this Agreement. All roll-off containers, compactors, and trailers must always be maintained in a road-worthy condition.

5.7.6 Damaged, broken, and unsuitable equipment shall not be stored at the Landfill or any other SWDD or County property without prior written approval.

5.7.7 Contractor shall use all equipment as designed and within the equipment design capacity. To minimize spillage, no container shall be loaded to exceed its design capacity and the transport regulations of the Department of Transportation. Where applicable, all equipment shall be registered with the applicable State of Florida Agencies and shall comply with requirements concerning the display of registration numbers.

5.7.8 Contractor may utilize SWDD assets located at the Landfill to include but not limited to warehouse, sheds, maintenance facility, wash-bay, HHW containers, and used oil tanks. The Contractor will also be provided with separate office space in the Administration Building as well as a lunch room area to be furnished by the Contractor as needed for their use. However, Contractor shall be responsible (at Contractor's sole expense) for the operation, maintenance, and replacement of SWDD assets that are unreasonably worn or damaged during the term of the Agreement. Contractor assumes responsibility of SWDD assets in an "as is" condition provided at Commencement Date. Should Contractor determine the need for any additional asset or "fixed" asset, Contractor must obtain approval in writing by SWDD prior to installation or construction. Any new fixed asset installed by the Contractor will be at the Contractor's sole expense.

## **5.8 Safety and Security**

5.8.1 Contractor shall provide security to ensure unauthorized access is deterred and prevented. This shall include the use of perimeter security fencing and structures with access gates and buildings properly closed and locked during non-operational hours.

5.8.2 Contractor shall be responsible for coordinating with the Indian River County Sheriff's Office, Fire Department, and any other entity that may require after-hour access to the Landfill.

5.8.3 Contractor shall direct and control all traffic entering and leaving the Landfill to ensure safety and an efficient flow for material drop-off.

5.8.4 Contractor shall implement all measures necessary to control nuisances generated at the Landfill to include odor, noise, dust, and vectors in accordance with applicable laws, regulations, and requirements.

5.8.5 Contractor shall within thirty (30) Days of Effective Date, submit to SWDD the following plans for approval. SWDD retains the right to approve required plans. Should SWDD not approve any part of the plans, Contractor shall submit revisions to the plan within five (5) business Days of notification. Any change within any plan identified below shall be submitted to SWDD and approved in writing prior to implementation.

a) Vector and Vermin Control Plan. This plan shall define measures to be taken by Contractor to control vectors at the Landfill and an implementation timeline spanning the Agreement term.

- b) Odor, Dust, and Noise Control Plan. This plan shall define measures to be taken by Contractor to control odor, dust, and noise at the Landfill and an implementation timeline spanning the Agreement term.
- c) Health and Safety Plan complying with the Occupational Safety and Health Act of 1970 (OSHA) and all applicable Federal and State labor laws, regulations, and standards. Contractor will affirm that any work performed on County property will be performed in accordance with regulatory agency requirements. The Health and Safety Plan shall include a timeline for updating to reflect any changes and ensure safe operational conditions for Contractor employees and the public. Contractor shall deliver an updated plan to SWDD whenever changes occur.

The Health and Safety Plan shall include a written procedure for the immediate removal to a hospital or doctor's care of any person who may be injured that requires such care and for notification to SWDD of all safety issues, including accidents and injuries as soon as practical after an incident has occurred. All injury documentation shall be made available to SWDD upon request.

- d) Spill Prevention, Control, and Countermeasure (SPCC) plan. This plan shall define measures to be taken by Contractor to prevent, respond to, and to clean up oil spills.

5.8.6 Contractor shall ensure during all operational hours that at least one employee on duty is qualified and authorized to supervise and enforce safety compliance; such employee may include, without limitation, Contractor's lead operator and/or supervisor. All employees shall be trained regarding safe operating procedures and provided refresher instruction and training updates a minimum of quarterly per year. Proof of such training and instruction shall be provided to SWDD, upon request.

5.8.7 Safety equipment applicable to the work performed and required by regulation or law shall be provided to all employees. All materials required for first aid shall be provided and maintained by Contractor.

## **5.9 Permits and Licenses**

Contractor shall obtain, at its own expense, all permits and licenses required by Applicable Law and maintain same in full force and effect. Any revocation of Contractor's licenses or permits shall be reported to SWDD within three (3) business Days.

## **Article 6. SWDD Retained Responsibilities**

SWDD will retain responsibility and control of some activities associated with the Landfill either through separate agreement or in-house operations. These activities include:

1. The Landfill Gas Collection and Control System (LFGCCS), including all associated wells, the flare skid, piping, pumps, well extensions, system expansion, monitoring, and reporting. The Contractor shall not interfere with the operation & maintenance of the LFGCCS and will be responsible for ensuring that its personnel do not damage any existing structures.
2. Operation of the Biosolids Facility located on the Indian River County Landfill.
3. Operation of the Indian River County Landfill Scale House shall remain the sole responsibility of SWDD. The Contractor shall not have any responsibilities for weighing trucks in and out of the

landfill. (However, the Contractor shall provide quarterly pressure cleaning services in and around the weighing scales.)

4. Control of the Administration Office that SWDD currently occupies at the Indian River County Landfill site.
8. Operation of the Yard Waste Facility Marketing of the recyclable materials, processing of the clean concrete, and metals & white goods, to include the removal and hauling of the materials from the Indian River County Landfill site.
9. Operation of the Leachate Evaporation System.
10. Maintenance, renewal, modifications, and applications for new permits as necessary concerning the Class I Landfill and Ancillary Services.
11. Responsibility for designing and constructing new landfill cells and the expansion of the landfill as needed to ensure adequate disposal space is available.
12. Responsibility for providing financial assurance for closure and post closure care of the Indian River County Landfill.
13. Sampling, testing, and reporting required by the various permits will be the responsibility of SWDD. The Contractor shall ensure that any third parties contracted with SWDD has access to all areas of the Indian River County Landfill to carry out their duties. The Contractor shall assist in sample collection and testing at the request of SWDD.
14. Management of the leachate collection, transmission and storage system including collection pipe cleaning, pump station management, and storage tank inspections.

## **Article 7. Hours of Operations**

### **7.1 Hours of Operation**

The Indian River County Landfill shall be operational seven (7) days per week from 7:00 AM to 5:00 PM EST except the following holidays: New Year's Day, Independence Day, Labor Day, Thanksgiving Day, and Christmas Day. The Contractor shall have the Landfill ready to receive loads of waste thirty (30) minutes prior to the site's official opening operating hour.

### **7.2 Changes in Hours of Operations**

At the request of the SWDD, the Contractor shall provide additional operational days and/or extended hours at the Landfill in response to holidays, special events, and natural disasters. Modifications related to natural disasters will be relayed to Contractor from the SWDD during preparations for any anticipated event or immediately upon need for unanticipated events.

## **Article 8. Inspections, Recordkeeping and Reporting**

### **8.1 Inspections**

8.1.1 Contract Manager shall attend regularly scheduled monthly inspections with the SWDD representative. These inspections shall cover operational and maintenance services required by Contractor. Documentation of inspection reports completed by SWDD shall be submitted to Contractor within three (3) business Days. Contractor shall retain all completed inspection reports for recordkeeping purposes over the Agreement term. SWDD retains the right to request additional inspections and to perform inspections without

Contract Manager or Contractor representation. Such inspections shall not require notice to the Contractor. However, Contractor shall receive a copy of the completed inspection report within three (3) business Days.

8.1.2 All inspections conducted by SWDD shall be documented via a formal checklist developed by SWDD and shared with Contractor at a minimum of thirty (30) Days prior to Commencement Date.

8.1.3 All inspections conducted by SWDD do not waive or release Contractor from liability and full responsibility for conducting all operations in accordance with terms defined herein.

8.1.4 Contractor shall be responsible for addressing all deficiencies identified and documented during inspections. Repeat violations or deficiencies not addressed shall be subject to the performance standards and liquidated damages defined in Article 10.2. Performance.

## **8.2 Recordkeeping and Reporting**

8.2.1 Contractor shall maintain books, records, documents, time, and cost accounts and other evidence directly related to its performance of services under this Agreement. Time records and cost data shall be maintained in accordance with generally accepted accounting principles. SWDD retains the right to perform audits of Contractors at SWDD's expense should SWDD deem necessary.

8.2.2 Contractor shall maintain the following electronic records/logs in Microsoft Excel or similar accounting software format approved by SWDD. These records shall be reported to SWDD prior to the fifteenth (15<sup>th</sup>) Day of the month on services conducted the prior month.

- a) Equipment Maintenance Log – Record of all maintenance activities performed during the reporting month.
- b) Personnel Log – Employee names, position/title, and contact information. Personnel Log shall also include contact information for any subcontractors, or subcontractor employees, performing services required herein.
- c) GPS locations for where waste was placed during the month for each day of the month. Information shall include latitude and longitude along with the bottom and top elevations of where the waste was placed.
- d) Quantity and type of materials utilized for daily, intermediate, and final covers. These quantities must be expressed in cubic yards. This requirement does not apply to days where an alternative daily cover or method of covering (i.e., tarps) is utilized that does not take up space in the landfill.
- e) The amount of stockpile soil and other materials used on the site for the month and the locations where the materials were utilized. All quantities should be expressed by type in cubic yards.
- f) Daily Waste Screening Reports.
- g) Daily Dust Control Log.
- h) Odor Log.
- i) Incident Log.

8.2.3 The Contractor shall provide monthly reports to SWDD concerning the Contractor's performance under this Agreement. At a minimum, the reports shall discuss the key events that occurred after the last report, plus any key events that are anticipated during the next month. Each report shall address: (a) any complaints received by the Contractor from the public or SWDD (and how the complaints were addressed); (b) any Citations; (c) any spills or emergencies; (d) any accidents or injuries on or off site. The Contractor will also provide SWDD with an accident report for any accidents or injuries off site or at the Landfill within 24 hours of the incident detailing the time, location, nature of the incident, and all parties involved.

### **8.3 Operational Plans**

8.3.1 Contractor shall be responsible for the development and updating of the following plans over the Agreement term:

- a) Operations and Maintenance Plan. This plan shall be comprehensive in nature and consistent with the FDEP-approved Operations Plan for the Indian River County Landfill. This Plan shall be submitted a minimum of thirty (30) Days prior to the Commencement Date and must be updated as conditions or regulations require. The plan must be reviewed annually and updated as required.
- b) Contingency and Continuity of Operations Plan

Contractor shall develop a plan if a storm event or emergency renders Contractor's equipment unusable for a period that would interrupt services required herein (Contingency and Continuity of Operations Plan (*i.e.*, *Disaster Response Plan*)). The Plan shall outline the process by which Contractor shall avoid interruption in services including extra staffing, equipment, and resources to be utilized, backup generators for fueling and offices and backup procedures and locations should Contractor's facility or offices be damaged. The Contingency and Continuity of Operations Plan shall be submitted a minimum of thirty (30) Days prior to the Commencement Date. It shall also outline measures to be taken to resume services defined within this Agreement and shall be updated by March 31<sup>st</sup> of each year.

SWDD shall coordinate with Contractor if a disaster should require temporary closure, or modification to the hours of operation of the Landfill. Contractor shall be familiar with local, state, or federal agency documentation requirements, including but not limited to the generality of the foregoing, rules, regulations, and guidelines applicable to FEMA's Public Assistance Program for Debris Removal, as such requirements change from time to time. Contractor shall maintain complete and accurate records of all such Disaster Work and provide all required and necessary documentation for submission of cost reimbursement requests. Contractor shall be required to submit its FEMA documentation of costs to SWDD as a condition of payment for additional personnel and equipment pursuant to this Article.

- c) Emergency Management/Disaster Meetings

The Contractor shall attend emergency management/disaster meetings as requested by SWDD and shall provide any materials that may be useful to the discussion. The County shall notify Contractor of the date, time, and location of the meetings, and any necessary materials to be provided by Contractor.

d) Use of Emergency Services

The Contractor acknowledges that the County has entered one or more stand-by contracts for debris removal in the event of a natural disaster. However, the Landfill will be impacted and the clean-up from some natural disasters may require that Contractor hire additional equipment, employ additional personnel, or work existing personnel on overtime hours to clean debris resulting from the natural disaster. The pricing included on the bid form under additional services shall be utilized for the labor compensation of Emergency Services and these costs shall be included in the annual rate adjustment process. In the event that the provision of such services results in the Contractor incurring extraordinary costs (including, , costs other than the cost of labor to operate the Landfill for extended hours) with respect thereto, the Contractor shall be compensated for its actual time, materials and labor costs, as well as the Contractor management fee, for any such services, subject to the County's prior written approval and the Contractor's provision of associated back-up.

## **Article 9. Compensation**

### **9.1 Operating Fee**

Operating Fee Rates for the operations, maintenance, and management of the Landfill as defined herein are provided in Exhibit 2. Rates. Contractor shall not be compensated for work performed prior to the Commencement Date. These services may include but not be limited to the development and submittal of plans, pre-operation meetings, ordering equipment and supplies, and the hiring of personnel. The operating fee for the Class I Landfill is fixed at an average of 220,000 tons per year (with a 10% margin up or down) at a rate of \$18.70 per ton, for a total annual cost of \$4,114,000. If in any calendar year the tonnage does not equal 220,000 tons (with a 10% margin up or down), both parties agree to negotiate in good faith with respect to such fluctuations in tonnages beyond the 10% margin in a given year to determine an appropriate rate per ton for the following calendar year. Both parties agree that the average tonnage shall be adjusted upwards on a yearly basis, at a 3% annual increase.

### **9.2 Compensation Process**

- 9.2.1 Each month SWDD shall pay to the Contractor an amount equal to the Operating Fee Rate, as specified in Exhibit 2. Rates, divided by 12. The Operating Fee Rate shall be the total and complete compensation for the Contractor's duties, obligations, and responsibilities under this Agreement.
- 9.2.2 Contractor shall submit an invoice to SWDD on or before the fifth (5th) Day of each month for operations conducted under this Agreement during the preceding month, including any additional services provided.
- 9.2.3 SWDD shall issue payment to Contractor in accordance with the Florida Prompt Payment Act upon verification by SWDD staff of the invoice submitted.

### **9.3 Additional Services**

Upon written request by the SWDD Managing Director and/or Designee for additional services that are not within the scope of services pertaining to the O&M of the Landfill, the Contractor shall provide an itemized proposal for such work for approval. The Contractor is limited to a management fee of no more than 10% for the duration of the Agreement.

### **9.4 Rate Adjustments**

- 9.4.1 All Rates are subject to adjustments set forth in Exhibit 3. Calculation of Rate Adjustment.
- 9.4.2 The Contractor, at SWDD's request and subject to mutually negotiated terms, shall agree to provide additional services in connection with the landfill and Ancillary Services provided in connection with the Indian River County Landfill. Such additional services will be included as an Addendum to this Agreement.
- 9.4.3 SWDD reserves the right to remove services from the Contractor's responsibility and if such responsibilities are removed, the SWDD and the Contractor shall negotiate in good faith on the compensation reduction for that service in this Agreement, including any increase for said service that might have been added after the execution of this Agreement. SWDD shall provide a 90-day prior notice to the Contractor of any intent to remove responsibilities or services from the Contractor. Such removal of Contractor responsibilities or services will be included as an Addendum to this Agreement.
- 9.4.5 The Contractor shall pay all applicable sales, consumer, use, and other similar taxes or charges assessed by any public authority for any Contractor activities whatsoever. The Contractor shall pay all income taxes assessed against its compensation hereunder.

## **Article 10. Performance**

### **10.1 Performance Bond**

The Contractor shall furnish a performance bond within thirty (30) days of the Effective Date to SWDD. Said performance bond shall be equal to fifty (50%) percent of the total annual bid price. The premium for the performance bond shall be paid by the Contractor and shall be written by a Surety company licensed to conduct business in the State of Florida with an A.M. Best Financial Rating of A-VI or higher for the most current calendar year available. The Surety(s) shall be a company satisfactory to SWDD.

10.1.1 Said bond shall be forfeited should Contractor:

- a) Fail to comply with the requirements of this Agreement; or
- b) Take the benefit of any present or future insolvency status or make a general assignment for the benefit of creditors, or file a voluntary petition in bankruptcy or a petition or answer seeking an arrangement of reorganization or the readjustment of indebtedness under the Federal bankruptcy laws or under any law or statute 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 Franchisee's property; or

- c) By an order or decree of a court to be adjudicated bankrupt; or
- d) Have an order or decree of a court entered approving a petition filed by any of Franchisee's creditors seeking a reorganization or readjustment of Franchisee's indebtedness under the Federal Bankruptcy laws or any law or statute of the United States or any state thereof, provided however, that if any such judgment or order is vacated within sixty (60) Days after the entry thereof, any notice of cancellation shall be and become null, void, and of no effect.

## **10.2 Administrative Charges**

10.2.1 The SWDD Managing Director shall notify Contractor in writing by the tenth (10) Day of the month of the County's intent to deduct any Administrative Charges, as set forth in Article 10.2.3, including the basis for each Administrative Charge, from payments due or to become due to Contractor for service provided under this Agreement. Notwithstanding the foregoing, however, or anything in this Section 10.2 or this Agreement or otherwise, no Administrative Charges shall be applicable or assessed, and no deductions shall be made from payments due or to become due to Contractor, during the period of time beginning on the Commencement Date and ending on the date that is one hundred eighty (180) days after the Commencement Date (the "Administrative Charges Exclusion Period"); for the avoidance of doubt, no Administrative Charges shall be applicable or assessed, and no deductions shall be made from payments due or to become due to Contractor, at any time if the basis for such Administrative Charge is an occurrence (including, without limitation, as set forth in Section 10.2.3) that took place during the Administrative Charges Exclusion Period. However, any Contractor violation of federal, state, or local authority and any resulting fines by these agencies shall continue to be applicable during the Administrative Charge Exclusion Period.

10.2.2 In the event Contractor wishes to contest such monthly assessment, Contractor must do so within ten (10) Days of issuance of each assessment notification by requesting, in writing, a meeting with the SWDD Managing Director to resolve the issue. Following such a meeting, the SWDD Managing Director shall notify Contractor in writing of any action taken with respect to Contractor's claims. The Contractor may further appeal, in writing, the decision of the SWDD Managing Director to the County Administrator, who shall conduct a review of all the facts and circumstances and make a determination in writing; if Contractor objects to the County Administrator's determination, Contractor may appeal such determination in writing to the County Commission. Any Administrative Charges in excess of the monthly payment due Contractor shall be carried over and applied to the upcoming month's payment. The County Commission's decision shall be final and conclusive unless determined by a court of competent jurisdiction to be fraudulent, capricious, arbitrary, so grossly erroneous as to necessarily imply bad faith, or not supported by competent evidence.

10.2.3 SWDD may assess the following administrative charges pursuant to this Article:

- a) Failure to Apply Permitted Cover Materials. SWDD shall notify the Contractor that permitted cover materials have not been properly applied and if not remedied within twenty-four (24) hours of notice, a penalty of \$500 per day will be assessed until such time SWDD determines the deficiencies have been resolved.
- b) Application of Excess Cover Materials. If the Contractor applies cover materials over six-inches for daily cover and/or twelve-inches for intermediate cover, the SWDD shall give the Contractor notice. If the Contractor fails to fix the issue within twenty-four (24) hours of notice from SWDD, a penalty of \$500 per day shall be assessed until SWDD determines the issue has been resolved.
- c) Litter Control. If the Contractor fails to adequately control litter as required by this Agreement, SWDD shall provide notice to the Contractor. If the Contractor fails to fix the issue within twenty-four (24) hours of notice from SWDD, a penalty of \$500 per day shall be assessed until SWDD determines the issues have been resolved.
- d) Stormwater Control. If the Contractor fails to maintain drainage structures, swales, ditches, properly place and repair sediment fencing and related stormwater conveyance structures on the site as required by the Agreement, SWDD shall provide notice to the Contractor. If the Contractor fails to fix the issues within twenty-four (24) hours of notice from SWDD, a penalty of \$500 per day shall be assessed until SWDD determines the issues have been resolved.
- e) Road Maintenance. If the Contractor fails to maintain site roads as required by the Agreement, SWDD shall provide notice to the Contractor. If the Contractor fails to remedy the issues within twenty-four (24) hours of notice from SWDD, a penalty in the amount of \$500 per day shall be assessed until SWDD determines the issues have been resolved.
- f) Dust Control. If the Contractor fails to provide dust-control throughout the site as required by the permit or this Agreement, after one hour (1) notice from SWDD, penalties shall be assessed in the amount of \$500 for each hour thereafter until SWDD determines the issues have been resolved.
- g) General Permit Conditions. If the Contractor is notified of a permit condition violation and fails to remedy the violation within twenty-four (24) hours of notice by SWDD, a penalty in the amount of \$500 per day shall be assessed until such time SWDD determines the issues have been resolved. This penalty is separate from any penalty that may be assessed by the regulatory agency for violating a permit condition.

- h) Personnel Requirements. If Contractor fails to keep the required levels of personnel to Operate the Class I Landfill and Ancillary Services covered by this Agreement, SWDD shall provide notice to the Contractor. If the Contractor fails to remedy the issues within twenty-four (24) hours of notice, Administrative Charges of \$500 per day per position will be assessed until SWDD determines the issues have been resolved.
- i) Reports & Deliverables. If the Contractor fails to provide any reports or deliverables to SWDD within the time frame specified in this Agreement or any Amendment to this Agreement, SWDD shall assess a penalty in the amount of \$500 per day that each report and/or deliverable is late.
- j) Containers and Equipment. If Contractor fails to provide and maintain containers, routine and critical equipment in proper working order, SWDD shall provide notice to the Contractor. If the Contractor fails to remedy the issues within twenty-four (24) hours of notice from SWDD, Administrative Charges of \$1,000 per day shall be assessed until SWDD determines the issues have been resolved.
- k) Failure to Open, Close or Properly Secure Landfill. If Contractor fails to open the Landfill on-time or close the Landfill on time or properly secure at the end of a day's operation, SWDD shall assess Administrative Charges in the amount of \$1,000 per occurrence.
- l) Compaction Standards. If the Contractor fails to meet the compaction standard of 1,400 lbs. of waste material per cubic yard, SWDD shall impose Liquidated Damages (LDs) according to the following schedule:

<u>Density Range</u>	<u>\$/Ton</u>
1350 to 1399 lbs/cy	\$1.00
1300 to 1349 lbs/cy	\$1.50
1250 to 1299 lbs/cy	\$2.00
1200 to 1249 lbs/cy	\$2.50

The determination of Compaction Rates will be accomplished through the use of an annual survey performed by the Contractor. The differential between the actual Compaction Rate and the required Compaction Rate of 1,400 lb./cy times the total waste received will be utilized to determine the LD's.

- m) Leachate Discharges. If leachate discharges into the stormwater system, an automatic penalty of \$5,000 per day for each day will be assessed until SWDD determines the issues are resolved.

- n) Site Maintenance. If the Contractor fails to properly conduct site maintenance and groundskeeping activities in the manner and frequency as required in this Agreement, SWDD shall provide notice to the Contractor. If the Contractor fails to remedy the issues within twenty-four (24) hours of notice from SWDD, Administrative Charges in the amount of \$500 per day shall be assessed until SWDD determines the issues have been resolved.
- o) Loss of Use Due to Negligence. If through Contractor negligence, including negligence by one of its employees, an operation covered under this Agreement becomes unavailable for use by the citizens of Indian River County, the payment to the Contractor will be reduced by the number of days the operation is unavailable and Administrative Charges of \$10,000 per day will be assessed by SWDD.

10.2.4 If any violation or deficiency is repeated within forty-eight (48) hours, after an initial deficiency is identified in the same category, the violation will be considered a continuation of the original deficiency and Administrative Charges will be immediately assessed.

10.2.5 If the Contractor or Subcontractor fails to comply with any applicable environmental regulations or other Applicable Laws, the Contractor shall pay the following:

- (a) All lawful fines, penalties, and forfeitures charged to the County by any judicial orders or by any governmental agency responsible for the enforcement of environmental or other Applicable Laws; and
- (b) The actual costs incurred by SWDD as a result of the failure to comply with the environmental or other Applicable Laws, including any costs incurred in investigating and remedying the conditions that led to the failure to comply with the Applicable Laws.

## **Article 11. Change to Service, Law, or Regulation**

11.1 Contractor and County recognize that federal, state, and local law and other changes in law in the future that mandate actions or programs may require changes or modifications to the Agreement. The County shall have the right to make changes to the Agreement as a result of changes in law and to impose new and reasonable rules and regulations on the Contractor relating to the scope and methods of work as shall be necessary and desirable from time to time for the public welfare.

11.2 If any federal, state, or local authority enacts or changes any applicable laws, rules or regulations pertaining to operation of the Landfill which results in a substantial change to the services defined herein and which results in a material increase or decrease in Contractor's costs, the Contractor and SWDD shall negotiate mutually agreeable adjustments to the Agreement and the changes shall take effect upon approval of an executed amendment to the Agreement.

## Article 12. Insurance

12.1 Contractor shall not commence work until all the insurance required under this section has been obtained, and until such insurance has been approved by SWDD. Firm's insurance shall be primary. The County shall be named as an additional insured for both General Liability and Automobile Liability. The awarded firm shall maintain the following limits of insurance during the term duration of this agreement.

- **Owners and Subcontractors Insurance:** The Contractor shall not commence work until they have obtained all the insurance required under this section, and until such insurance has been approved by the owner, nor shall the contractor allow any subcontractor to commence work until the subcontractor has obtained the insurance required for a contractor herein and such insurance has been approved unless the subcontractor's work is covered by the protections afforded by the Contractor's insurance.
- **Worker's Compensation Insurance:** The Contractor shall procure and maintain worker's compensation insurance to the extent required by law for all their employees to be engaged in work under this Agreement. In case any employees are to be engaged in hazardous work under this Agreement and are not protected under the worker's compensation statute, the Contractor shall provide adequate coverage for the protection of such employees.
- **Public Liability Insurance:** The Contractor shall procure and maintain broad form commercial general liability insurance (including contractual coverage) and commercial automobile liability insurance in amounts not less than shown below. The owner shall be an additional named insured on this insurance with respect to all claims arising out of the operations or work to be performed.

Commercial General (Public) Liability, other than Automobile  \$1,000,000.00 Combined single limit for Bodily Injury and Property Damage	<b>Commercial General</b> A. Premises / Operations B. Independent Contractors C. Products / Completed Operations D. Personal Injury E. Contractual Liability F. Explosion, Collapse, and Underground Property Damage
Commercial General Liability Insurance including, but not limited to, Independent Contractor, Contractual, Premises/Operations, Products/Completed Operation and Personal Injury covering the liability assumed under indemnification provisions of this Agreement, with limits of liability for personal injury and/or bodily injury, including death, of not less than \$3,000,000.00, each occurrence; and property damage of not less than \$3,000,000.00, each occurrence. (Combined single limits of not less than \$3,000,000.00, each occurrence – general aggregate; \$3,000,000.00 – products-comprehensive or aggregate; \$3,000,000.00 –each occurrence, will be acceptable unless otherwise stated). Coverage shall be on an "occurrence" basis, and the policy shall include Broad Form Property Damage coverage and Fire Legal Liability of not less than \$3,000,000.00 per occurrence, unless otherwise stated by exception herein.	

Automobile \$1,000,000.00 Combined single limit Bodily Injury and Damage Liability	A. <b>Owner Leased Automobiles</b> B. <b>Non-Owned Automobiles</b> C. <b>Hired Automobiles</b> D. <b>Owned Automobiles</b>
Environmental Liability.	

The Contractor shall procure and shall maintain Environmental Liability coverage with minimum limits of \$2,000,000 per occurrence, if occurrence form is available; or claims made form with "tail coverage" extending three (3) years beyond completion of the Agreement with proof of "tail coverage" to be submitted with the invoice for final payment. In lieu of "tail coverage," Contractor may submit annually to SWDD a current Certificate of Insurance proving claims made coverage insurance remains in force throughout the same three (3) year period. Such coverage shall include coverage for environmental remediation.

Umbrella/Excess Liability.

In addition to the requirements above paragraphs, the Contractor shall be responsible for procuring and maintaining during the life of the Agreement an excess liability policy (excluding pollution losses) in the following amount: \$2,000,000 per occurrence over primary insurance and \$2,000,000 – aggregate.

- **Proof of Insurance:** The Contractor shall furnish the owner a certificate of insurance in a form acceptable to the owner for the insurance required. Such certificate or an endorsement provided by the contractor must state that the owner will be given thirty (30) days written notice prior to cancellation or material change in coverage. Copies of an endorsement-naming Owner as Additional Insured must accompany the Certificate of Insurance.
  - 12.2 The policy shall cover the firm, all employees, and/or volunteers, and all independent contractors, subcontractors and professional contractual persons hired or retained by Contractor.
  - 12.3 The Insurance Carriers shall supply Certificates of Insurance evidencing such coverage to the Indian River County Risk Management Department prior to the execution of this Agreement.
  - 12.4 The insurance companies selected shall send written verification to the Indian River County Risk Management Department that they will provide thirty (30) Days written notice to the Indian River County Department of Risk Management of its intent to cancel or terminate.

### **Article 13. Complaints and Disputes**

- 13.1 Contractor shall immediately notify SWDD of any customer or citizen complaints concerning any work activities required in this Agreement such as litter, noise, dust, odor, property damage, accidents or injuries, failure to open/close or other claims which may involve any party, against the Contractor, SWDD, or County.
  - a) Notification may be verbal but must be followed by written notification to include any witness statements and photographs within twenty-four (24) hours. The Contractor shall also provide a Sheriff's Department incident report (if applicable). Such notification shall be made directly to SWDD.

- b) The Contractor has a responsibility to resolve customer or citizen disputes in a professional manner.
- c) SWDD reserves the right to investigate customer or citizen complaints and if the complaint is deemed valid and not resolved in a timely manner, SWDD may impose Administrative Charges.
- d) Contractor shall notify SWDD immediately of any damages to permanent equipment, fixtures, fencing, buildings, or facilities at the Landfill that are caused by the Contractor and/or its subcontractor. The Contractor, at its sole expense, shall immediately initiate the required repairs and inform SWDD of the expected timeline of repair. Should the Contractor refuse to initiate repairs within ten (10) days of notification, SWDD may make the necessary repairs and bill the Contractor for the cost of the repairs plus fifteen (15%) percent.

## **Article 14. Termination**

### **14.1 Failure to Maintain Performance Bond and Insurance.**

SWDD reserves the right to terminate this Agreement if Contractor fails to obtain and maintain the Performance Bond as set forth in Article 10 and the insurance requirements set forth in Article 12.

### **14.2 Agreement Subject to Annual Appropriation.**

Funding for this Agreement is subject to annual appropriation by the Board of County Commissioners. The Parties agree that it is the intent of each to fulfill this Agreement in its entirety but understand that unforeseen financial circumstances may occur. SWDD therefore retains the right to terminate this Agreement in part or in total should the Board of County Commissioners, sitting as the Solid Waste Disposal District, be unable to appropriate sufficient funding. In such case SWDD will notify Contractor 180 calendar days in advance of the termination. In the event that this clause is exercised in the first 5 years of this Agreement the parties will negotiate in good faith to reimburse Contractor for any unrealized capital costs.

### **14.3 Scrutinized Companies**

Contractor is advised that section 287.135, Florida Statutes, prohibits agencies from contracting with companies for goods or services of One Million Dollars (\$1,000,000.00) or more that are on either the Scrutinized Companies with Activities in the Sudan List and/or the Scrutinized Companies with Activities in the Iran Petroleum Energy List. Both lists are created pursuant to section 215.473, Florida Statutes. SWDD reserves the right to terminate this Agreement if SWDD discovers that the Contractor has submitted a false certification regarding the Scrutinized Companies with Activities in the Sudan List and/or the Scrutinized Companies with Activities in the Iran Petroleum Energy List, and/or if, during the term of the Agreement, the Contractor has been placed on the Scrutinized Companies with Activities in the Sudan List and/or the Scrutinized Companies with Activities in the Iran Petroleum Energy List.

Contractor certifies that it and those related entities of Contractor as defined by Florida law are not on the Scrutinized Companies that Boycott Israel List, created pursuant to Section 215.4725 of the Florida Statutes and are not engaged in a boycott of Israel. SWDD may terminate this Agreement if Contractor, including all wholly owned subsidiaries, majority-owned subsidiaries, and parent companies that exist for the purpose of making profit, is found to have been placed on the Scrutinized Companies that Boycott Israel List or is engaged in a boycott of Israel as set forth in section 215.4725, Florida Statutes.

#### **14.4 Bankruptcy**

SWDD reserves the right to terminate this Agreement if Contractor takes the benefit of insolvency statute, or shall make a general assignment for the benefit of creditors, files a voluntary petition in bankruptcy, petitions or answers seeking an arrangement for its reorganization or readjustment of its indebtedness under the federal bankruptcy laws or under any other law or statute of the United States, or any state thereof, or consents to the appointment of a receiver, trustee, or liquidator of all or substantially all of its property.

SWDD reserves the right to terminate this Agreement if by order or decree of a court, the 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 the Contractor seeking its reorganization or the readjustment of its indebtedness under federal bankruptcy laws 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 (60) days after the entry thereof, any notice of cancellation shall be and will become null, void, and of no effect.

SWDD reserves the right to terminate this Agreement if 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 of all or substantially all of the property of the Contractor, and such possession of control shall continue in effect for a period of sixty (60) days.

#### **14.5 Default**

SWDD may terminate this Agreement by written notice of default to the Contractor if Contractor fails to perform or observe any of the material terms and conditions of this Agreement for a period of thirty (30) days after receipt of notice of such default. Should Contractor make good faith effort to cure any notified failure that exceeds the thirty (30) day period, SWDD shall retain the right to make final determination on the termination for default.

Contractor may terminate this Agreement by written notice of a default to SWDD only upon SWDD's material breach of a non-payment due under this Agreement. A material breach shall not include allowed deduction for Administrative Charges and shall not include any allowable timeframe per the Florida Prompt Payment Act. Should the SWDD make a good faith effort to cure any notified breach that exceeds the thirty (30) day period, Contractor shall retain the right to make final determination on the termination for default.

#### **14.6 Interim Operations**

In the event that this Agreement is terminated before the end of any Term, the Contractor shall continue operations for an interim period of up to one hundred and eighty (180) calendar days if requested to do so by SWDD in order to allow SWDD the opportunity to obtain the services of a successor contractor or to make arrangements to operate the landfill and auxiliary facilities with its own forces. The Contractor shall be paid for its services during said interim period at the rates in effect prior to issuance of the Notice of termination. Any additional services will be paid for at an agreed-upon rate.

#### **14.76 Return of Facilities**

At the end of the Agreement or after Termination, the Contractor will leave all facilities and the site in good repair and similar condition to when they started operating, except for normal wear and tear. Any costs for damage or disrepair left by the Contractor will be subtracted from the Contractor's final payment.

### **Article 15. Other Terms and Conditions**

#### **15.1 Indemnification**

The Contractor shall defend, indemnify, and hold harmless the County and its commissioners, officers, employees and agents, from any and all losses, damages, expenses (including reasonable attorney's fees) and other liabilities of any type whatsoever, arising out of or relating to any negligence, intentional tort, breach of contract, or breach of Applicable Law by the Contractor, or its employees, agents, subcontractors, or other persons or entities performing work under this Agreement. Contractor's duty to indemnify shall not extend to acts, neglect, errors, omissions, or defaults caused by County employees or agents. This section shall survive the termination or expiration of this Agreement.

#### **15.2 Assignment**

No assignment of this Agreement or any right occurring hereunder shall be made in whole or in part by Contractor without the express written consent of SWDD; in the event of any assignment, assignee shall assume the liability of Contractor.

#### **15.3 Severability**

If any Article, sub article, sentence, clause, or provision of this Agreement is held invalid, the remainder of the Agreement shall not be affected.

#### **15.4 Compliance with Laws and Regulations**

Contractor agrees that they will comply with all Federal, State, and Applicable Law, including OSHA, EPA, and any other requirements that may apply, to the production, sale, and delivery of the goods or the furnishing of any labor or services called for by this Agreement, and any provisions required thereby to be included herein shall be deemed to be incorporated herein by reference. Noncompliance may be considered grounds for termination of this Agreement.

## **15.5 Sovereign Immunity**

SWDD reserves and does not waive any and all defenses provided to it by the laws of the State of Florida or other Applicable Law, and specifically reserves and does not waive the defense of sovereign immunity.

## **15.6 Right to Require Performance**

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

## **15.7 Modification**

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

## **15.8 Reservation of Rights**

SWDD hereby expressly reserves the right to amend this Agreement, which may be necessary or proper to secure and protect the health, safety, moral, general welfare, and accommodation of the public including, but not limited to, amendments related to rates, and to protect the public from danger and inconvenience in the management and operations of solid waste services business, and to provide such service as is contemplated by this Agreement.

## **15.9 Independent Contractor**

It is understood and agreed that nothing herein contained is intended or should be construed as in any way establishing the relationship of co-partners or a joint venture between the parties hereto or as constituting Contractor as an agent, representative or employee of SWDD for any purpose whatsoever. Contractor is to be, and shall remain, an independent contractor with respect to all services performed under this Agreement. Persons employed by Contractor in the performance of services and functions pursuant to this Agreement shall have no claim to pension, workers' compensation, unemployment compensation, civil service or other employee rights or privileges granted to SWDD's officers and employees either by operation of law or by SWDD.

## **15.10 Governing Law, Venue**

The validity, construction and effect of this Agreement shall be governed by the laws of the State of Florida. Any claim, objection or dispute arising out of the terms of this Agreement shall be litigated in Indian River County, Florida or if in Federal Court then it is in the Southern District of Florida.

## **15.11 Public Access**

The Contractor shall comply with Florida's Public Records Law in accordance with the provisions of Chapter 119, Florida Statutes. Specifically, the Contractor shall keep and maintain public records that ordinarily and necessarily would be required by the County in order to perform the service. The Contractor shall provide the public with access to public records on the same terms and conditions that the County would provide the records at a cost that does not exceed the costs provided in Chapter 119 or as otherwise provided by law. The Contractor shall ensure that public records that are exempt or confidential and exempt from public records disclosure requirements are not disclosed except as authorized by law. The Contractor shall meet all requirements for retaining public records and transfer, at no cost, to the County, all public records in possession of the Contractor upon termination of the Agreement and destroy any duplicate public records that are exempt or confidential and exempt from public records disclosure requirements. All records stored electronically must be provided to the County in a format that is compatible with the information technology systems of the County.

**IF THE CONTRACTOR HAS QUESTIONS REGARDING THE APPLICATION OF CHAPTER 119, FLORIDA STATUTES, TO THE DESIGN-BUILDER'S DUTY TO PROVIDE PUBLIC RECORDS RELATING TO THIS AGREEMENT, CONTACT THE CUSTODIAN OF PUBLIC RECORDS AT:**

**(772) 226-1424**

**[publicrecords@indianriver.gov](mailto:publicrecords@indianriver.gov)**

**Indian River County Office of the County Attorney**

**1801 27th Street**

**Vero Beach, FL 32960**

**15.12 Waiver**

A waiver of any breach of any provision of this Agreement shall not constitute or operate as a waiver of any other breach of such provision or of any other provisions, nor shall any failure to enforce any provision hereof operate as a waiver of such provision or of any other provisions.

**15.13 Survival of Obligation**

All representations, indemnifications, warranties, and guarantees made in, required by, or given in accordance with this Agreement, as well as all continuing obligations shall survive final payment, completion and acceptance of the work and termination or completion of the Agreement.

**15.14 Attorney's Fees**

In the event of any litigation which arises out of, pertains to, or relates to this Agreement, or the breach of it, including, but not limited to, the standard of performance required in it, the

prevailing party shall be entitled to recover its reasonable attorneys' fees from the non-prevailing party, at both trial and appellate levels.

#### **15.15 Headings**

Headings in this document are for convenience of reference only and are not to be considered in any interpretation of this Agreement.

#### **15.16 Notice**

All notices required or contemplated by this Agreement shall be addressed and sent by certified U.S. mail to the SWDD and Contractor as follows:

To the SWDD:

Managing Director  
Indian River County Solid Waste Disposal District  
1325 74<sup>th</sup> Avenue SW  
Vero Beach, Florida 32968

To Contractor:

General Manager  
1327 74<sup>th</sup> Avenue SW  
Vero Beach, Florida 32968

#### **15.17 E-Verify**

Contractor is registered with and will use the Department of Homeland Security's E-Verify system ([www.e-verify.gov](http://www.e-verify.gov)) to confirm the employment eligibility of all newly hired employees for the duration of this agreement, as required by Section 448.095, F.S. Contractor is also responsible for obtaining an affidavit from all subcontractors, as required in Section 448.095(5)(b), F.S., stating the subcontractor does not employ, contract with, or subcontract with an unauthorized alien.

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed by their duly authorized officers the day and year first above written.

**Attest:**

Ryan L. Butler, Clerk of Court and Comptroller

**Solid Waste Disposal District**

**Indian River County, Florida**

By:

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Deputy Clerk

By:

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Joseph E. Flescher, Chair

**Date Approved by the SWDD:** April 8, 2025

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**Approved By:**

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John A. Titkanich, Jr., County Administrator

**Approved as to Form and Legal Sufficiency By:**

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Christopher A. Hicks, Assistant County Attorney

**SIGNED, SEALED, AND DELIVERED IN THE  
PRESENCE OF:**

By:

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Print Name:

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By:

---

Print Name:

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**BY CONTRACTOR:**

By:

---

Print Name:

---

Print Title:

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## **Exhibit 1. Definitions**

**Accepted Materials:** Those materials designated by SWDD for acceptance at Landfill.

**Administrative Charges:** These are charges that SWDD may impose on the Contractor for not meeting certain specified contractual requirements stipulated in the Agreement.

**Administrative Charges Exclusion Period:** is the period of time beginning on the Commencement Date and ending on the date that is one hundred eighty (180) days after the Commencement Date, wherein, SWDD agrees not to impose administrative charges to the Contractor with the exception of any Contractor violation of federal, state, or local authority and any resulting fines by these agencies.

**Agreement** This Agreement between SWDD and the Contractor including any exhibits and any amendments as modified, supplemented, or restated from time to time.

**Applicable Law:** All applicable Federal and State of Florida laws, local (municipal and county) ordinances, and the rules and regulations of all authorities having jurisdiction over any part of the services provided under this Agreement.

**Biological Waste:** Shall mean that as defined in section 403.703, F.S. as amended and provided here: 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 does not include human remains that are disposed of by persons licensed under chapter 497.

**Biomedical Waste:** Shall mean that as defined in section 403.703, F.S. as amended and provided here: Any Solid Waste or liquid waste that may present a threat of infection to humans. The term includes, but is not limited to, non-liquid 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 Florida Department of Health represent a significant risk of infection to persons outside the generating facility. The term does not include human remains that are disposed of by persons licensed under Chapter 497.

**Board:** Board of County Commissioners of Indian River County, Florida.

**Bulk Trash:** shall mean any non-vegetative item that cannot be containerized, bagged, or bundled, or whose large size or weight precludes its handling, processing, or disposal by normal methods. Bulk Trash shall include, but not be limited to, furniture, White Goods, grills, lawn equipment, furnaces, and bicycles, excluding carpet/rugs, vehicular tires up to 25" inches diameter which may be on or off the wheel rim, motor vehicles or similar property not having a useful purpose to the owner or abandoned by the owner and not included within the definitions of garbage, Yard Waste per week. Definition does not include Hazardous Waste or Construction and Demolition debris.

**Change in Law:** (i) The adoption, promulgation, or modification after the Effective Date of any law, regulation, order, statute, ordinance, or rule that was not adopted, promulgated, or modified on or before the Effective Date; or (ii) the imposition of any material conditions in connection with the issuance,

renewal, or modification of any permit, license, or approval after the Effective Date, which in the case of either (i) or (ii) establishes requirements affecting Contractor's operation under this Agreement more burdensome than the requirements that are applicable to Contractor in effect as of the Effective Date. A change in federal, state, county or other tax law or worker's compensation law shall not be a Change in Law. However, in the event a federal, state, or local entity imposes a fee, charge or tax after the Effective Date that applies to Contractor's operations per se, such fee, charge, or tax shall be treated as a Change in Law.

**Class I Landfill:** as defined in Chapter 62-701.200, FAC, as amended from time to time.

**Class I Waste:** means Solid Waste that is not Hazardous Waste, and which is not prohibited from disposal in a lined landfill under Chapter 62- 701.300, FAC, as defined in Chapter 62-701.200, FAC, as amended from time to time.

**Commencement Date:** October 1, 2025, the date services pursuant to the Agreement shall commence.

**Construction and Demolition Debris:** As defined in Section 403.703, F.S. as amended and provided here: *Discarded materials generally considered to be not water-soluble and nonhazardous in nature, including, but not limited to, steel, glass, brick, concrete, asphalt roofing material, pipe, gypsum wallboard, and lumber, from the construction or destruction of a structure as part of a construction or demolition project or from the renovation of a structure, and including rocks, soils, tree remains, trees, and other vegetative matter that normally results from land clearing or land development operations for a construction project, including such debris from construction of structures at a site remote from the construction or demolition project site. Mixing of Construction and Demolition with other types of Solid waste will cause it to be classified as other than Construction and Demolition. The term also includes:*

- a) *Clean cardboard, paper, plastic, wood, and metal scraps from a construction project;*
- b) *Except as provided in s. 403707(9)(i), Yard Waste and unpainted, nontreated wood scraps and wood pallets from sources other than construction or demolition projects;*
- c) *Scrap from manufacturing facilities which is the type of material generally used in construction projects, and which would meet the definition of construction and demolition debris if it were generated as part of a construction or demolition project. This includes debris from the construction of manufactured homes and scrap shingles, wallboard, siding, concrete, and similar materials from industrial or*
- d) *De minimis amounts of other nonhazardous wastes that are generated at construction or destruction projects, provided such amounts are consistent with best management practices of the industry.*

**Contractor:** The entity to which Indian River County enters this Agreement for services specified herein.

**Contractor Designated Facilities:** These are facilities located on the SWDD property that are for use by the Contractor. Any alterations or modifications to such facilities shall be approved by SWDD and only performed per approved permits. The Contractor shall maintain these facilities for the duration of the Agreement.

**Contractor Maintenance Building:** A building owned by the County that is located at the Landfill for the Contractor to occupy and utilize during the term of the Agreement.

**Contract Manager:** The person designated by SWDD to act as SWDD's representative during the term of this Agreement.

**Critical Equipment:** Equipment deemed essential to the operation of the Site and identified by Bidder during the procurement process.

**Day:** One calendar day unless otherwise specified herein.

**Declaration of Emergency:** A formal notification that may be provided to the Contractor by SWDD after a declaration of emergency is issued by the State of Florida or the County pursuant to Chapter 252, Florida Statute.

**Disaster:** Shall mean any natural, technological, or civil emergency that causes damage of sufficient severity and magnitude to result in a declaration of a state of emergency by the Board, the Governor, or the President of the United States.

**Disaster Debris:** Shall reference scattered items and materials either broken, destroyed, or displaced by a Disaster, including, but not limited to, trees and woody debris, construction and demolition materials, personal property and/or mud, silt, gravel and sediment.

**Effective Date:** The date this Agreement has been fully executed by both the SWDD and Contractor.

**Hazardous Waste:** as defined in Chapter 62-730, FAC, as amended from time to time; the Resource Conservation and Recovery Act, 42 USC 82, and implementing regulations, as amended from time to time; or Section 403.703(21), F.S., and provided here: Solid Waste, or 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, treated, or otherwise managed. The term does not include human remains that are disposed of by persons licensed under chapter 497. In addition to the foregoing definition, any material or substance identified in the Florida Administrative Code Rule 62-730, and 40 Code of Federal Regulation, Part 261 is also included. Hazardous Waste is not accepted at the IRC Class 1 Landfill.

**Holidays:** Shall mean Independence Day, Labor Day, Thanksgiving Day, Christmas Day, and New Year's Day.

**Household Hazardous Waste (HHW):** The Florida Department of Environmental Protection (FDEP) defines household hazardous waste (HHW) as leftover household products that contain toxic, corrosive, ignitable, or reactive ingredients. HHW includes but is not limited to paints, cleaners, oils, batteries, pesticides, lawn chemicals, and fluorescent lamp bulbs.

**Landfill:** The Indian River County Solid Waste Landfill.

**Legitimate Complaint:** Shall mean any complaint where the provisions herein regulating Solid Waste, Program Recyclables, or Yard Waste collection were adhered to by the Customer and Franchisee did not perform in accordance with such provisions.

**Mulch:** as defined in Chapter 62-709, FAC, as amended from time to time. Also referred to as the Yard Trash that has been processed by grinding.

**Rate:** The Board approved amounts to be charged by Contractor for services outlined within Agreement.

**SWDD (or District):** The Indian River County Solid Waste Disposal District, a dependent special district of Indian River County, Florida.

**Solid Waste:** as defined in Chapter 403.703, Florida Statutes, and Chapter 62-701.200, FAC, as each is amended from time to time and provided here: Sludge unregulated under the federal Clean Water Act or Clean Air Act, Sludge from a waste treatment works, water supply treatment plant, or air pollution control facility, or garage, rubbish, refuse, special waste, or other discarded material, including solid, liquid, semi-solid, or contained gaseous material resulting from domestic, industrial, commercial, mining, agricultural or governmental operations. This term does not include Disaster Debris.

**Special Waste:** Solid Waste that requires analysis, tracking, special handling, processing, and/or disposal by the Contractor.

**Spotter:** an employee of the Contractor who is responsible for screening loads of waste received at the Site and removing all prohibited materials. The Spotter is also responsible for checking and confirming customer's disposal tickets.

**Uncontrollable Force:** Shall mean that as defined in section 403.703, F.S. as amended and provided here: Sludge unregulated under the federal Clean Water Act or Clean Air Act, Sludge from a waste treatment works, water supply treatment plant, or air pollution control facility, or garage, rubbish, refuse, special waste, or other discarded material, including solid, liquid, semi-solid, or contained gaseous material resulting from domestic, industrial, commercial, mining, agricultural or governmental operations. This term does not include Disaster Debris.

**White Goods:** shall mean inoperative or discarded appliances including, but not limited to, air conditioners, heaters, refrigerators, ranges, water heaters, freezers, and other similar domestic and commercial large appliances.

**Yard Trash:** shall mean vegetative matter resulting from yard and landscaping maintenance, including leaves, grass clippings, shrubbery cuttings, palm fronds, tree branches and other similar matter generated by a customer at a residential or commercial property.

**Exhibit 2. Rates**

**CLASS I LANDFILL OPERATIONS AND MAINTENANCE**

SERVICE	OPERATING FEE RATE	UNIT
<b>Class 1 Landfill O&amp;M</b>	\$4,114,000	per Year
<b>ANCILLARY SERVICES</b>		
<b>Material Recovery Facility</b>	\$ 22,161.98	per Month
<b>Waste Tire Storage Area</b>	\$ 7,387.33	per Month
<b>Scrap Metal Storage Area</b>	\$ 1,231.22	per Month
<b>Clean Concrete Storage Area</b>	\$ 4,924.88	per Month
<b>Styrofoam and Loose Plastic Film Facility</b>	\$ 23,393.20	per Month
<b>Household Hazardous Waste Facility</b>	\$ 19,699.53	per Month
<b>Small Load Drop Off Facility</b>	\$ 19,699.53	per Month
<b>Other General Services</b>	\$ 24,642.42	per Month
<b>ADDITIONAL SERVICES</b>		
<b>Additional Day of Operation at Landfill</b>	\$ 9,563.37	per Day
<b>Extended Hours of Operation at Landfill</b>	\$ 956.34	per Hour
<b>Additional Days of Operation for Ancillary Services</b>	\$ 4,104.67	per Day
<b>Additional Hours of Operation for Ancillary Services</b>	\$ 410.47	per Hour

### **Exhibit 3. Calculation of Rate Adjustment**

One Hundred percent (100%) of the rate adjustment shall be based on seventy five percent (75%) of the change in the Consumer Price Index (CPI) between the month of January in the prior year (CPI1) and the month of January in the current year (CPI2). The CPI shall be the South Urban Region, All Items - All Urban Wage Earners and Clerical Workers, published by the United States Department of Labor, Department of Labor Statistics (Series ID = CWUR0300SAO).

If the designated index is discontinued or substantially altered, the SWDD may select another relevant price index published by the United States Government or by a reputable publisher of financial and economic indices.

The total rate adjustment is rounded to the nearest hundredth of a percent and in any given year shall not exceed five percent (5%) of the previous rate.

#### **EXCEL FORMULA FOR CALCULATING RATE ADJUSTMENT**

Rate Adjustment (%) = ROUND (((((CPI2 – CPI1) / CPI1) \* 0.75) \* 100),2)

Where:

"CPI1" = published CPI average for the month of January of the prior year

"CPI2" = published CPI average for the month of January of the current year

#### **SAMPLE CALCULATION OF RATE ADJUSTMENT**

Current Rate = \$8.00 CPI1 = 225.838

CPI2 = 230.195

=ROUND (((((230.195-225.838)/225.838) \* 0.75) \* 100), 2) = 1.93%

Rate Adjustment of 1.93% is less than 5%, the maximum allowed.

New Rate = ROUND (\$8.00 \* (1 +0.0193),2) = \$8.15