

## **INTERLOCAL AGREEMENT FOR WASTEWATER DISPOSAL SERVICES**

This Interlocal Agreement for Wastewater Disposal Services ("Agreement") is made and entered into this \_\_\_\_ day of \_\_\_\_\_, 2019 ("Effective Date"), by and between St. Lucie County, a political subdivision of the State of Florida ("St. Lucie"), and Martin County, a political subdivision of the State of Florida ("Martin").

### **RECITALS**

**WHEREAS**, the Florida Interlocal Cooperation Act of 1969 (Section 163.01, Florida Statutes) authorizes local governments "to make the most efficient use of their powers by enabling them to cooperate with other local governments on a basis of mutual advantage and thereby to provide services and facilities in a manner" that will benefit both communities; and

**WHEREAS**, Martin owns and operates wastewater treatment facilities ("Facilities") that receive, treat, and dispose of sewage and other types of wastewater, including the Leachate generated by Martin's closed Class I landfill; and

**WHEREAS**, St. Lucie owns a Class I landfill and other solid waste management facilities that generate Leachate; and

**WHEREAS**, Martin's Facilities have the physical capacity and technical capability to receive, treat, and dispose of St. Lucie's Leachate; and

**WHEREAS**, Martin is willing to provide, and St. Lucie wishes to use, Martin's Facilities for the disposal of St. Lucie's Leachate, subject to the terms and conditions in this Agreement.

**NOW, THEREFORE**, in consideration of the promises and mutual covenants set forth herein, the receipt and sufficiency of which are hereby acknowledged, St. Lucie and Martin agree to comply with and be bound by the following terms and conditions:

Section 1.   Recitals.

The recitals set forth above are true, correct, and incorporated into this Agreement.

Section 2.   Statutory Authority.

The statutory authority to enter into this Agreement is granted to St. Lucie and Martin by Chapter 163, Florida Statutes (2018).

### Section 3. General Purpose.

St. Lucie and Martin are entering into this Agreement because they wish to establish the terms and conditions that will govern their activities when St. Lucie delivers Leachate to Martin's Facilities for treatment and disposal.

### Section 4. Definitions.

The capitalized words and phrases in this Agreement shall have the meanings set forth in this Section 4. If a word or phrase is not defined in this Agreement, the definitions in Chapter 403, Florida Statutes, and Title 62, Florida Administrative Code, that are in effect on the Effective Date shall be used to supplement the definitions in this Agreement. If there is a conflict between a definition contained herein and any other definition, the definition contained herein shall control when construing this Agreement.

Applicable Law means any local, state or federal statute, law, constitution, charter, ordinance, judgment, order, decree, permit, rule, regulation, standard or similar binding authority, or a judicial or administrative interpretation of any of the same, which is in effect or is enacted, adopted, promulgated, issued or enforced by a governmental body during the term of this Agreement, and relate in any manner to the performance of Martin or St. Lucie under this Agreement.

County Administrator means the chief administrative officer of a Party or their designee.

Designated Facility means the wastewater treatment plant designated by Martin for the delivery of St. Lucie's Leachate.

Effective Date means the date when this Agreement is signed and duly executed by Martin, which shall occur after the Agreement is signed and duly executed by St. Lucie.

Facilities means the wastewater treatment plants owned by Martin.

Force Majeure means the following events and circumstances, but only to the extent that they delay or preclude a Party from performing one or more of its obligations under this Agreement: (a) a hurricane, tornado, lightning, flood, fire, explosion, or epidemic; (b) acts of war, terrorism, insurrection, riots, civil disturbances, or national or international calamities; (c) suspension, termination, or interruption of utilities necessary to a Party's operations or duties under this Agreement; (d) an injunction, or a legal or equitable proceeding brought against a Party, or a change in Applicable Law; and (e) any act, event, or condition that is determined by mutual agreement of the Parties to be of the same general type as the events of Force Majeure identified in (a) through (d), above.

Leachate means any liquid that has passed through or emerged from solid waste and may contain soluble, suspended or miscible materials.

Load means Leachate and any other liquid cargo in one of the trucks transporting Leachate for St. Lucie to Martin's Designated Facility.

Martin means the government of Martin County, Florida, acting through the Board of County Commissioners of Martin County or the Board's designees.

Party means, depending on the context, either Martin or St. Lucie.

Parties means Martin and St. Lucie.

St. Lucie means the government of St. Lucie County, Florida, acting through the Board of County Commissioners of St. Lucie County or the Board's designees.

Unacceptable Wastewater means any liquid waste that Martin cannot lawfully accept at the Designated Facility. Unacceptable Wastewater includes but is not limited to any Leachate or other liquid waste that contains one or more pollutants in concentrations that exceed (a) the maximum allowable concentrations identified in Attachment 1 or (b) the maximum allowable concentrations identified in any permit, statute, rule, or other Applicable Law that governs the operation of the Designated Facility.

#### Section 5. Specific Conditions.

5.1 Subject to the conditions herein, St. Lucie shall have the right to deliver Leachate to Martin's Designated Facility and Martin shall accept, treat, and dispose of the Leachate delivered by St. Lucie.

5.2 The Designated Facility shall be the Martin Downs Wastewater Re-Pump Facility located at 5545 S.W. Sand Avenue, Palm City, Florida, unless Martin's County Manager designates a different facility pursuant to Section 8, below, after the Effective Date. If Martin's County Manager determines that a different wastewater treatment plant should serve as the Designated Facility, Martin's County Manager shall provide written notice to St. Lucie at least 90 days before implementing the change.

5.3 St. Lucie shall be solely responsible for transporting its Leachate in tanker trucks to the Designated Facility. St. Lucie shall provide reasonable advance notice to Martin before St. Lucie delivers St. Lucie's Leachate to the Designated Facility. The Leachate may be delivered to the Designated Facility by St. Lucie or its agent, and the Leachate shall be accepted by Martin, between the hours of 6:00 A.M. and 12:00 P.M. (midnight), seven days per week. The Leachate shall be discharged from the tanker trucks into an on-site lift station at the Designated Facility. St. Lucie's employees,

agents, and other representatives shall comply with Martin's safety, traffic, and operating requirements at all times when they are present at the Designated Facility.

5.4 Subject to the conditions herein, St. Lucie may deliver and discharge up to 50,000 gallons of Leachate each day at the Designated Facility. Martin's County Administrator may approve the delivery of larger quantities of Leachate pursuant to Section 8, below, if Martin's County Administrator concludes in his or her sole discretion that the Designated Facility can accept such quantities safely and in compliance with Applicable Law.

5.5 Attachment 1 to this Agreement is a copy of the Industrial Wastewater Discharge Permit (FL0043214) that was issued by Martin on November 1, 2017 to the Martin County Solid Waste Department for the discharge of Leachate generated at Martin's solid waste management facilities. Attachment 1 contains a table that identifies the maximum pollutant concentrations allowed in the Leachate delivered to the Designated Facility by the Martin County Solid Waste Department. (See page 4, Part 3, Section B of Attachment 1). The Leachate delivered to the Designated Facility by St. Lucie must comply with the same maximum pollutant limits that apply to the Leachate delivered to the Designated Facility by the Martin County Solid Waste Department. If Martin changes the maximum pollutant concentrations that are applicable to the Leachate delivered by the Martin County Solid Waste Department, the same changes shall apply to the Leachate delivered by St. Lucie. Martin's County Manager shall notify St. Lucie and revise the table in Attachment 1 whenever any such change occurs. Such changes shall not apply to the Leachate delivered by or on behalf of St. Lucie until 90 days after Martin's County Administrator provides notice to St. Lucie.

5.6 Notwithstanding anything else contained herein, Martin shall have the right to reject any Load of Leachate delivered by or on behalf of St. Lucie if Martin concludes that the Load contains Unacceptable Wastewater. If Martin rejects part or all of a Load, St. Lucie shall transport the rejected portion of the Load from the Designated Facility and shall arrange for the lawful disposal of the rejected wastewater at a different location.

5.7 Martin shall monitor and record the quantity of Leachate that is delivered to the Designated Facility by St. Lucie.

5.8 Each month Martin shall submit an invoice to St. Lucie and thereby request payment for disposing of the Leachate that was delivered to the Designated Facility by or on behalf of St. Lucie during the previous month. The invoice shall be based on Martin's records concerning the amount of Leachate delivered by or on behalf of St. Lucie. St. Lucie shall be charged and shall pay the rates set in accordance with Martin County Resolution No. 16-13.5 which provides for annual rate adjustments. Such resolution is incorporated herein by reference. Martin agrees to provide St. Lucie prior notice of such price adjustment by April 1 of each year. St. Lucie shall have the right to dispute the amount requested in Martin's invoice, but St. Lucie shall pay all undisputed amounts within thirty days after receiving Martin's invoice.

5.9 St. Lucie and Martin agree to fully cooperate with each other and perform all acts necessary for the successful implementation of this Agreement. St. Lucie and Martin shall comply with all Applicable Laws when performing their respective duties under this Agreement. St. Lucie and Martin shall each be responsible for the acts, errors, and omissions of their respective officers, employees, agents, and other representatives when they are conducting activities pursuant to this Agreement.

#### Section 6. Term and Termination.

6.1 This Agreement shall take effect and be binding on the Parties from the Effective Date until this Agreement expires or is terminated in compliance with the requirements herein. The initial term of this Agreement shall expire on September 30, 2028. At the end of the initial term, this Agreement shall be renewed and extended automatically, without any further action by either Party, for an additional ten year term unless Martin provides notice to St. Lucie on or before October 1, 2027, that Martin does not wish to extend this Agreement.

6.2 Either Party may terminate this Agreement for convenience, with or without cause. The termination shall be effective (a) one year after the notice of termination is delivered to the other Party or (b) at any later date selected by the Party terminating the Agreement.

#### Section 7. Force Majeure.

A delay or failure of performance by a Party shall not constitute a default hereunder and shall not give rise to any claims for damages, if and to the extent that such delay or failure is caused by an event of Force Majeure and the event of Force Majeure (a) is beyond that Party's reasonable control and (b) materially and adversely affects that Party's ability to perform its obligations under this Agreement. A Party whose performance is affected by an event of Force Majeure shall give written notice thereof to the other Party as soon as reasonably practicable and shall use commercially reasonable efforts to immediately remove or overcome the impediment to its performance under this Agreement.

#### Section 8. Dispute Resolution.

The Parties shall use their best efforts to resolve any disputes under this Agreement amicably, in an informal manner, without resorting to litigation. If the Parties are unable to resolve the dispute in a mutually acceptable manner, either Party may file suit for injunctive relief, mandamus, or specific performance, or exercise any other legal or equitable remedies to enforce the obligations and covenants in this Agreement.

#### Section 9. Amendment.

This Agreement may be amended only by a written document signed by both Parties and filed with the Clerk of the Circuit Court of Martin County, Florida, and the Clerk of the Circuit County of St. Lucie County, Florida. Notwithstanding the foregoing, the County Managers for Martin and St. Lucie are hereby authorized to amend this Agreement pursuant to Sections 5.2, 5.4, and 5.5, above, without obtaining the prior approval of the Board of County Commissioners for either Party.

Section 10. Notices.

All notices, requests, consents, and other communications required or permitted under this Agreement shall be in writing and shall be hand-delivered by messenger or courier service, or sent by facsimile communication or e-mail, or mailed by registered or certified mail (postage prepaid) return receipt requested, and shall be addressed to:

As to Martin County:      Martin County Administrator  
2401 Southeast Monterey Road  
Stuart, Florida 34996

With a copy to:            Martin County Attorney  
2401 Southeast Monterey Road  
Stuart, Florida 34996

As to St. Lucie County:    St. Lucie County Administrator  
2300 Virginia Avenue  
Administration Annex  
Fort Pierce, Florida 34982

With a copy to:            St. Lucie County Attorney  
2300 Virginia Avenue  
Administration Annex  
Fort Pierce, Florida 34982

The documents shall be deemed to have been duly delivered when personally delivered, or when transmitted by facsimile communication or e-mail and receipt is confirmed by telephone, or when delivered by U.S. Mail or courier service as shown by the return receipt.

Section 11. Assignment.

Neither Party shall assign this Agreement to any other person or entity without first obtaining the non-assigning Party's written approval.

Section 12. Waiver.

No waiver by either Party of a term or condition of this Agreement shall constitute a waiver of any other term or condition. The failure of either Party to insist upon strict

performance of any of the terms or conditions in this Agreement shall not be considered to be a waiver or relinquishment of such term or condition. There shall be no waiver of any term or condition in this Agreement unless the waiver is in writing and signed by the Party waiving its rights under this Agreement.

Section 13. Severability.

Should any provision, paragraph, sentence, word, or phrase in this Agreement be determined by a court of competent jurisdiction to be invalid, illegal, or otherwise unenforceable, such provision, paragraph, sentence, word, or phrase shall be deemed modified to the extent necessary to conform with Applicable Law or, if not modifiable, then same shall be deemed severable, and in either event, the remaining terms and provisions in this Agreement shall remain in full force and effect. Thereafter, this Agreement shall be construed as if the invalid, illegal, or unenforceable provision had never been contained herein.

Section 14. Previous Agreements.

Upon the Effective Date, this Agreement shall supersede and replace all prior agreements between the Parties pertaining to the issues addressed herein. This Agreement embodies the entire understanding of the Parties concerning such matters.

**IN WITNESS WHEREOF**, the Parties have caused the execution of this Agreement by their duly authorized officials on the dates stated below.

**ATTEST:**

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

\_\_\_\_\_  
Deputy Clerk

BY: \_\_\_\_\_  
Chair

**APPROVED AS TO FORM AND  
CORRECTNESS:**

BY: \_\_\_\_\_  
County Attorney

**ATTEST:**

**BOARD OF COUNTY COMMISSIONERS  
MARTIN COUNTY, FLORIDA**

\_\_\_\_\_  
Carolyn Timmann, Clerk of the  
Circuit Court and Comptroller

BY: \_\_\_\_\_  
Edward V. Ciampi, Chairman

**APPROVED AS TO FORM AND LEGAL  
SUFFICIENCY:**

BY: \_\_\_\_\_  
Krista A. Storey, Acting County Attorney