

**WASTE DELIVERY/DISPOSAL AGREEMENT
FAIRFAX COUNTY, VIRGINIA AND THE DISTRICT OF COLUMBIA**

This Waste Delivery/Disposal Agreement, ("Agreement"), is made as of this 5TH day of DECEMBER, 2008 , between Fairfax County, Virginia (the "County") and the District of Columbia, (the "District"); and

WHEREAS, the County and the District have had a mutually beneficial relationship in the shared use of solid waste management facilities since 1971; and

WHEREAS, the County has developed an Energy/Resource Recovery Facility (E/RRF) on property in Lorton, Virginia; and

WHEREAS, the District operates two solid waste transfer facilities; and

WHEREAS, the District hierarchy for waste disposal options identifies resource recovery as a preferred option to land disposal of waste; and

WHEREAS, the County finds it beneficial to make certain capacity at the E/RRF available to the District; and

WHEREAS, the County and the District have previously worked together to mutually resolve solid waste issues and agree to take all necessary and appropriate action in cooperation with one another, to carry out and be bound by this Agreement to the extent permitted by law.

NOW, THEREFORE, the parties agree as follows:

1. The District, and firms authorized as acting on behalf of the District in accordance with the terms of this Agreement, may use the E/RRF for the disposal of acceptable waste. "Acceptable Waste" means solid waste which can be processed in the E/RRF and is not one of the "Unacceptable Wastes" as listed in Schedule 3. Acceptable Waste shall also include only the types of waste allowed by the Virginia Department of Environmental Quality. The District will inform the County in writing of the names of the firms authorized to act on the District's behalf for the purposes of disposing Acceptable Waste provided that the District shall pay the disposal fees for such waste and such designation of private haulers shall not relieve the District of its obligations under this Agreement.

2. Vehicles delivering Acceptable Waste pursuant to this Agreement will access the E/RRF via U.S. Route 1 and Furnace Road. The County shall specify reasonable alternative means of access if these routes become impassable for any reason. Lorton Road, Route 624, shall not be used without prior County authorization.

3. The disposal fees charged to the District will be in accordance with Schedule I of this Agreement. Disposal fees established under this Agreement will be adjusted to reflect any state or federally imposed surcharge, tax or fee on solid waste management or disposal which become effective after the date of this Agreement.

4. The County will invoice the District monthly for the disposal service provided at the E/RRF. The District shall pay the County within 45 days of the date of the invoice. The District will pay interest penalties on amounts due to the County under the Quick Payment Act, D.C. Official Code §2-221.01 et seq., for the period beginning on the day after the required payment date and ending on the date on which payment of the amount is made. Interest shall be calculated at the rate of 1% per month. No interest penalty shall be paid if payment for the completed delivery of the item of property or service is made on or before:

- a) the 3rd day after the required payment date for meat or a meat product;
- b) the 5th day after the required payment date for an agricultural commodity; or
- c) the 15th day after the required payment date for any other item.

Any amount of an interest penalty which remains unpaid at the end of any 30-day period shall be added to the principal amount of the debt and thereafter interest penalties shall accrue on the added amount. Failure to make payment when due may result in the suspension of services.

5. The County will make capacity at the E/RRF available to the District for disposal of Acceptable Waste on an as available basis. The District will divert waste under its control to the E/RRF in the quantities requested by the County. It is anticipated that the County will accept 6,000 tons or more per month of Acceptable Waste and will be able to accommodate 100,000 tons per year. However, it is understood that no more than 125,000 tons of waste will be forwarded to E/RRF on an annual basis.

6. If and to the extent events or circumstances beyond the County's reasonable control, excluding routine emergency and planned maintenance, cause the E/RRF to be unable to process all or some of the District's Acceptable Waste to be delivered pursuant to paragraph 5, the County may reject District Acceptable Waste without notice.

7. Delivery of Acceptable Waste to the E/RRF will be in accordance with the rules and regulations established by the County and by Covanta Energy, Inc. ("Covanta"), the operator of the E/RRF. Any driver who does not abide by the rules and regulations may be restricted from making deliveries. The normal delivery hours will be in accordance with the Receiving Schedule provided in Schedule 2 of this Agreement.

8. The District shall require any contractor who delivers waste under this Agreement to the E/RRF or County facility, to have (a) insurance with minimum per Person/Occurrence limits of \$300,000.00/\$600,000.00 for bodily injury and Occurrence/Aggregate limits of \$150,000.00/\$300,000.00 for property damage; and (b) motor vehicle insurance with per person/occurrence limits of \$200,000.00/\$500,000.00 for bodily injury and occurrence/limits of \$30,000.00 for property damage. The contractor's insurance shall cover all owned, hired, or non-owned motor vehicles used during the term of the contract.

9. The administrators of this Agreement will be:

For the County:

Director, Division of Solid Waste Disposal and Resource Recovery
Suite 458
12000 Government Center Parkway
Fairfax, Virginia 22035

For the District:

Administrator, Solid Waste Management Administration
D.C. Department of Public Works
2750 South Capitol Street, SE
Washington, DC 20032

with a cc to:

General Counsel
D.C. Department of Public Works
2000 14th Street, N.W.
Washington, DC 20009

All notices, consents, approvals, and other communications required, permitted or otherwise delivered under this Agreement shall be in writing and may be sent by facsimile, delivered by hand or mailed by first class registered or certified mail, return receipt requested, and shall be addressed to the Administrators at the above addresses.

10. The County and the District may provide support for each other on solid waste related special projects, emergency support, or other needs. Disposal fees for certain other materials, in addition to Acceptable Waste, are listed on Schedule 1. The cost of other support will be based on hourly rates for labor and equipment which will be exchanged prior to the start of each contract year.

11. The term of this agreement is for a period of five years from the date signed by both parties hereto. The estimated annual charge will not exceed a ceiling of \$4,000,000.

12. Either party may terminate this Agreement for any reason by giving 90 days advance notice in writing to the other party.

13. The obligations of the County and the District under this Agreement are contingent upon the appropriation for each fiscal year for payments and services under this Agreement.

14. This Agreement may not be assigned by either party without the prior written consent of the other party.

15. This Agreement constitutes the entire and complete agreement of the parties with respect to the subject matter it contains, and supersedes all prior or contemporaneous understandings, arrangements, commitments, and representations, all of which, whether oral or written, are merged into this Agreement.

16. This Agreement shall bind and inure to the benefit of the parties to this Agreement and any permitted successor or assignee.

17. In the event irreconcilable differences arise between the County and the District the matter shall be referred to a mutually agreeable impartial arbitrator whose decision shall be binding. The County and District shall share in the cost of any arbitration.

18. The laws of the State of Virginia shall govern the validity, interpretation, construction, and performance of this Agreement.

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

20. If any provision of this Agreement shall be determined to be invalid, illegal, or unenforceable, the Parties shall make good faith efforts to modify this Agreement in a manner to implement the intent of the Parties as embodied herein. Any resulting modification and the remaining provisions of this Agreement shall be valid and enforceable to the fullest extent permitted by law.

21. This Agreement may be amended by the written agreement of both parties. No party to this Agreement shall have any responsibility whatsoever with respect to services provided or contractual obligations assumed by the other party and nothing in this Agreement shall be deemed to constitute one party a partner, agent, or legal representative of the other party or to create any fiduciary relationship between the parties.

FAIRFAX COUNTY, VIRGINIA

By A H Griffin
Anthony H. Griffin
County Executive

 9/12/08
Date

DISTRICT OF COLUMBIA

By William O. Howland, Jr.
William O. Howland, Jr., Director
Department of Public Works

 12-4-2008
Date

By David P. Gagan
David P. Gagan, CPPO
Chief Procurement Officer

 DEC 05 2008