

AGREEMENT FOR SOLID WASTE DISPOSAL

THIS AGREEMENT (this "Agreement"), is made and entered into this 11th day of May, 1995, by and between **NASSAU COUNTY**, a political subdivision of the State of Florida (hereinafter referred to as "Nassau County"), and **SOUTHLAND WASTE SYSTEMS, INC.**, a Florida corporation (hereinafter referred to as "Southland").

BACKGROUND FACTS

Nassau County operates the West Nassau Class I Sanitary Landfill (the "West Nassau Landfill") located on U.S. Highway 1, immediately north of Callahan, Florida.

Southland has developed and will continue to develop business arrangements with commercial, institutional, industrial, manufacturing, and other customers in the geographic area in which the West Nassau Landfill is permitted to accept Solid Waste. Southland desires to dispose of Solid Waste generated by its customers within such area in the West Nassau Landfill. Nassau County has agreed to accept and dispose of Solid Waste from sources in the Permitted Service Area (hereinafter defined) collected and delivered by Southland.

The parties desire to enter this Agreement to provide for the disposal of Solid Waste generated from sources in the Permitted Service Area and collected and delivered by Southland to the West Nassau Landfill and to set forth the terms, conditions, rights and remedies of the parties thereunto appertaining.

RECITAL OF CONSIDERATION

NOW, THEREFORE, in consideration of the premises and mutual covenants contained herein, and for other good and valuable consideration, the receipt of which and the adequacy of which are mutually acknowledged, with each party accordingly waiving any challenge to the sufficiency of such consideration, it is mutually covenanted, promised and agreed by the parties hereto as follows:

AGREEMENT

1. DEFINITIONS.

- (a) "Ton" means 2,000 pounds.
- (b) "Change in Law" means any amendment to, or promulgation of any federal, state, county, city, or local statute, rule, regulation, or ordinance after the date of this Agreement that imposes, changes, modifies, and/or alters requirements upon:
 - (1) the design, construction, operation, maintenance or closure of the West Nassau Landfill;
 - (2) the disposal of Solid Waste by the West Nassau Landfill, or which statute, rule, regulation, or ordinance requires Nassau County to seek either an amendment or modification to, or reissuance of, any required Permits, licenses, certificates of public convenience and necessity, approval or authorization issued by any Governmental Body entitling Nassau County, or the West Nassau Landfill to construct, operate, maintain or close, or to dispose of Solid Waste or imposes additional requirements or prohibitions upon such construction, operation, maintenance, closure or disposal.
- (c) "Class I Solid Waste Disposal Facility" means any Class I landfill so classified under Rule 62-701.340(3)(a) and (c), Florida Administrative Code, or any successor

rule or regulation thereto, together with all contiguous land and structures, other appurtenances, and improvements on the land used for Solid Waste management.

(d) "Department" means the Florida Department of Environmental Protection and any successor agency thereto.

(e) "Hazardous Waste" means hazardous waste, as defined in Section 403.703(21), Florida Statutes, or any successor statute thereto, or agency rule(s) promulgated thereunder.

(f) "Permit" means the written authorization issued by a regulatory agency with jurisdiction for the siting, construction and/or operation of a Solid Waste Disposal Facility, provided all procedural standards, performance standards and conditions set forth therein are met.

(g) "Permit Modification" means a change or alteration to the procedural standards, performance standards or conditions of a Permit.

(h) "Permitted Service Area" means the counties in Florida and Georgia from which the West Nassau Landfill is authorized to accept Solid Waste under the terms of its Permit issued by the Department as such Permit may be modified from time-to-time.

(i) "Scales" means a platform truck scale weighing device which meets with the design specifications and performance accuracy requirements of the scale code in the National Institute of Standards and Technologies Handbook 44, and which interfaces directly with a Solid Waste management system.

(j) "Solid Waste" means Class I and other non-hazardous solid waste as described in Section 407.703(13) Florida Statutes permitted to be disposed in a lined Class I landfill under the rules and regulations of the Department.

(k) "Solid Waste Disposal Facility" means any Solid Waste management facility as defined in Section 403.703(11), Florida Statutes, or any successor statute thereto or agency rules promulgated thereunder.

(l) "West Nassau Landfill" means the Class I Solid Waste Disposal Facility portion of the facility owned by Nassau County located on U.S. Highway 1, immediately north of Callahan, Florida, and more particularly described in the text and map attached hereto as Exhibit "A" and in the Department's Permit No. SC45-174427, and includes any lands immediately contiguous to said facility which may later be included within the limits of the foregoing Permit or any successor operating Permit.

2. **TERM.** Unless sooner terminated as provided herein, the initial term of this Agreement shall commence on the date hereof and shall continue thereafter for a period of 120 consecutive calendar months (the "Term"). At anytime after the 48th calendar month Southland may terminate this Agreement by delivering to Nassau County written notice of termination no later than one year prior to the effective termination date.

3. **RIGHTS AND OBLIGATIONS OF SOUTHLAND.**

(a) On the date the initial term of this Agreement commences and continuing throughout the Term of this Agreement, subject to paragraph 4(a) hereof, Southland shall have the right to deliver to the West Nassau Landfill, Solid Waste generated in the Permitted Service Area.

(b) Southland shall provide notification to its customers in the Permitted Service Area that Hazardous Waste shall not be placed in Southland's equipment and Southland shall use its best efforts to prevent the delivery of any Hazardous Waste or any waste other than Solid Waste from the generators to the West Nassau Landfill.

(c) If any Hazardous Waste or any waste other than Solid Waste transported by Southland is delivered to the West Nassau Landfill, Nassau County shall have recourse against Southland or any third party otherwise responsible.

4. **RIGHTS AND OBLIGATIONS OF NASSAU COUNTY.**

(a) Beginning on the date the Term of this Agreement commences and continuing throughout the Term of this Agreement, Nassau County shall cause to be accepted at the West Nassau Landfill for disposal therein Solid Waste transported by Southland from generators in the Permitted Service Area. No later than July 1 of each year, beginning July 1, 1995, Southland shall notify Nassau County of its best estimate of the annual quantity of Solid Waste to be delivered to the West Nassau Landfill from generators in the Permitted Service Area. Nassau County shall accept at the West Nassau Landfill up to a maximum of 30,000 tons per year provided Southland can provide Nassau County of reasonable assurances of the amount of Solid Waste projected to be delivered to the West Nassau Landfill by Southland.

(b) Nassau County shall maintain at the West Nassau Landfill such Scales as may be required by law and/or any regulatory agency with jurisdiction, and shall cause all Solid Waste delivered by Southland to be weighed thereon. The results of each such weighing shall be permanently and accurately recorded. Nassau County, at its cost and expense, shall test and recalibrate the Scales as may be required by law or rule.

(c) Nassau County shall maintain a weight record containing the weight, date, time, and vehicle identification number of each Southland vehicle that delivers waste to the West Nassau Landfill. Nassau County shall deliver copies of such weight records to

Southland, along with its invoice for disposal for that month, following the end of each calendar month.

(d) In the event that the Scales become inoperable so as to preclude the weighing of vehicles and Solid Waste, then Nassau County shall utilize other reasonable methods mutually agreed to estimate or determine the basis for charging the Disposal Fee for Solid Waste generated in the Permitted Service Area.

(e) Southland shall have the right to periodically review a copy of Nassau County's annual aerial survey and other engineering reports and calculations identifying the capacity remaining at the West Nassau Landfill.

(f) In no event may Nassau County enter into any agreement, or otherwise permit, the receipt and disposal at the West Nassau Landfill of Solid Waste generated outside of Nassau County if the impact thereof encroaches upon the Solid Waste disposal capacity at the West Nassau County Landfill necessarily reserved to Southland under the terms of the Agreement.

5. **CONSIDERATION AND DISPOSAL FEES.**

(a) The fee to be charged to Southland by Nassau County for receiving Solid Waste transported by Southland from generators in the Permitted Service Area for disposal at the West Nassau Landfill shall be \$28.00 per ton (the "Disposal Fee"). If Southland fails to deliver at least 5,000 tons per year of Solid Waste to the West Nassau Landfill then the parties shall renegotiate the amount of the Disposal Fee provided however the Disposal Fee shall never exceed the then existing Transfer Station Disposal Fee provided for in the Agreement between Southland and Nassau County for disposal of Solid Waste generated

in Clay County and transported by Southland from the Clay County Transfer Station to the West Nassau Landfill for disposal.

The amounts of the above described disposal fees have been established based on the expected annual volume of Solid Waste to be delivered by Southland from the Clay County Transfer Station and from other sources in the Permitted Service Area. The Disposal Fee shall not be increased even if Southland fails to deliver to the West Nassau Landfill the expected annual volume of Solid Waste, except as provided in paragraph 5(a) hereof. Southland shall at all times be entitled to the lowest rate charged by Nassau County based on the length of the term of this Agreement and the actual annual volume of Solid Waste delivered by Southland from all sources including the Clay County Transfer Station to the West Nassau Landfill.

(b) On each October 1, beginning in 1996, the Disposal Fee for the immediately ensuing year shall be adjusted upward or downward on the basis of the percentage of upward or downward change, if any, in the Consumer Price Index - South Group - All Urban Customers - All Items (1982-84 = 100), as published by the U.S. Department of Labor, Bureau of Labor Statistics (the "Index"), from the Index number of the Index most recently published prior to August 31, 1995 (the "Base Index Number"). Utilizing the Index most recently published prior to August 31 thereafter, beginning in 1996 (the "Current Index Number"), the foregoing adjustment shall be calculated and become effective for a particular year on October 1 first occurring after each such August 31, beginning in 1996. If at the time of calculation the Current Index Number is greater or less than the Base Index Number, the Disposal Fee for the immediately ensuing year, beginning on the said October 1, shall be increased or decreased, as the case may be, from the

Disposal Fee which was in effect on the Commencement Date of this Agreement by an amount equal to the percentage by which the Current Index Number exceeds or is less than the Base Index Number. In the event the U.S. Department of Labor, Bureau of Labor Statistics, ceases to publish the CPI, the parties hereto agree to substitute another equally authoritative measure of change in the purchasing power of the U.S. dollar as may be then available so as to carry out the intent of this provision.

(c) Payment of the Disposal Fee shall be made within thirty days after Southland receives an invoice from Nassau County. Following the delivery of written notice to Southland that Southland is thirty days delinquent in paying the Disposal Fee, Nassau County may refuse to receive Solid Waste (other than Solid Waste from the Clay County Transfer Station) transported by Southland to the West Nassau landfill for disposal until the delinquent Disposal Fee has been paid in full.

(d) Southland shall deliver to Nassau a payment bond in the amount of the estimated monthly disposal fee for Solid Waste delivered by Southland pursuant to this Agreement, multiplied by three. The amount of such payment bond shall be calculated (i) upon the execution hereof; and (ii) thereafter annually on the anniversary hereof. Such payment bond shall be effective as of the day Southland commences delivery of Solid Waste under this Agreement.

(e) In the event that the West Nassau Landfill is unable to continue to receive Solid Waste, Nassau County may designate an alternate Solid Waste disposal facility located within Nassau County for receipt and disposal of Solid Waste transported by Southland. In such event, and effective sixty days following delivery of written notice from Nassau County to Southland thereof, Nassau County may unilaterally increase the disposal

fees only to the extent of the actual cost increase experienced by Nassau County for the disposal of Solid Waste at such facility. In the event of such increase, Southland, may, at its sole option, declare this Agreement to be terminated, such termination effective ten days following Southland's written notice thereof to Nassau County. All provisions of this Agreement otherwise applying to the West Nassau Landfill shall likewise be applicable to said alternate Solid Waste disposal facility to the extent reasonably practicable.

(f) In the event that Nassau County incurs additional capital or operating costs for the design, permitting, construction, operation, maintenance or closure of the West Nassau Landfill resulting from a Change in Law after the date of this Agreement, Nassau County shall be entitled to increase the Disposal Fee in an amount to compensate Nassau County for such increase in cost. Southland shall have the right to seek reimbursement from its customers for any increase in the Disposal Fee due to a Change in Law. If Southland is unsuccessful in requiring a sufficient number of customers to pay such increase, Southland shall then have the option to terminate this Agreement at anytime thereafter.

(g) Nassau County, for the duration of this Agreement: (1) shall have the continuing obligation, and shall take all actions necessary, to apply for, timely seek renewal of, and maintain in good standing any and all Permits, including but not limited to those pertaining to construction, operating, stormwater, environmental matters, as may be necessary for the continuous and lawful operation of the West Nassau Landfill; and (2) shall take no actions which would adversely affect the retention of any and all Permits, including but not limited to those pertaining to construction, operating, stormwater, environmental matters, as may be necessary for the continuous and lawful operation of the West Nassau

Landfill. In the event any such Permit is not in good standing Southland shall have the right to terminate this Agreement immediately upon written notice to Nassau County.

(h) Southland shall not be entitled to deliver to the West Nassau Landfill Solid Waste generated in any county except those counties within the Permitted Service Area. If Southland desires to deliver Solid Waste generated in a county other than a county in the Permitted Service Area, Southland shall request that Nassau County apply to the Department for all required Permit modifications to include such county in the Permitted Service Area and Southland shall cooperate with and assist Nassau County in obtaining such modifications. Southland shall pay the out-of-pocket expenses (including reasonable consultants fees) incurred by Nassau County in obtaining such modifications.

6. **MISCELLANEOUS.**

(a) **Limitations Upon Consent.** Whenever, under the terms of this Agreement, either party is called upon to give its written consent, and except as provided under subparagraph (g), such written consent will not be unreasonably withheld.

(b) **Form of Consent.** All consents and approvals of any kind required under this Agreement shall be in writing. Whenever under the terms of this Agreement either party is authorized to give consent, such consent may be given and shall be conclusively evidenced by a writing executed by an appropriate officer.

(c) **Notices, Documents, and Consents.** All notices required to be given or authorized to be given by any party pursuant to this Agreement shall be in writing and shall be deemed delivered when served personally, when deposited with the United States Postal Service for delivery by certified mail, or when deposited with nationally recognized overnight delivery service for delivery:

To Nassau County:

County Coordinator
Nassau County Courthouse
Post Office Box 1010
Fernandina Beach, Florida 32034

To Southland:

Southland Waste Systems, Inc.
Attention: President
218 Morgan Avenue
Jacksonville, Florida 32254

With a Copy to:

Director of Solid Waste Management
Rt. 1, Box 178
Callahan, Florida 32011

(d) Amendments. This Agreement may be amended from time to time only by written agreement duly authorized and executed by the parties hereto.

(e) Severability. If any provisions of this Agreement shall for any reason be held to be invalid or unenforceable, the invalidity or unenforceability of such provision shall not affect any of the remaining provisions of this Agreement, and this Agreement shall be enforced as if such invalid and unenforceable provision had not been contained herein.

(f) Execution of Documents. Each party agrees that it will execute any and all documents or other instruments, and take such other action as is necessary to give effect to the terms and intent of this Agreement.

(g) Assignment. Neither party may assign, transfer, or otherwise vest in any other person, any of its rights or obligations under this Agreement without the prior written consent of the other party. Except as otherwise expressly provided elsewhere in this Agreement, such consent may be withheld for any or no reason, the provisions of subparagraph (a) to the contrary notwithstanding.

(h) Successors and Assigns. This Agreement shall be binding upon, and shall inure to the benefit of, the parties hereto and their respective successors and permitted assigns.

(i) Waiver. No waiver by either party of any term or condition of this Agreement will be deemed or construed as a waiver of any other term or condition, nor shall a waiver of any breach be deemed to constitute a waiver of any subsequent breach, whether of the same or of a different section, subsection, paragraph, subparagraph, clause, phrase, or other provision of this Agreement. Making payments pursuant to this Agreement during the existence of a dispute shall not be deemed to and shall not constitute a waiver of any of the claims or defenses of the party making such payment.

(j) Governing Law and Venue. This Agreement shall be governed and construed under and pursuant to the laws of the State of Florida, and the United States of America. Unless the parties otherwise agree, the venue of any action or proceeding brought under the provisions of this Agreement shall be Nassau County, Florida.

(k) Confidentiality. All written materials and oral communications between either party shall be deemed public information and shall remain a matter of public record in perpetuity unless otherwise provided or allowed by law.

(l) Time is of the Essence. Time is of the essence with respect to this Agreement and each of its terms and provisions.

(m) Remedies. Each party shall have the right to seek the judicial enforcement and interpretation of this Agreement, and to avail itself of all remedies available to it arising at law or in equity for the breach of this Agreement. Remedies are mutually available, and include damages and specific performance, as appropriate.

(n) Attorneys' Fees and Costs. In the event of any action or administrative proceeding between the parties arising under this Agreement, the prevailing party will be entitled to an award of reasonable attorneys' fees and costs, including such fees and costs incurred by it in the pursuit of any appellate proceedings, regardless of whether such action or administrative proceeding is pursued before any state or federal court or agency.

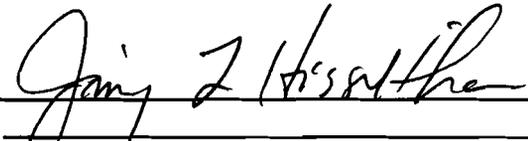
(o) Indemnification. Nassau County shall indemnify Southland fully and hold it harmless for and on account of any injuries or damages sustained or costs incurred by Nassau County or any third party, arising under the various and sundry laws, and the rules and regulations promulgated thereunder, of any federal, state, regional or local governmental entity or agency thereof pertaining to environmental protection, as a result of Nassau County's ownership or operation of the West Nassau Landfill. Such indemnification shall include to the duty on the part of Nassau County (1) to defend Southland, and to pay all attorneys' fees and costs arising from such defense, including those associated with proceedings before regulatory agencies, actions at law or equity, and appeals from decisions rendered thereunder; and (2) to undertake all actions and pay all fines, penalties, damages and costs levied which Southland otherwise is legally obligated to undertake or pay.

(p) Negligence of Southland. The provisions of subparagraph (o) shall not apply to the extent the active negligence on the part of Southland is the proximate cause of the matter(s) to which the indemnification from Nassau County to Southland provided thereunder otherwise would apply.

(q) Transportation Corridor. Except in an emergency, Southland will not transport Solid Waste over that portion of S.R. 200/U.S. Hwy. A1A lying between Yulee and Callahan.

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

NASSAU COUNTY, a political subdivision of the State of Florida, by and through its Board of County Commissioners

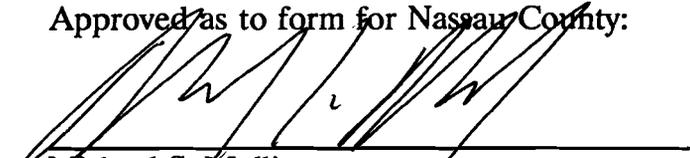
By: 
Its Chairman

Attest:


T. J. "Jerry" Greeson, Clerk of the Circuit Court of Nassau County, and ex-officio Clerk of its Board of County Commissioners

[Nassau County Seal]

Approved as to form for Nassau County:


Michael S. Mullin
Nassau County Attorney

SOUTHLAND WASTE SYSTEMS, INC.

By: 
Name: Peter A. Crawford
Title: President

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