



*YOUR PARTNER FOR  
SOLID WASTE SOLUTIONS*

**INTERLOCAL AGREEMENT FOR**

**DELIVERY OF PASSENGER TIRES**

**TO**

**PALM BEACH RENEWABLE ENERGY FACILITY #2**

**BETWEEN**

**SOLID WASTE AUTHORITY OF PALM BEACH COUNTY**

**AND**

**MARTIN COUNTY, FLORIDA**

**AGREEMENT NO. 19-XXX**

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**INTERLOCAL AGREEMENT FOR  
DELIVERY OF PASSENGER TIRES  
TO PALM BEACH RENEWABLE ENERGY FACILITY #2**

***This Agreement*** between the **Solid Waste Authority of Palm Beach County**, a dependent special district created by Chapter 2001-331, Laws of Florida, as amended, (hereinafter referred to as "AUTHORITY") and **Martin County, Florida**, a Political subdivision of the State of Florida, (hereinafter referred to as "COUNTY" and "Parties" when referred to collectively).

***Whereas***, Section 163.01, Florida Statutes, known as the "Florida Interlocal Cooperation Act of 1969," authorizes local governments to make the most efficient use of their powers by enabling them to cooperate with other localities on a basis of mutual advantage and thereby to provide services and facilities that will harmonize geographic, economic, population, and other factors influencing the needs and development of local communities; and

***Whereas***, Part I of Chapter 163, Florida Statutes, permits public agencies as defined therein to enter into interlocal agreements with each other to jointly exercise any power, privilege, or authority which such agencies share in common and which each might exercise separately; and

***Whereas***, the AUTHORITY has constructed and operates Palm Beach Renewable Energy Facility #2 (hereinafter referred to as the "FACILITY"); and

***Whereas***, the AUTHORITY has designed the FACILITY to provide for the long term disposal requirements of all the waste produced in Palm Beach County; and

***Whereas***, the AUTHORITY wishes to utilize the available excess disposal capacity at the FACILITY to the economic benefit of all the residents of Palm Beach County through the collection of Tipping Fees for the disposal of acceptable PASSENGER TIRES and the sale of clean renewable electric energy; and

***Whereas***, the COUNTY represents it owns or has legal control of significant quantities of PASSENGER TIRES; and

***Whereas***, the COUNTY desires to provide for the safe, environmentally conscious, and cost effective disposal of the PASSENGER TIRES it owns or controls; and

***Whereas***, the COUNTY warrants that the PASSENGER TIRES it owns or controls are not hazardous and are acceptable for disposal at the FACILITY; and

***Whereas***, the COUNTY represents it is capable and prepared to deliver the PASSENGER TIRES it owns or controls to the FACILITY.

***Now, therefore***, in consideration of the promises contained herein, and other good and valuable consideration, the receipt of which is hereby acknowledged, the Parties agree as follows:

**ARTICLE 1 - EFFECTIVE DATE AND INCORPORATION OF RECITALS**

The foregoing recitals are hereby incorporated herein by reference.

This Agreement shall take effect upon execution by the Parties and shall continue until either Party gives notice to terminate this Agreement as set forth herein.

## ARTICLE 2 - SERVICES TO BE PERFORMED BY COUNTY

The COUNTY shall deliver and/or cause to be delivered to the FACILITY the type(s) and quantities of acceptable PASSENGER TIRES as specifically stated in the Conditions of Use, attached hereto and made a part hereof as Exhibit A.

## ARTICLE 3 - COMPENSATION

- 3.1 The COUNTY shall pay the applicable Tipping Fee to the AUTHORITY in accordance with the AUTHORITY's approved posted Tipping Fee Schedule. The applicable posted Tipping Fee category is "**Tires: Whole Passenger (without rims)**". The Tipping Fee for the fiscal year 2019 is \$35 per ton. The Tipping Fee will be adjusted on a fiscal year basis, effective October 1<sup>st</sup>, increasing or decreasing the Tipping Fee as approved by the AUTHORITY's Governing Board.
- 3.2 The AUTHORITY shall submit a monthly invoice for PASSENGER TIRES delivered to, and accepted at, the FACILITY in accordance with the terms and conditions detailed herein. Invoices shall include a complete accounting of each delivery of PASSENGER TIRES accepted at the FACILITY by type and weight together with corroborating/supporting documentation. Payment of invoices shall be due and payable within forty-five (45) days after receipt, in accordance with the Local Government Prompt Payment Act. All payments shall be delivered to:

Solid Waste Authority of Palm Beach County  
7501 North Jog Road  
West Palm Beach, Florida 33412  
Attn: Accounts Receivable

- 3.3 The COUNTY shall deliver to the AUTHORITY on a fiscal year basis, unless directed otherwise by the AUTHORITY, the forecasted amount of PASSENGER TIRES set forth in Exhibit A.

## ARTICLE 4 - INSURANCE

- 4.1 The COUNTY is a member of the Treasure Coast Risk Management Program (TRICO) which is a qualified self-insurer in the State of Florida and is granted immunity under Section 768.28, Florida Statutes, as it may be amended from time to time. Liability is limited to \$200,000 per claimant, \$300,000 per claim or occurrence for negligent acts of the Board of County Commissioners. Since this immunity cannot be extended to individuals, corporations or other governmental agencies, this eliminates the possibility of naming the AUTHORITY as an additional insured.  
Workers Compensation Insurance: Statutory Limits provided; \$1,000,000 Employer Liability Coverage.
- 4.2 The COUNTY shall furnish to the AUTHORITY certificates of insurance which shall include a provision that policy cancellation, non-renewal, or reduction of coverage will not be effective until at least thirty (30) days written notice has been made to the AUTHORITY.
- 4.3 During the performance of the services under this Agreement, the COUNTY shall require its contractors, subcontractors and authorized agents maintain the following insurance policies written by an insurance company authorized to do business in Florida.
  1. **General Liability** Insurance with bodily injury limits of not less than \$5,000,000 for each occurrence and with property damage limits of not less than \$5,000,000 for each occurrence.
  2. **Automobile Liability** Insurance with bodily injury limits of not less than \$1,000,000 for each person and not less than \$1,000,000 for each accident and with property damage limits of not less than \$1,000,000 for each accident.
  3. **Workers' Compensation** Insurance in accordance with statutory requirements and Employer's

Liability Insurance with limits of not less than \$1,000,000 for each accident, \$1,000,000 for each disease, and \$1,000,000 aggregate.

- 4.4 Deductible amounts for policies held by contractors, subcontractors or authorized agents shall not exceed 5% of the total amount of required insurance in each category. Should any policy contain any unusual exclusions, said exclusions shall be so indicated on the certificate(s) of insurance.
- 4.5 The COUNTY shall require its contractors, subcontractors, and authorized agents to furnish to the COUNTY and the AUTHORITY certificates of insurance which shall include a provision that policy cancellation, non-renewal, or reduction of coverage will not be effective until at least thirty (30) days written notice has been made to the AUTHORITY. The COUNTY shall require its contractors, subcontractors, and authorized agents to include the COUNTY and the AUTHORITY as an additional insured on all liability insurance policies required by this Agreement. The COUNTY shall require its contractors, subcontractors, and authorized agents provide the COUNTY and the AUTHORITY with proof of continuing insurance each year of this Agreement on or before the anniversary of the effective date of this Agreement.
- 4.6 The COUNTY shall require its contractors, subcontractors, or authorized agents to include the AUTHORITY and COUNTY as additional insured on all of their liability insurance policies. In the event that contractors, subcontractors, or authorized agents used by the COUNTY do not have insurance, or do not meet the insurance limits, the COUNTY shall ensure that the contractors, subcontractors, or authorized agents indemnify and hold harmless the COUNTY and the AUTHORITY for any claim in excess of the insurance coverage carried by the COUNTY's contractors, subcontractors, or authorized agents.
- 4.7 The COUNTY shall not commence work under this Agreement until all insurance required as stated herein has been obtained and such insurance has been approved by the AUTHORITY.

#### **ARTICLE 5 - INDEMNIFICATION**

##### **5.1 Indemnification**

Subject to the limitations of Section 768.28, Florida Statutes, the COUNTY agrees to be responsible for all liabilities, damages, losses, and costs, including, but not limited to, reasonable attorney's fees, to the extent caused by the negligence, recklessness, or intentionally wrongful conduct of the COUNTY and other persons employed or utilized by the COUNTY in the performance of this Agreement. Nothing herein shall be construed as a waiver of sovereign immunity by either Party, pursuant to Section 768.28, Florida Statutes, or as consent to be sued by third parties.

##### **5.2 Survival**

Upon completion of all services, obligations, and duties provided for in this Agreement, or in the event of termination of this Agreement for any reason, the terms and conditions of this Article shall survive.

#### **ARTICLE 6 - INDEPENDENT COUNTY**

- 6.1 The COUNTY is, and shall be in the performance of all work services and activities under this Agreement, an Independent Contractor, and not an employee, agent, or servant of the AUTHORITY. All persons engaged in any of the work or services performed pursuant to this Agreement shall at all times, and in all places, be subject to the COUNTY's sole direction, supervision, and control. The COUNTY shall exercise control over the means and manner in which it and its contractors and employees perform the work, and in all respects the COUNTY's relationship and the relationship of its employees to the AUTHORITY shall be that of an Independent Contractor and not as employees, agents, or servants of the AUTHORITY.
- 6.2 The COUNTY does not have the power or authority to bind the AUTHORITY in any promise, agreement, or representation other than specifically provided for in this Agreement.

## **ARTICLE 7 - AUTHORITY TO OPERATE**

The COUNTY hereby represents and warrants that it has, and will continue to maintain, all licenses and approvals required to provide its services.

## **ARTICLE 8 - COMPLIANCE WITH LAWS**

In performance of the services, the COUNTY will comply with applicable regulatory requirements, including federal, state, special district, and local laws, rules, regulations, orders, codes, criteria, and applicable standards.

## **ARTICLE 9 – TITLE TO PASSENGER TIRES, RIGHTS OF REFUSAL/REJECTION**

### **9.1 General**

Title to the PASSENGER TIRES shall pass to the AUTHORITY when the PASSENGER TIRES are weighed and subsequently accepted by the AUTHORITY or its authorized representative on the tipping floor of the FACILITY. Such title is subject to re-vesting in the County pursuant to 9.2 below.

### **9.2 Refusal/Rejection**

The AUTHORITY or its authorized representative may, at its sole discretion, reject after acceptance (and title to such PASSENGER TIRES shall re-vest in the COUNTY) any load of unacceptable PASSENGER TIRES which are delivered by the COUNTY to the FACILITY that do not conform to the requirements set forth herein as acceptable PASSENGER TIRES if the AUTHORITY or its authorized representative reasonably believes the COUNTY has breached (or is breaching) its warranties or representations made herein. If the COUNTY delivers such unacceptable PASSENGER TIRES, the AUTHORITY or its authorized representative may, at its sole discretion, either remove and dispose of such unacceptable PASSENGER TIRES and charge the COUNTY for all costs associated therewith, or require the COUNTY to promptly remove such unacceptable PASSENGER TIRES.

## **ARTICLE 10 – RESPONSIBILITIES OF THE PARTIES**

### **10.1 AUTHORITY's Responsibilities**

The AUTHORITY shall be responsible for providing access to the FACILITY through the AUTHORITY scale house during normal working hours (7AM – 5PM Monday through Saturday including all legal holidays except Thanksgiving and Christmas).

### **10.2 COUNTY's Responsibilities**

The COUNTY shall deliver to the AUTHORITY the estimated quantities of PASSENGER TIRES subject to the Conditions of Use detailed in Exhibit A attached.

## **ARTICLE 11 – (NOT USED)**

## **ARTICLE 12 – TERMINATION FOR CONVENIENCE**

- 12.1. Either Party may terminate this Agreement for any reason whatsoever upon thirty (30) days written notice to the other Party.

## **ARTICLE 13 - UNCONTROLLABLE FORCES**

- 13.1 Neither the AUTHORITY nor COUNTY shall be considered to be in default of this Agreement if delays in, or failure of, performance shall be due to Uncontrollable Forces, the effect of which, by the exercise of reasonable diligence, the non-performing Party could not avoid. The term "Uncontrollable Forces" shall mean any event which results in the prevention or delay of performance by a Party of its obligations under this Agreement and which is beyond the reasonable control of the non-performing Party. It includes, but is not limited to, fire, flood,

earthquakes, storms, lightning, epidemic, war, riot, civil disturbance, sabotage, and governmental actions.

- 13.2. Neither party shall, however, be excused from performance if non-performance is due to forces which are preventable, removable, or remediable and which the non-performing Party could have, with the exercise of reasonable diligence, prevented, removed, or remedied with reasonable dispatch. The non-performing Party shall, within a reasonable time of being prevented or delayed from performance by an Uncontrollable Force, give written notice to the other Party describing the circumstances and Uncontrollable Forces preventing continued performance of the obligations of this Agreement.

#### **ARTICLE 14 - REMEDIES**

This Agreement shall be governed by the laws of the State of Florida. Any and all legal action necessary to enforce the Agreement shall be in a state court of competent jurisdiction located in Palm Beach County, Florida. However, with the exception of the choice of law and venue provisions contained herein, no remedy conferred upon any Party is intended to be exclusive of any other remedy, provided at law or in equity.

#### **ARTICLE 15 - COMMERCIAL NON-DISCRIMINATION POLICY**

As a condition of entering into this Agreement, the COUNTY represents and warrants that it will comply with the AUTHORITY's Commercial Non-Discrimination Policy, as described under Section 6.3 of the AUTHORITY's Purchasing Manual, including subsequent amendments thereto, if any. As part of such compliance, the COUNTY shall not discriminate on the basis of race, color, religion, ancestry, or national origin, gender, age, marital status, sexual orientation, or on the basis of disability or other unlawful forms of discrimination in the solicitation, selection, hiring, or commercial treatment of contractors, vendors, suppliers, or commercial customers, nor shall the COUNTY retaliate against any person for reporting instances of such discrimination. The COUNTY shall provide equal opportunity for contractors, vendors, and suppliers to participate in all of its public and private sector subcontracting and supply opportunities, provided that nothing contained in this clause shall prohibit or limit otherwise lawful efforts to remedy the effects of marketplace discrimination that have occurred or are occurring in the AUTHORITY's relevant marketplace in Palm Beach County. The COUNTY understands and agrees that a material violation of this clause shall be considered a material breach of this Agreement and may result in termination of this Agreement, disqualification, or debarment of the COUNTY from participating in AUTHORITY contracts, or other sanctions. This clause is not enforceable by or for the benefit of, and creates no obligation to, any third party. The COUNTY agrees and understands that the provisions of Section 6.3 of the AUTHORITY's Purchasing Manual are incorporated herein by reference and that the COUNTY is familiar with the contents of same.

#### **ARTICLE 16 - WAIVER**

A waiver by either the AUTHORITY or COUNTY of any breach of this Agreement shall not be binding upon the waiving Party unless such waiver is in writing. In the event of a written waiver, such a waiver shall not affect the waiving Party's rights with respect to any other or further breach. The making or acceptance of a payment by either Party with knowledge of the existence of a default or breach shall not operate, or be construed to operate, as a waiver of any subsequent default or breach.

#### **ARTICLE 17 - SEVERABILITY**

- 17.1. The invalidity, illegality, or unenforceability of any provision of this Agreement, or the occurrence of any event rendering any portion or provision of this Agreement void, shall in no way affect the validity or enforceability of any other portion or provision of this Agreement. Any void provision shall be deemed severed from the Agreement and the balance of the Agreement shall be construed and enforced as if the Agreement did not contain the particular portion or provision held to be void. The Parties further agree to reform this Agreement to replace any stricken provision with a valid provision that comes as close as possible to the intent of the stricken provision.

- 17.2. The provisions of this Article shall not prevent the entire Agreement from being void should a provision which is of the essence of the Agreement be determined to be void.

#### **ARTICLE 18 - ENTIRETY OF AGREEMENT**

The AUTHORITY and COUNTY agree that this Agreement sets forth the entire agreement between the Parties, and that there are no promises or understandings other than those stated herein. This Agreement supersedes all prior agreements, contracts, proposals, representations, negotiations, letters, or other communications between the AUTHORITY and COUNTY pertaining to the services, whether written or oral.

#### **ARTICLE 19 - MODIFICATION**

This Agreement may not be modified unless such modifications are evidenced in writing signed by both the AUTHORITY and COUNTY. Such modifications shall be in the form of a written Amendment executed by both Parties.

#### **ARTICLE 20 - SUCCESSORS AND ASSIGNS**

The AUTHORITY and COUNTY each binds itself and its partners, successors, assigns, and legal representatives to the other Party to this Agreement and to the partners, successors, executors, administrators, assigns, and legal representatives. The COUNTY shall not assign this Agreement without the prior express written approval of the AUTHORITY, exercised by the AUTHORITY in its sole discretion.

#### **ARTICLE 21 – (NOT USED)**

#### **ARTICLE 22 - PUBLIC RECORDS**

- 22.1 It is the intent of this Article to maintain compliance with the Florida Public Records Law, Ch. 119, Florida Statutes, as amended.
- 22.2 The Parties hereto are public entities, each subject to Chapter 119, Florida Statutes, commonly known as Florida's Public Records Law. Each Party will comply with its obligations under Florida's Public Records Law.

#### **ARTICLE 23 - INSPECTOR GENERAL**

Palm Beach County has established the Office of the Inspector General (OIG), Ordinance No. 2009-049, which is authorized and empowered to review past, present, and proposed Palm Beach County contracts, transactions, accounts, and records. The AUTHORITY has entered into an Interlocal Agreement (ILA) for Inspector General Services. This Agreement provides for the Inspector General to provide services to the AUTHORITY in accordance with the authority, functions, and powers set out in the Palm Beach County Office of Inspector General Ordinance. All parties doing business with the AUTHORITY and receiving AUTHORITY funds shall fully cooperate with the Inspector General including providing access to records relating to this Agreement. The Inspector General has the power to subpoena witnesses, administer oaths, require the production of records, and audit, investigate, monitor, and inspect the activities of the COUNTY, its officers, agents, employees, and lobbyists in order to ensure compliance with contract specifications and detect corruption and fraud. Failure to cooperate with the Inspector General or interference or impeding any investigation shall be in violation of Ordinance 2009-049, and punished pursuant to Section 125.69, Florida Statutes, in the same manner as a second degree misdemeanor.

#### **ARTICLE 24 - NOTICE**

Any notice, demand, communication, or request required or permitted hereunder shall be in writing and delivered in person or sent by certified mail, postage prepaid as follows:



**AS TO AUTHORITY**

Solid Waste Authority of Palm Beach County  
7501 North Jog Road  
West Palm Beach, Florida 33412  
Attention: Dan Pellowitz, Executive Director  
Office No.: 561-640-4000  
Email: dpellowitz@swa.org

**AS TO COUNTY**

Martin County BOCC  
P.O. Box 9000  
Stuart, Florida 34995-9000  
  
Attention: Samuel Amerson, P.E., Utilities & Solid Waste Director  
Office No.: 772-223-7942  
Email: Samerson@martin.fl.us

Notices shall be effective when received at the addresses as specified above. Changes in the respective addresses to which such notice is to be directed may be made from time to time by either Party by written notice to the other Party. Facsimile transmission is acceptable notice effective when received; however, facsimile transmissions received (i.e., printed) after 5:00 p.m. or on weekends or holidays, will be deemed received on the next business day. The original of the notice must additionally be mailed as required herein.

Nothing contained in this Article shall be construed to restrict the transmission of routine communications between representatives of the COUNTY and AUTHORITY.

**ARTICLE 25 - CONTRACT ADMINISTRATION**

Services of the COUNTY shall be under the general direction of Robert Worobel, Director Plant Operations, or designee, who shall act as the AUTHORITY's representative during the term of this Agreement.

**ARTICLE 26 - KEY PERSONNEL**

The COUNTY shall notify the AUTHORITY in the event of key personnel changes which might affect this Agreement. Notification shall be made within ten (10) days of said changes. The following personnel shall be considered key personnel:

**Samuel Amerson, P.E., Utilities & Solid Waste Director**  
**Office No.: 772-223-7942**  
**Email: Samerson@martin.fl.us**

**ARTICLE 27 - SCRUTINIZED COMPANIES**

27.1 As provided in F.S. 287.135, by entering into this Agreement or performing any work in furtherance hereof, the COUNTY certifies that it, its affiliates, suppliers, subcontractors, and consultants who will perform hereunder, have not been placed on the Scrutinized Companies With Activities in Sudan List or Scrutinized Companies With Activities in The Iran Petroleum Energy Sector List created pursuant to F.S. 215.473, or is engaged in business operations in Cuba or Syria.

If the AUTHORITY determines, using credible information available to the public, that a false certification has been submitted by the COUNTY, this Agreement may be terminated and a civil penalty equal to the greater of \$2 million or twice the amount of this Agreement shall be imposed, pursuant to F.S. 287.135. Said certification must also be submitted at the time of Agreement renewal.

- 27.2 As provided in F.S. 287.135, by entering into this Agreement or performing any work in furtherance hereof, the COUNTY certifies that it, its affiliates, suppliers, subcontractors, and consultants who will perform hereunder, have not been placed on the Scrutinized Companies that Boycott Israel List, or is engaged in a boycott of Israel, pursuant to F.S. 215.4725.

If the AUTHORITY determines, using credible information available to the public, that a false certification has been submitted by the COUNTY, this Agreement may be terminated and a civil penalty equal to the greater of \$2 million or twice the amount of this Agreement shall be imposed, pursuant to F.S. 287.135. Said certification must also be submitted at the time of Agreement renewal.

#### **ARTICLE 28 - THIRD PARTY BENEFICIARY DISCLAIMER**

It is not the intention of this Agreement to create third party beneficiary status in any person or entity that is not a direct party to this Agreement, and no language in this Agreement should be construed or interpreted as creating a third party beneficiary.

***REMAINDER OF THIS PAGE INTENTIONALLY LEFT BLANK***

***In Witness Whereof***, this Agreement has been fully executed on behalf of the Parties hereto by its duly authorized representatives, as of the date first written above.

**SOLID WASTE AUTHORITY OF PALM BEACH COUNTY:**

Witness:

1. \_\_\_\_\_

By: \_\_\_\_\_

Dan Pellowitz  
Executive Director

2. \_\_\_\_\_

Approved as to Form and Legal Sufficiency:

Approved as to Terms and Conditions:

By: \_\_\_\_\_

*General Counsel to the Authority*

By: \_\_\_\_\_

**MARTIN COUNTY, FLORIDA:**

Attest:

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

By: \_\_\_\_\_

*Edward V. Ciampi, Chairman*

Approved as to Form and Legal Sufficiency:

\_\_\_\_\_  
Sarah W. Woods, County Attorney

Approved by Authority Board on \_\_\_\_\_, Item \_\_\_\_\_

<b>EXHIBIT A</b> <b>CONDITIONS OF USE</b>
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**1. BACKGROUND**

- A. The AUTHORITY currently operates Renewable Energy Facility #2 (FACILITY), providing for the long term disposal of post recycled municipal solid waste and other combustible waste generated in Palm Beach County. The FACILITY is guaranteed to process a minimum of 1,000,000 tons of acceptable waste per year at a rate of approximately 3,000 tons per day. The FACILITY generates approximately 100 MW of clean renewable energy. The FACILITY is permitted and operated in strict accordance with all the applicable Federal, State and Local regulations.
- B. The FACILITY has been designed to serve the long term (30 years +) disposal needs of Palm Beach County. As such, there is currently a limited amount of unused capacity available for the disposal of additional acceptable waste material. In addition, the AUTHORITY has access to other disposal options for vegetative waste and can potentially make significant additional capacity available if determined to be in the best interest of the AUTHORITY.
- C. The COUNTY collects PASSENGER TIRES at the COUNTY Transfer Station located at 9101 SW Busch Street, Palm City, FL 34994. The COUNTY currently collects on average 375 tons per year of PASSENGER TIRES. An average of 31 tons of PASSENGER TIRES will be delivered per month.
- D. Types of material that are considered as acceptable PASSENGER TIRES include: whole passenger, SUV, and pickup truck tires without rims. PASSENGER TIRES with rims will be rejected.
- E. Types of material that would not be considered as acceptable PASSENGER TIRES are designated as Prohibited Waste defined as follows:
  - a. Prohibited Waste shall mean those materials that are not permitted to be combusted because they are: (a) non-processible waste; (b) hazardous waste; (c) prohibited by permit or other applicable law; or (d) deemed to be an operational, health, or safety issue or hazard.
  - b. Hazardous Waste shall mean any material or substance which, by reason of its composition or characteristics, is: (a) hazardous waste as defined in the Solid Waste Disposal Act, 42 USC §6901 et seq., as amended, replaced, or superseded, and the regulations implementing same; (b) material the disposal of which is regulated by the Toxic Substance Control Act, 15 USC §2601 et seq., as amended, replaced, or superseded, and the regulations implementing same; (c) special nuclear or by-products material within the meaning of the Atomic Energy Act of 1954; or (d) treated as hazardous waste under applicable law. If any Governmental Authority shall determine that substances are hazardous or harmful to health when processed at the FACILITY, then any such substances or materials shall be Hazardous for the purposes of this RFP.
  - c. Non-processible Waste shall mean that portion of MSW that is not processible waste: (a) due to its size; (b) because it is predominantly non-combustible; (c) due to its physical or chemical composition; or (d) because it is inappropriate to process such MSW in a mass burn facility using prudent industry practices.

**2. DELIVERY**

- A. The COUNTY may deliver a forecasted amount of 375 tons of acceptable PASSENGER TIRES to the FACILITY on a fiscal year basis. The COUNTY will be allowed to deliver in excess of the forecasted quantities of PASSENGER TIRES subject to the available capacity of the FACILITY.

- B. PASSENGER TIRES shall be delivered during normal working hours, currently 7AM - 5PM Monday through Saturday including all Legal Holidays except for Thanksgiving and Christmas. PASSENGER TIRES shall be delivered in reasonably well maintained vehicles equipped with functioning mechanical unloading capabilities. Deliveries shall be made on a schedule agreed to between the AUTHORITY and the COUNTY, such schedule to be reasonably balanced throughout the day and throughout the week so as to effectuate the efficient operation of the FACILITY.
- C. Annually, on or before April 1<sup>st</sup>, the AUTHORITY will notify the COUNTY of the estimated quantity of PASSENGER TIRES that the AUTHORITY can accept during the fiscal year beginning the subsequent October 1<sup>st</sup>. The AUTHORITY will also advise the COUNTY of the FACILITY outages that are planned for the fiscal year and the potential impact on the PASSENGER TIRE delivery schedule.
- D. Monthly, or as otherwise agreed to by the Parties, the AUTHORITY and COUNTY shall agree on a plan of schedule of deliveries for the following month. The Parties recognize that operational conditions are subject to unforeseen circumstances that will require deviations from the planned delivery schedule. If such deviations are required, the Party requesting the deviation shall promptly notify the other Party of the need for the deviation. Approval of such deviations shall not be unreasonably withheld.
- E. The AUTHORITY shall not be obligated to accept PASSENGER TIRES in the event that the FACILITY cannot accept the material for any reason. The AUTHORITY will make all reasonable efforts to notify the COUNTY in advance of any such circumstance. The AUTHORITY's landfill shall not be available for disposal of PASSENGER TIRES in the event the FACILITY is not available. The COUNTY shall be responsible for providing an alternate disposal site in the event that the AUTHORITY's FACILITY is not available. Waste generated within Palm Beach County shall have priority preference for delivery to the FACILITY.
- F. All inbound loads will be weighed on the designated AUTHORITY scales. Delivery vehicles without AUTHORITY tare weights will also be weighed prior to leaving the site. Upon entering the FACILITY tipping building(s), vehicles will be directed to the appropriate location to off load. Drivers shall strictly adhere to all directions.
- G. The AUTHORITY conducts load inspections of incoming waste in compliance with the requirements of Chapter 62-701 FAC. All waste delivered shall be subject to inspection, including entrance screening, random load inspections, and suspicious load inspections. Any waste delivered that contains *unauthorized waste*, as defined in Chapter 62-701.200 shall be rejected and removed from the FACILITY at the COUNTY's expense. The AUTHORITY landfill shall not be utilized as an alternate disposal facility. Repeated deliveries of *unauthorized waste* may result in the termination of this Agreement.