

**LANDFILL DESIGN AND CONSTRUCTION AGREEMENT
BETWEEN THE CITY OF JACKSONVILLE
AND
TRAIL RIDGE LANDFILL, INC.**

THIS AGREEMENT, made and entered into in duplicate this 26th day of JUNE, 1991, by and between the City of Jacksonville, a municipal corporation in Duval County, Florida, hereinafter referred to as the **CITY**, and Trail Ridge Landfill, Inc., a subsidiary of Waste Management, Inc., hereinafter referred to as the **CONTRACTOR**;

WITNESSETH:

WHEREAS, the City Council of the **CITY** by virtue of Ordinance 89-1179-669 instructed the Administration of the **CITY** to select the most qualified firm to site, design, permit, construct and operate a solid waste disposal facility for the **CITY**; and

WHEREAS, the Administration appointed a City Landfill Procurement Selection Committee to carry out the said mandate; and

WHEREAS, the said City Landfill Procurement Selection Committee engaged in a comprehensive selection procedure in order to identify the most qualified firm as defined in the said Ordinance; and

WHEREAS, the said City Landfill Procurement Selection Committee has recommended the **CONTRACTOR** as the most qualified firm and the Mayor has approved that recommendation; and

WHEREAS, the said City Landfill Procurement Selection Committee has negotiated this Landfill Design and Construction Agreement and a separate Landfill Operation Agreement, which together constitute the entire agreement of the parties;

NOW THEREFORE, in consideration of the premises and of the mutual covenants and agreements hereinafter contained, the parties agree as follows:

1.0 DEFINITIONS

The following words, phrases or terms as used in this document shall have the following meanings unless the context indicates otherwise:

Acceptance means a finding by the **CITY** upon inspection that the Work or specific portion of the Work has been satisfactorily completed in accordance with the provisions of this Agreement and may be beneficially used for the purpose for which it was intended.

Additional Ancillary Facilities means those related facilities not included in the Construction Permit Application, but which are listed as Ancillary Facilities - Phase II in the Schedule of Values attached hereto as a part of Exhibit 6.

Agreement means this Agreement between the CITY and the CONTRACTOR including the Exhibits hereto which are incorporated herein by reference.

Ancillary Facilities means related facilities included in the Construction Permit Application and in the Initial Landfill Project.

Application for Payment means the CONTRACTOR's formal written request for payment in accordance with terms and provisions of this Agreement and in form as included in Exhibit 9 and by procedures acceptable to the CITY.

As-built Prints means sets of prints of the Drawings maintained by the CONTRACTOR and the Resident Project Representative, respectively, on which are marked accurately and neatly locations, dimensions and features of the Work as built which deviate from the Drawings, such deviant features to be so marked continuously and currently as the construction is progressed.

Base Proposal means the proposal so designated in the CONTRACTOR's submittal of August 15, 1990, in response to the CITY's Request for Proposals.

Certificate of Acceptance means certification by the CITY that the Work has been fully completed, based on final inspection of same, and that the CONTRACTOR has completed all obligations under this Agreement, other than its Warranty obligations. In the absence of CITY issuance of a Certificate of Acceptance, the CITY's approval of the CONTRACTOR's Application for Final Payment will have the same import and effect.

Change Order means a document modifying the scope of the Work, the Contract Price and/or the Contract Time, which upon execution by the Parties hereto has the effect of amending the provisions of this Agreement.

Changes in the Work means alteration of the scope, extent or quality of the Work to be performed by the CONTRACTOR or unforeseen circumstances which justify a change(s) in Contract Time and/or Contract Price.

CITY means the City of Jacksonville, Florida.

CITY-Purchased Materials means those items of materials and equipment scheduled in Exhibit 8 purchased directly by the CITY for incorporation in the Work, the

costs of which shall be deducted from the Contract Price prior to payments to the **CONTRACTOR**.

Closeout Change Order means a Change Order prepared and executed prior to final completion and acceptance, the purpose of which is to adjust the Contract Price to reflect amounts due the **CONTRACTOR**, specifically for engineering design services for potential Change Orders which were not subsequently finalized and executed, for which the Agreement has not previously been amended to adjust the Contract Price.

Construction Period means the time period, stated in the Notice to Proceed, during which the **CONTRACTOR** shall complete the Project. The Construction Period shall commence on an effective date to be specified in the **CITY's** Notice to Proceed and shall extend until acceptance of the completed Work.

Construction Permit means a permit issued by the Florida Department of Environmental Regulation (FDER) pursuant to provisions of Chapter 17-701, Florida Administrative Code, authorizing construction of the Landfill and the Ancillary Facilities, and setting forth provisions and conditions to which said authorization is subject.

Construction Permit Application means written application for a construction permit, in form and content as prescribed by FDER, complete with all supporting design documents and drawings as required to complete the application to FDER's satisfaction, precedent to issuance of the Construction Permit.

Consumer Price Index means the revised Consumer Price Index for Urban Wage Earners and Clerical Workers for all items - U.S. City Average, published by the Bureau of Labor Statistics, U.S. Department of Labor, 1967 = 100.

Contract Price means the price to be paid by the **CITY** to the **CONTRACTOR** for the performance of its contractual obligations under this Agreement, as stated in the Notice to Proceed.

Contract Time means the Construction Period as defined previously.

CONTRACTOR means Trail Ridge Landfill, Inc., a subsidiary of Waste Management of North America, Inc.

CONTRACTOR Submittal means a submittal by the **CONTRACTOR** of detailed technical information pertaining to features and qualities of a particular item of materials, equipment or construction proposed for incorporation into the Work to

demonstrate the compliance of that item with the intent and requirements of the Technical Specifications.

Cost Substantiation means the submittal by the **CONTRACTOR** of detailed cost information, in form, content and degree of detail acceptable to the **CITY**, to document the **CONTRACTOR's** costs proposed for inclusion in any pending Change Order.

Day means a calendar day, beginning at 12:01 A.M. in the eastern time zone of the United States coinciding with the calendar day, whether or not a Sunday or Legal Holiday.

Design Engineer means the **CONTRACTOR's** professional Subcontractor who certified the Construction Permit Application as Engineer.

Drawdown Schedule means a projected schedule of periodic payments to the **CONTRACTOR** based on the projected rate of accomplishment of the Work over the Construction Period to culminate in a final payment and release of retainage upon final completion and acceptance of the Work. The Drawdown Schedule shall be based on the Schedule of Values and reflective of the projected rate of accomplishment of each class or item of Work included therein.

Drawings means the engineering drawings showing sizes, layout, configurations, dimensions, grades, elevations, features and details of the Work, both the Initial Landfill Project for which the Construction Permit was issued and the Ancillary Facilities, included as Exhibit 3, on which construction of the Work will be based.

Engineering Design means the technical services performed by or in the behalf of the **CONTRACTOR** in developing site investigations, engineering design computations, the Drawings, the Technical Specifications and the related contract documents incorporated in this Agreement as Exhibits which shall serve to govern the performance of construction of the Initial Landfill Project in accordance with this Agreement; related technical and/or professional services during the Construction Period as provided herein; and similar such services as may be authorized during the Construction Period for development of a Change Order.

Environmental Permitting means the provision of engineering, technical, legal and management services by or in behalf of the **CONTRACTOR** as required to obtain the

Construction Permit and all other environmental and regulatory permits required precedent to commencement of construction of the Project.

Exhibits means those related Contract Documents which shall govern the prosecution of the Work and are attached to this Agreement and incorporated herein by reference.

Extended Warranties means warranties for durations in excess of one year by the **CONTRACTOR**, or any Subcontractor or Supplier of specific items or classes of equipment, materials or construction incorporated into the Work, in accordance with the provisions of Exhibit 11.

FDER means the Florida Department of Environmental Regulation.

Final Acceptance means the action of the **CITY** to accept as complete all work by the **CONTRACTOR** to accomplish the construction of the Project including correction of all defective, deficient or incomplete items noted on the final inspection punch list.

Final Completion means the accomplishment by the **CONTRACTOR** of all work required to complete the construction in accordance with the Drawings, the Technical Specifications and any Change Orders, including correction of all defective, deficient or incomplete items noted on the final inspection punch list, as provided by this Agreement.

Final Inspection means an inspection of the Work by the **CITY**, in company of the **CONTRACTOR** and the Resident Project Representative, to observe its completeness and acceptability, following notification by the **CONTRACTOR** that, in its opinion, the Work is complete and ready for final inspection.

Guarantee means the agreements by Waste Management of North America, Inc., and Waste Management, Inc. contained in Sections 10.10 and 10.11 of this Agreement.

Incidental Changes in the Work means minor changes which the **CONTRACTOR** may make without formal Change Order, subject to the provisions and limitations set forth in Paragraph 6.6.

Initial Landfill Project means the development of a project to provide to the **CITY** permitted solid waste disposal capacity for a five-year period at a loading rate of 1,800 tons per day as set forth in the **CONTRACTOR's** pending Construction Permit Application.

Initial Operations means the initial beneficial use of the landfill for the purpose for which it is intended, the disposal of municipal solid waste by landfilling.

Initial Routine Operations means the initial beneficial use of the entire Initial Landfill Project for the purpose for which it is intended.

Insurance Certificates means certificates that the required coverages in the required amounts are in effect, as provided in Paragraph 7.2.

Laboratory Testing means analytical testing using standardized accepted test equipment and procedures by a qualified materials testing laboratory to determine physical properties of construction materials prior to incorporation into the Work or of constructed items incorporated into the Work to demonstrate that such properties equal or exceed minimum standards included in the Technical Specifications.

Landfill means the municipal solid waste landfill which is the subject of this Agreement.

Landfill Development Project means the total sequence of actions and activities which are the responsibilities of the respective Parties as provided by this Agreement, including siting, environmental permitting, engineering design, construction, inspection and acceptance, to provide the Landfill ready for Initial Routine Operations.

Landfill Site means that tract of real property to be acquired by the CITY as site for the Landfill; Exhibit 1 includes a legal description of the Landfill Site.

Liquidated Damages means monetary payments of liquidated damages and not as a penalty by the CONTRACTOR and/or CONTRACTOR's Surety for each day of delay in commencement of Initial Operations beyond the date specified in the Notice to Proceed.

Notice to Proceed means a written notice by the CITY to the CONTRACTOR, subsequent to execution of this Agreement and satisfaction of all Conditions Precedent, setting forth Contract Price, Contract Time and dates for Substantial Completion, Initial Operations and Final Completion and Acceptance.

Parties means the Parties to this Agreement, the CITY and the CONTRACTOR, as previously defined.

Performance Bond means Contract Performance Bond as defined previously.

Permits means all approvals, permits and licenses obtained from and granted by local, State and Federal governmental agencies as required for prosecution of work on the Project in full conformance with applicable law, statutes and regulations.

Progress Report means a written report by the **CONTRACTOR**, submitted periodically as agreed and in form satisfactory to the **CITY**, comparing actual progress of the Work to the previously approved Project Progress Schedule, describing and justifying delays, if any, of actual progress from scheduled progress and detailing the **CONTRACTOR's** proposed means for bringing the work back on schedule.

Project means the Initial Landfill Project as previously defined.

Project Progress Schedule means a written and/or graphic schedule for accomplishment of the Work and its major component classes and items throughout the Construction Period to result in Final Completion and Acceptance within the Contract Time, prepared by the **CONTRACTOR** subject to review and acceptance by the **CITY**.

Proposal means the **CONTRACTOR's** written submittal of proposed pricing and schedule dated August 15, 1990, in response to the **CITY's** Request for Proposals.

Punch List means a written list of specific items observed during the Final Inspection to be incomplete, defective or deficient and requiring corrective work by the **CONTRACTOR**, furnished promptly following the inspection by the **CITY** to the **CONTRACTOR**.

Quality Assurance Testing means laboratory or field testing of items or materials of construction by procedures as set forth in the Technical Specifications for purposes of demonstrating that the quality of such items or materials meets or exceeds minimum quality standards as specified.

Record Drawings means a complete set of the Drawings correctly, accurately and neatly marked to show the features of the Work as actually constructed.

Record Prints means As-built Prints as previously defined.

Request for Proposals means the **CITY's** written request to prequalified Proposers for Proposals for the Landfill Development Project, dated July 2, 1990, including all Addenda thereto.

Resident Project Representative means one or more representatives, either employee(s) or consultant(s), designated by the **CITY** to be present at the Site when the **CONTRACTOR** is working to observe the progress of the Work and its compliance with the provisions of this Agreement.

Schedule of Values means a written tabulation of the major categories of work, the number of units, units of measure, and unit or lump sum price of each and extended total value of each categorical item, the summation of which is equal to the Contract Price.

Site means the Landfill Site as previously defined.

Subcontractor means any individual, firm or corporation having a direct contract with the **CONTRACTOR** or with any other Subcontractor for the performance of a part of the Work at the site.

Substantial Completion means that the Work (or a specified part thereof) has progressed to the point where it is sufficiently complete, in accordance with this Agreement, so that the Work (or specified part) can be utilized for the purposes for which it was intended. The terms Substantially Complete or Substantially Completed as applied to all or part of the Work refer to the Substantial Completion thereof.

Supplier means a manufacturer, fabricator, supplier, distributor, materialman or vendor having a direct contract with the **CONTRACTOR** or with any Subcontractor to furnish material or equipment to be incorporated in the Work by the **CONTRACTOR** or any Subcontractor.

Surety means the bonding company, insurance company or financial institution providing security in the form of **CONTRACTOR** Bonds as required by this Agreement.

Technical Specifications means the written technical descriptions of materials, equipment, construction systems, standards and workmanship as applied to the Work and certain administrative details applicable thereto.

Time for Completion means the time period stated in the Notice to Proceed, during which the **CONTRACTOR** shall complete the Work and achieve Final Completion, Inspection and Acceptance.

Warranty means a general warranty by the **CONTRACTOR** and its Surety that all items of work shall be free from defects in materials or workmanship for a period of one year following final acceptance by the **CITY**.

Warranty Period means the one-year period during which the **CONTRACTOR's** Warranty shall be in effect, commencing on the date of Final Acceptance of the Work and expiring on the first anniversary of that date.

Work means the entire completed construction or the various separately identifiable parts thereof required to be furnished under this Agreement. Work includes and is the result of performing or furnishing labor and furnishing and incorporating materials and equipment into the construction and performing or furnishing services and furnishing documents, all as required by this Agreement.

2.0 SCOPE AND INTENT; EXHIBITS

2.1 Scope. This Agreement constitutes the total and complete contractual basis between the parties hereto concerning the design, permitting, construction and transfer of title to the Landfill. Within the scope of the said Agreement, the **CONTRACTOR** shall provide the site of the Landfill, all engineering design, environmental permitting and construction for the Initial Landfill Project.

2.2 Intent. This Agreement provides specific terms and conditions governing the **CONTRACTOR's** development of an operable Initial Landfill Project as agreed by the Parties hereto. The **CONTRACTOR** shall provide Landfill Site, Environmental Permitting, and Engineering Design for the Initial Landfill Project and, pursuant to authorization of a Notice to Proceed issued by the **CITY**, shall construct the Initial Landfill Project subject to the terms and conditions of this Agreement.

2.3 Exhibits. The following Exhibits are attached to this Agreement and are incorporated herein by reference. The **CITY** will not issue a Notice to Proceed with the Initial Landfill Project until all referenced Exhibits are complete and satisfactory in form and content to the **CITY**.

<u>Exhibit</u>	<u>Title or Description</u>
1	Site
2	Permits
3	Drawings
4	Technical Specifications
5	Project Progress Schedule
6	Drawdown Schedule; Schedule of Values
7	Schedule of CONTRACTOR Submittals
8	Schedule of CITY -Purchased Materials and Equipment
9	Form of Application for Payment
10	Contract Bonds and Insurance
11	Listing of Extended Warranties
12	Form of Notice to Proceed

2.4 Conditions Precedent. The Parties shall fulfill the following Conditions Precedent by November 15, 1991:

(1) Permits: The **CONTRACTOR** shall have obtained and provided to the **CITY** all permits required for construction and operation of the Initial Landfill Project, in final form and without contingencies or exceptions.

(2) Conveyance of Site: The **CONTRACTOR** shall have scheduled a closing transaction for fee simple title to the Site to be conveyed to the **CITY**. Said closing transaction shall take place as soon as reasonably possible after fulfillment of the other Conditions Precedent and in any event within thirty (30) calendar days thereafter.

(3) Bonds and Insurance: The **CONTRACTOR** shall have furnished Performance Bonds and Insurance as required herein.

(4) Arrangement of Financing: The **CITY** shall have made suitable financing arrangements, by issuance and sale of bonds or by other means available to the **CITY**, such that sufficient and unencumbered funds for discharge of the **CITY's** financial obligations under terms of this Agreement are available.

2.4.1 Extension of Time for Performance; Right to Terminate Agreement.

In the event that either party fails to perform the Conditions Precedent required to be performed by it within the time period set forth, the other party may, in its sole discretion, terminate this Agreement or may agree to an extension of time for the performance of the remaining Condition or Conditions Precedent. Any such extension of time shall be incorporated in a written amendment to this Agreement. Unless and until written notice of termination is given pursuant to the procedures set forth in this Agreement, the time for performance shall be deemed to be extended on a day to day basis.

2.4.2 Forfeiture of Proposal Security. If the **CONTRACTOR** fails to accept the **CITY's** Notice to Proceed as set forth in Section 4.3 hereof within the time specified in said Notice, the **CONTRACTOR's** Proposal Security shall be forfeited. Otherwise, upon the **CONTRACTOR's** acceptance of said Notice to Proceed, or upon termination of this Agreement for nonperformance of any Condition Precedent, the Proposal Security shall become void and of no further effect.

2.5 Failure of Agreement. If at any time between the conveyance of title to the Site to the **CITY** and the effective date of the Landfill Operation Agreement between the parties, the parties cannot fulfill the purposes of this Agreement due to reasons beyond their

control, including, but not limited to, changes in law rendering landfill operations illegal, the **CITY** at its option shall either:

- (a) reconvey fee simple title to the Site to the **CONTRACTOR**; or
- (b) pay to the **CONTRACTOR** the sum of \$9,769,389.00, representing the **CONTRACTOR's** excess land costs.

If the **CITY** chooses to pay the **CONTRACTOR** for the said excess land costs, the **CONTRACTOR** shall assign all permits to the **CITY** and/or shall cooperate with the **CITY** in having such permits re-issued in the **CITY's** name.

3.0 RESPONSIBILITIES OF CONTRACTOR

3.1 Site. The **CONTRACTOR** shall arrange for the acquisition of the Landfill site, as described in Exhibit 1, including arrangement of the closing transaction at which time fee simple title shall be conveyed to the **CITY**. Acquisition and conveyance shall be scheduled so as to result in the **CITY's** having fee simple title concurrent with or prior to the effective date of the Notice to Proceed with construction of the Initial Landfill Project.

3.2 Environmental Permitting. Concurrent with execution of this Agreement, or as soon as practicable thereafter, the **CONTRACTOR** shall deliver to the **CITY** written certification that all environmental permits, licenses and/or other permits required for construction of the Initial Landfill Project, as scheduled in Exhibit 2, have been obtained. With the certification, the **CONTRACTOR** shall deliver to the **CITY** a copy of each permit.

3.3 Engineering Design. The **CONTRACTOR** shall be solely and wholly responsible for the detailed design of the Initial Landfill Project. Said detailed design shall be consistent with the Construction Permit Application filed with the Florida Department of Environmental Regulation (FDER) on July 27, 1990, and such modifications thereto as may have been made by the **CONTRACTOR** in response to FDER review comments or conditions imposed by a Hearing Officer or by the Secretary of FDER precedent to issuance of the Construction Permit. The **CONTRACTOR** shall submit to the **CITY** copies of all correspondence to and from FDER during the application review period to justify, document and substantiate modifications to the design occasioned by FDER review comments. Engineering design shall also include the design of all Ancillary Facilities and related site work. Prior to or concurrent with the execution of this Agreement, the **CONTRACTOR** shall have provided to the **CITY** Drawings and Technical Specifications as scheduled in

Exhibits 3 and 4, respectively. Details of the Drawings and Technical Specifications shall be subject to review and approval by the **CITY** prior to their acceptance and, upon acceptance, shall govern the construction of the Initial Landfill Project.

3.4 **CONTRACTOR** Submittals. Prior to or concurrent with execution of this Agreement, **CONTRACTOR** shall have provided a Project Progress Schedule and Payment Drawdown Schedule, Exhibits 5 and 6, respectively, hereof, applicable to the construction of the Initial Landfill Project. Said Schedules shall be subject to review and approval by the **CITY** prior to their acceptance for inclusion as Exhibits to this Agreement. The **CONTRACTOR** shall also prepare for review and approval by the **CITY** a Schedule of **CONTRACTOR** submittals of items such as shop drawings, fabrication drawings, erection drawings, manufacturers'/suppliers' certificates of compliance, testing laboratory certifications, quality assurance test reports, samples and manufacturers' operations and maintenance manuals. The purpose of **CONTRACTOR** submittals shall be to demonstrate that specific items proposed for incorporation into the Work are of a quality reasonably acceptable to the **CITY**, comply with the design intent and quality requirements of the Drawings and Specifications and/or to provide to the **CITY**, as facility owner, manufacturers' operation and maintenance manual data. Upon acceptance by the **CITY**, but not later than issuance of the Notice to Proceed, the schedule of **CONTRACTOR** submittals shall be incorporated into this Agreement as Exhibit 7.

3.5 **CITY-Purchased Materials and Equipment**. The **CONTRACTOR** shall be solely and wholly responsible for selection and ordering of all items of materials and equipment for incorporation in the Work; for review and approval of technical and performance data demonstrating that such items conform to the design intent and governing provisions, quality and performance standards of the Technical Specifications; for acceptance of deliveries and suitable protection and storage of such items until they are incorporated into the Work; and for warranting all such items to be free from defects for the duration of the **CONTRACTOR's** Warranty Period and the period of any Extended Warranties as may be applicable. The costs of all materials and equipment to be incorporated in the Work are included in the Initial Landfill Construction Price specified in Subparagraph 5.2.4.

Certain items of materials and equipment, as specified in Exhibit 8, shall be billed directly to the **CITY** by the respective Suppliers of such items, with the deliveries to

be consigned and made to the **CONTRACTOR** and accepted by it at the Site or other places as it may arrange, and as scheduled by the **CONTRACTOR** with the respective Suppliers.

Exhibit 8 shall specify those items which shall be billed directly to the **CITY** with projected billing dates and amounts for each such item. The **CITY** shall not make direct payment for any materials or equipment items other than those scheduled in Exhibit 8, and the **CONTRACTOR** shall directly purchase and pay for all other items of materials, equipment and supplies as required to complete the Work in accordance with provisions of this Agreement.

The **CONTRACTOR** shall make suitable provisions, acceptable to the **CITY**, at the expense of the **CONTRACTOR**, for temporary storage of **CITY**-purchased materials, secure against theft, vandalism and deleterious effects of the elements. The **CONTRACTOR** shall assume full responsibility for protection of all such materials and equipment from the time of his acceptance of delivery and shall replace any casualty losses at its expense and without increase in Contract price or time. The **CONTRACTOR** shall cooperate fully with the **CITY** or the Resident Project Representative in affording them access for inspection of stored materials when requested to do so.

3.6 Acceptance of Notice to Proceed. The **CONTRACTOR** shall accept the Notice to Proceed with construction of the Initial Landfill Project when issued by the **CITY** in accordance with provisions of this Agreement.

3.7 Construction of Initial Landfill Project. The **CONTRACTOR** shall commence construction of the Initial Landfill Project on a date to be specified in the Notice to Proceed by the **CITY**. Any work performed by the **CONTRACTOR** prior to the issuance and acceptance of the Notice to Proceed shall be at the **CONTRACTOR**'s risk and should said Notice not be subsequently issued and accepted for any reason the **CONTRACTOR** shall not be paid by the **CITY** for any work so performed. The **CONTRACTOR** shall provide all superintendence, labor, materials, supplies, subcontracted services and testing required to complete the Work in accordance with the Drawings and the Technical Specifications and as scheduled in the Project Progress Schedule, Exhibit 5 hereof. The **CONTRACTOR** shall prosecute the Work diligently in accordance with the Project Progress Schedule to attain Substantial Completion, final inspection and acceptance as provided in this Agreement as scheduled.

During construction of the Initial Landfill Project, the **CONTRACTOR**:

(a) Shall be responsible for fully complying with all applicable provisions of permits governing the construction.

(b) Shall be solely and wholly responsible for obtaining and maintaining access permits, easements, and utility connections as required for the prosecution of the Work.

(c) Shall be totally responsible for site safety and security.

(d) Shall provide a temporary field office space or office trailer for exclusive use by the Resident Project Representative; said office or office trailer to remain the property of **CONTRACTOR** and to be removed by him from the site when the Work is complete. The field office shall provide at least 150 square feet of floor space, shall be adequately heated, cooled, ventilated and lighted, shall have proper and adequate sanitary facilities, and shall be equipped with the following (at a minimum): standard office desk, two office chairs, two-drawer file cabinet, drafting/layout table, drafting stool, telephone, small refrigerator and six-rack vertical plan file. Costs of electric service shall be paid by the **CONTRACTOR**. Costs of telephone services, but not costs of installation of the telephone, shall be paid by the **CITY**.

(e) Shall cooperate routinely with the Resident Project Representative in the discharge of his duties and responsibilities as set forth in this Agreement and shall afford right of access to the site at all times to the **CITY's** Director of Public Utilities, his employees, designees, representatives and agents and to the representatives of regulatory agencies with jurisdiction. The **CONTRACTOR** shall maintain security personnel at the access gate who shall check identification and credentials of visitors and maintain a visitors' log.

(f) Shall retain and pay for the services of the Design Engineer to check and review **CONTRACTOR** submittals and to approve each submittal for conformance with the design intent and with provisions of the Technical Specifications prior to the delivery to the site of any item of material or equipment for which a **CONTRACTOR** submittal is required by Exhibit 7. Detailed procedures for submittal, review and handling of **CONTRACTOR** submittals shall be arranged

between the **CONTRACTOR** and the Design Engineer with a statement of those procedures to be incorporated into Exhibit 7. The procedures shall provide for distribution of copies of all submittals, suitably marked by the Design Engineer to indicate his review comments and approval, as follows: two (2) copies to the **CITY** and one (1) copy to the Resident Project Representative.

(g) Shall not deliver to the site for incorporation into the Work any item of equipment or material for which a **CONTRACTOR** submittal is required by Exhibit 7 until such submittal has been made and approved.

(h) Shall provide suitable provisions for storage until incorporated in the Work of all materials and equipment delivered to the Site. Storage provisions shall be located on the site or conveniently near the site and shall adequately protect stored materials against theft, vandalism and damage by the elements.

(i) Shall arrange and pay for all laboratory testing (e.g., soil compaction, concrete compressive strength) and quality assurance testing (e.g., joint testing of membrane liners, hydrostatic pressure testing of water lines) at the times and in the numbers and locations as required by the Technical Specifications, Exhibit 4, and shall submit laboratory and quality assurance test reports, bearing the Design Engineer's review notations as to whether each such test meets the provisions of the Technical Specifications, to the **CITY** in accordance with provisions of Exhibit 7.

(j) Shall promptly take corrective steps to remove and replace or repair any work shown to be defective based on laboratory or quality assurance test reports, responsibility for means and expense of such corrective measures to be the **CONTRACTOR's**.

(k) Shall continuously maintain a current up-to-date set of prints of the construction Drawings, Exhibit 3, neatly and accurately marked to show actual as-built locations and features of the Work; **CONTRACTOR's** working set of as-built or record prints shall be made available for review by the Resident Project Representative or other authorized **CITY** personnel upon request but will remain in possession of the **CONTRACTOR** for the duration of the Project.

(l) Shall prepare and submit periodic Applications for Payment in form and content as included in Exhibit 9, and supporting Progress Reports, in form and

content satisfactory to the **CITY** at the times and by the procedures specified in the Article titled **PAYMENTS TO CONTRACTOR**.

(m) Shall promptly notify the **CITY** in writing when conditions are encountered which, in the opinion of the **CONTRACTOR**, constitute grounds for Changes in the Work; cooperate with the **CITY** in developing Change Orders, if any, prepared and executed to effect Changes in the Work and abide by the **CITY**'s determinations regarding disposition of any proposed changes.

(n) Shall promptly notify the **CITY** in writing when, in the opinion of the **CONTRACTOR**, the Work or any major portion of the Work is Substantially Complete, said notification to be endorsed by both the Design Engineer and the Resident Project Representative to signify the concurrence of each.

(o) Shall cooperate with the **CITY** and Resident Project Representative in scheduling and performing a final inspection of the Work or any major portion thereof promptly following the **CONTRACTOR**'s notification of Substantial Completion; following said inspection(s), the **CONTRACTOR** shall accept the **CITY**'s list of observed defective items requiring corrective action and shall promptly correct each such item to the satisfaction of the Design Engineer and the Resident Project Representative.

(p) If instructed to do so by the **CITY**, shall promptly take all necessary steps to design, permit and construct the Additional Ancillary Facilities as herein defined.

3.8 **CONTRACTOR**'s Obligation to Complete the Work. In the course of accomplishment of construction of the Initial Landfill Project, the **CONTRACTOR** may encounter conditions which, in its opinion, are grounds for an increase in Contract Price and/or an extension in Contract Time. Under such circumstances, the **CONTRACTOR** shall so notify the **CITY** in writing. The written notification shall describe the conditions encountered; the ways and extent in which such conditions deviate from the provisions of this Agreement and the Exhibits hereto; the Contract Price increase and/or contract time extension which the **CONTRACTOR** proposes; and documentation of its proposed changes. Each such **CONTRACTOR** notification shall be accompanied by the Design Engineer's signed and sealed statement that he has reviewed the **CONTRACTOR**'s notification and that

in his professional opinion: (1) all information therein is true and correct; (2) the **CONTRACTOR's** proposed changes are necessary to meet the design intent and are adequate based on the conditions encountered. Within ten (10) days of receipt of **CONTRACTOR's** notification, the **CITY** will either:

- (a) Accept the **CONTRACTOR's** proposal(s) as submitted;
- (b) Reject the **CONTRACTOR's** submittal in its entirety because of the **CITY's** decision that the **CONTRACTOR's** claims are groundless; or,
- (c) Afford the **CONTRACTOR** opportunity to submit additional information, in response to the **CITY's** requests for the same, as a basis for negotiating a lesser increase(s) in time and/or price than requested by the **CONTRACTOR's** notification.

In the event that the **CITY** agrees to grant an increase(s) in time or price, either in full as requested by the **CONTRACTOR's** notification or in lesser amount(s) based on the **CITY's** determination following submittal of further information/negotiations, the Agreement will be amended by preparation and execution of a Change Order as provided in the Article titled **CHANGES IN THE WORK**. In all cases, the **CITY's** determination will be final and binding, and the **CONTRACTOR** shall continue diligently to prosecute and complete the Work as contracted and in accordance with the **CITY's** decision, except that in so doing the **CONTRACTOR** shall not be deemed to have waived its rights to seek subsequent legal relief.

3.9 Concerning Subcontractors. The **CONTRACTOR** may, in its sole discretion, select Subcontractors and Suppliers of its own choosing for the performance of services and the furnishing of materials or equipment for incorporation into the Work. Terms and provisions of any subcontracts and/or suppliers' contracts or purchase agreements shall be the prerogative of the **CONTRACTOR** solely. The **CONTRACTOR** shall be wholly responsible for coordinating the work of Subcontractors and for the quality and timeliness of their services to the end that the Work is completed in accordance with the provisions of this Agreement, within the Contract Time, and in compliance with the technical provisions and quality standards of the Technical Specifications. No provisions of this Agreement shall be construed as creating a direct contractual relationship between the **CITY** and any Subcontractor.

4.0 RESPONSIBILITIES AND RIGHTS OF THE CITY

4.1 Ownership of Work. Upon payment to the **CONTRACTOR** for the site and delivery of fee simple title to the site, the **CITY** shall be Owner of record of the landfill project. As payments are made to the **CONTRACTOR** for the value of construction work completed in accordance with the Technical Specifications, Exhibit 4, and approved Applications for Periodic Payments, title to the Work in progress shall also pass to the **CITY** to the extent of payments made therefor.

4.2 Delivery of Executed Agreement. Within ten (10) days following execution by the **CITY**, the **CITY** shall deliver to the **CONTRACTOR** one (1) fully executed counterpart of this Agreement.

4.3 Issuance of Notice to Proceed. The **CITY** shall issue Notice to Proceed with construction of the Initial Landfill Project to the **CONTRACTOR** within ten (10) days following execution of this Agreement and performance of all Conditions Precedent. The Notice to Proceed shall specify that the **CONTRACTOR** shall commence construction within thirty (30) days after receipt of the Notice to Proceed and thereafter shall have a three hundred sixty five (365) day period to accomplish Substantial Completion of the work and a one hundred eighty (180) day period in which to certify to FDER that the facility has been completed to a degree which would allow Initial Operations to commence. At the time of issuance of the Notice to Proceed, the **CITY** shall have the option to instruct the **CONTRACTOR** to also design, permit and construct the Additional Ancillary Facilities as herein defined.

4.4 Review of **CONTRACTOR** Submittals. The **CITY** shall accept **CONTRACTOR** Submittals, appropriately marked with review comments, when transmitted by the Design Engineer upon completion of its review and approval. The **CITY** may conduct such independent reviews of such submittals as it may deem necessary or appropriate. Within ten (10) days of receipt of each submittal transmitted by the Design Engineer, the **CITY** may notify the **CONTRACTOR** of any feature of the submittal which, in the **CITY's** opinion based on its independent review, materially deviates from the provisions of this Agreement or the standards and requirements of the Technical Specifications. Within five (5) days following each such notification, the **CONTRACTOR** and Design Engineer shall meet with the **CITY** to discuss the features which, in the **CITY's**

opinion, are materially deviant; said discussions shall be continued until the matter is resolved to the mutual satisfaction of the Parties. Neither any such CITY notification, the resolution of issues arising therefrom, nor the CITY's failure to notify the CONTRACTOR of any deviant feature shall serve to relieve the CONTRACTOR of its obligation to complete the Work in accordance with provisions of this Agreement. Meetings and discussions conducted pursuant to this Section shall not cause interruption of the Work unless specifically so ordered by the CITY, in which case the provisions of Section 4.11 shall apply.

4.5 Inspections of Work in Progress. At any time(s) of its choosing, the CITY shall visit the site to observe the status of the Work in progress and its compliance with provisions of this Agreement, applicable permits, the Drawings, Technical Specifications, and the Project Progress Schedule. The CITY shall notify the CONTRACTOR of any observed conditions which deviate from applicable requirements and, consequently, require attention and appropriate modification by the CONTRACTOR. However, neither such notification by the CITY nor the CITY's failure to provide specific notifications shall serve to relieve the CONTRACTOR of its obligation to complete the Work in accordance with provisions of this Agreement and the related documents attached hereto as Exhibits and incorporated herein by reference.

4.6 Resident Project Representative. The CITY may, in its sole discretion, assign one or more Resident Project Representatives to be present on the site whenever the Work is in progress to provide continuous observation of the Work for compliance with the provisions of this Agreement, the Drawings and the Technical Specifications. The Resident Project Representative shall report his observations regularly to keep the CITY more continuously informed as to on-site conditions and the status and progress of the Work. The Resident Project Representative is not responsible for supervision or superintendence of the CONTRACTOR's work or for reporting observed problems or defects to the CONTRACTOR; his presence on-site in no way serves to relieve the CONTRACTOR of its responsibility for completing the Work in accordance with provisions of this Agreement and all Exhibits attached hereto.

Specific responsibilities of the Resident Project Representative include, but are not necessarily limited to the following:

(a) He shall maintain a daily log of activities on the Project site during the construction period and shall submit a summary weekly report based thereon to the **CITY**.

(b) He shall maintain project documents and files in his on-site field office for his information and use and for review and use by the **CITY** during periodic site inspections. Said documents and files shall include but not necessarily be limited to Drawings, Technical Specifications, Progress Schedule, Drawdown Schedule including Schedule of Values, **CONTRACTOR** submittals reviewed by the Design Engineer and transmitted to the **CITY**, approved Change Orders, approved Applications for Periodic Payments and supporting **CONTRACTOR's** Progress Reports, daily log, weekly reports, and Project correspondence file.

(c) He shall notify the **CITY** and may notify the **CONTRACTOR** whenever he observes delivery to the site of any item requiring a **CONTRACTOR** submittal for which he has not received a copy of a submittal approved by the Design Engineer.

(d) He shall observe features and locations of the Work which deviate from those indicated on the Drawings included as Exhibit 3 and shall record such observations by appropriate notations on a set of prints of the Drawings as his observed "as-built" conditions.

(e) At monthly intervals, when requested by the **CONTRACTOR** so to do, he shall review with the **CONTRACTOR** the quantities and/or percentages of work items then satisfactorily complete and, upon the **CONTRACTOR's** preparation of Application for Progress Payment, endorsed by the Design Engineer, and Monthly Progress Report reflecting quantities with which he agrees, he shall so certify by signing and dating each required copy of the Application and Progress Report.

(f) He shall observe all performance testing and quality assurance testing required by the Technical Specifications and shall report his observations to the **CITY** with a copy to the **CONTRACTOR**.

(g) He shall participate with the **CITY** and the **CONTRACTOR** during inspections of the Work or any portion of the Work certified by the Design Engineer to be Substantially Complete, shall receive a copy of the "punch list" of items requiring correction as furnished by the **CITY** to the **CONTRACTOR** based on

conditions observed during each inspection and, if directed by the **CITY** to do so, following certification by the Design Engineer, shall notify the **CITY** in writing when, in his opinion, the items listed have been satisfactorily corrected.

(h) If directed by the **CITY** to do so, he shall review Record Drawings prepared by the **CONTRACTOR** for completeness and accuracy, based on comparison with notations on the "as-built" prints maintained by him, prior to **CITY** acceptance of the completed Work.

4.7 Final Inspection and Acceptance. The **CITY** shall schedule and participate in inspections of completed work, with the **CONTRACTOR** and Resident Project Representative, promptly upon receipt of **CONTRACTOR's** notification of Substantial Completion and the Design Engineer's endorsement. Within five (5) days following each such inspection, the **CITY** shall provide to the **CONTRACTOR** a complete written listing of observed items requiring corrective work and a time period in which the **CONTRACTOR** shall complete all needed corrections. Upon receipt of the **CONTRACTOR's** written certification that corrective actions are satisfactorily complete with written endorsement by the Design Engineer and Resident Project Representative, the **CITY** shall promptly reinspect the corrected Work or shall waive reinspection, relying instead on the **CONTRACTOR's** certification and Design Engineer's and Resident Project Representative's endorsements. When corrective actions are satisfactorily completed, the **CITY** shall issue a Certificate of Acceptance for the Work or portion of the Work completed. The **CITY's** acceptance in no way relieves the **CONTRACTOR** from his warranty obligations, but specified warranty periods shall commence with the earlier of the date of **CITY** acceptance or the date of final payment.

4.8 Changes in the Work. The **CITY** shall discharge its responsibilities and exercise its rights with respect to effecting Changes in the Work as set forth in the Article titled **CHANGES IN THE WORK**.

4.9 Payments for **CITY**-Purchased Materials and Equipment. When presented with Supplier invoices for **CITY**-purchased materials and equipment in accordance with Exhibit 8, each such invoice endorsed by the **CONTRACTOR** in the form indicated in the said Exhibit 8 recommending payment, the **CITY** shall process and pay each Supplier invoice within thirty (30) days of receipt.

4.10 Payments to **CONTRACTOR**. When presented by the **CONTRACTOR** with properly prepared and documented Application for Payment, the **CITY** shall process each such application and make payment to the **CONTRACTOR** in accordance with terms and provisions of the Article titled **PAYMENTS TO CONTRACTOR**.

4.11 **CITY's** Right to Interrupt the Work. The **CITY** may direct the **CONTRACTOR** to interrupt the Work in the event that the **CITY** has any reason to believe that the Work as being performed differs materially from the provisions of this Agreement or the Technical Specifications, based on either: (i) **CITY** review of a **CONTRACTOR** submittal; (ii) observations during a periodic **CITY** inspection of the Work in progress; and/or (iii) the Resident Project Representative's report to the **CITY** of his observations. Upon receipt of notification from the **CITY**, the **CONTRACTOR** shall immediately suspend the Work until the Parties investigate the circumstances which were the basis for the **CITY** notification and determine whether, in fact, provisions of this Agreement or the Specifications have been materially violated. In the event that material violation is determined, the **CONTRACTOR** shall immediately remove and replace and/or correct deficient or substandard items to bring them into full compliance at its expense and without extension of Contract Time prior to resuming other Work. In the event that the allegedly defective item(s) are determined to be in conformance with the Agreement and the Specifications, the **CONTRACTOR** shall resume work immediately upon such determination, the Contract Time shall be adjusted by the addition of a time increment equal to the duration of the interruption, and the Contract Price shall be adjusted by the amount of any actual additional expense incurred by the **CONTRACTOR** as a result of the interruption together with a profit of fifteen (15) percent of such additional expense.

5.0 TERM OF AGREEMENT, CONTRACT PRICE, TIME FOR COMPLETION, LIQUIDATED DAMAGES

5.1 Term of Agreement. Except as otherwise provided in Paragraph 2.4, "Conditions Precedent", this Agreement shall be effective and binding as of the date first written above, which shall be the date of execution by the **CITY**. The terms and conditions of this Agreement shall remain binding and in full force and effect until the date of Acceptance by the **CITY** of all construction included in the Initial Landfill Project, as described in this Agreement and the Exhibits attached hereto, and Change Orders, if any,

duly prepared and executed as provided in Article 6, and, if so elected by the **CITY**, the construction of the Additional Ancillary Facilities, at which time it will be deemed void and of no further effect, except for the **CONTRACTOR's** obligations during the warranty period as provided in Paragraph 7.4, during which period the Contract Performance Bond shall be maintained in full force and effect.

5.2 Contract Price. The price paid by the **CITY** to the **CONTRACTOR** for the Initial Landfill Project shall be a fixed lump sum amount, equal to the sum of the sub-total lump sum amounts for site, environmental permitting, engineering design, and construction of the Initial Landfill Project, as specified in this Paragraph 5.2, subject to adjustments as provided in Paragraphs 8.1 through 8.4, except that the sub-total amount for construction may be amended by duly prepared Change Order as provided in Article 6 and the total amount adjusted commensurately, and except that the Contract Price may be adjusted by the addition of the lump sum amount for Additional Ancillary Facilities if elected by the **CITY**. Payments by the **CITY** to the **CONTRACTOR** will be made at the times and by the procedures as specified in Article 8.

5.2.1 Price for Landfill Site. The lump sum amount of One Million, Eight Hundred Fourteen Thousand, Eight Hundred Seventy-One dollars and No cents, (\$1,814,871.00).

5.2.2 Price for Environmental Permitting. The lump sum amount of One Hundred Seventy-Eight Thousand dollars and No cents, (\$178,000.00).

5.2.3 Price for Engineering Design. The lump sum amount of Eight Hundred Forty-Three Thousand dollars and No cents, (\$843,000.00).

5.2.4 Price for Construction of the Initial Landfill Project. The lump sum amount of Fourteen Million, Four Hundred Seventy-Two Thousand, Nine Hundred Twenty-One dollars and No cents, (\$14,472,921.00).

5.2.5 Price for Initial Landfill Project Development. Summation of the sub-total amounts listed in Paragraph 5.2.1, 5.2.2, 5.2.3 and 5.2.4; the lump sum amount of Seventeen Million, Three Hundred Eight Thousand, Seven Hundred Ninety-Two dollars and No cents, (\$17,308,792.00).

5.2.6 Price for Design, Permitting and Construction of the Additional Ancillary Facilities. The lump sum amount of Nine Hundred Seventy-Six Thousand, Six Hundred Thirty-One dollars and No cents, (\$976,631.00).

5.3 Time for Completion. The Notice to Proceed for the construction of the Initial Landfill Project shall state an effective date for the **CONTRACTOR's** commencement of construction and shall state the duration in days of the construction period.

5.4 Liquidated Damages. The **CONTRACTOR** and **CONTRACTOR's** Surety shall pay to the **CITY** as liquidated damages and not as a penalty, the amount of \$100,000.00 for each calendar day, commencing the date following the date specified in the Notice to Proceed for commencement of Initial Operations and running to and including the date that the **CONTRACTOR** certifies to FDER that it is ready to commence Initial Operations. However, no liquidated damages shall be due from the **CONTRACTOR** if (a) the **CITY** has solid waste disposal capacity remaining at a **CITY** owned solid waste disposal facility sufficient to allow disposal of all **CITY** solid waste until the **CONTRACTOR** is able to commence Initial Operations, or (b) the **CONTRACTOR** provides at its own expense for transfer, transportation and legal disposal of at least 1,500 tons of **CITY** Class I solid waste per day during the period between the date specified in the Notice to Proceed for certification to FDER of the **CONTRACTOR's** readiness to commence Initial Operations and the date that such certification actually is given to FDER.

6.0 CHANGES IN THE WORK

6.1 Change Orders. Subsequent to the issuance of a Notice to Proceed, establishing both a Construction Period and a Construction Price, for the Initial Landfill Project, no changes in the authorized scope of work which result in change(s) to the Construction Period and/or the Construction Price, shall be made except by duly executed Change Order. All changes, regardless of how initiated, shall comply with the more stringent of (a) the requirements of federal, state and local laws, rules and regulations at the time the work is to be performed, or (b) the requirements of the then current permits for the Facility.

6.2 Changes Requested by the **CITY**. The **CITY** may request changes in the Work which it deems necessary, beneficial or expedient. Such requests shall be submitted in writing by the **CITY** to the **CONTRACTOR** and shall describe the requested change and

request a non-binding budget and time estimate. Within ten (10) days of receipt of the CITY's request, the **CONTRACTOR** shall prepare, at his expense, and submit to the CITY a budget estimate in line item detail showing estimated amounts for labor, materials, subcontractor costs, design costs, **CONTRACTOR** profit, and time extension necessitated by design and construction.

6.3 **Changes Requested by the CONTRACTOR.** The **CONTRACTOR** may request changes in the Work which it deems necessary, beneficial or advantageous to the interest of both Parties. The **CONTRACTOR** may also request extensions in time which it believes are equitably due it because of circumstances beyond its control. The **CONTRACTOR** shall submit all such requests in writing to the CITY. Requests for changes in the Work shall be accompanied by a written budget and time estimate as described in Paragraph 6.2. Requests for time extensions due to alleged delays shall be accompanied by written justification including dates, durations and description of the events constituting the delays and their effects on the **CONTRACTOR**'s construction operations. Each such request shall state a specific time extension, expressed in calendar days, which the **CONTRACTOR** proposes be added to the Construction Period in compensation for the delay.

6.4 **CITY's Determination.** The CITY shall promptly review each budget and time estimate submitted by the **CONTRACTOR** pursuant to provisions of Paragraph 6.2 or Paragraph 6.3 and within fifteen (15) days following receipt shall advise the **CONTRACTOR** of the CITY's decision as to whether to proceed with the requested change. In the course of its review, the CITY may request a conference(s) with the **CONTRACTOR** for purposes of discussing and negotiating specific details regarding scope, cost and time requirements for the requested change. The CITY's decision as to whether to incorporate any requested change shall be binding on both parties. In the event the CITY determines not to proceed, that determination shall be final, except that the **CONTRACTOR** shall not be deemed to have waived its right to seek subsequent legal relief. Should the CITY decide to proceed, it shall direct the **CONTRACTOR** in writing to prepare a proposed Change Order supported by engineering drawings, specifications, Cost Substantiation and detailed time schedule and to submit the Change Order for further review by the CITY on or before a date specified in the CITY's written directive to proceed. If the CITY determines the proposed Change Order to be acceptable, it shall execute the Change Order and return an executed copy to

the **CONTRACTOR** within fifteen (15) days following its receipt. Should the **CITY** decide not to proceed after receiving the proposed Change Order, it shall so advise the **CONTRACTOR** in writing within fifteen (15) days; in this event, the **CONTRACTOR** shall be reimbursed for design engineering services as documented by Cost Substantiation submitted in support of the proposed Change Order which was rejected.

As used in this Paragraph 6.4, the term "Cost Substantiation" is understood and agreed to have the following meaning and requirements: Cost Substantiation means detailed and documented substantiation of costs proposed by the **CONTRACTOR** for inclusion in any Change Order which shall be submitted for **CITY** review and approval in such form and degree of detail as may be reasonably requested by the **CITY**. As a minimum, cost substantiation shall detail and differentiate among the costs of labor, materials, supplies, subcontracted work, associated design services, markup on subcontract work and **CONTRACTOR** profit; cost documentation shall be provided and, in the case of subcontracted services may include, if so directed by the **CITY**, quotations from at least three sources. In no event shall amounts allowed for associated design exceed eight percent (8.00%) of the aggregate of all other allowed costs exclusive of **CONTRACTOR** profit. Markup on subcontracted services shall not exceed fifteen percent (15.00%) of cost of subcontracted services, which shall be full compensation to the **CONTRACTOR** for acquiring subcontractor quotes and administering and supervising the work of the subcontractor(s). **CONTRACTOR** profit shall be allowed equal to ten percent (10.00%) of the aggregate of all other allowed costs.

6.5 Closeout Change Order. Following final inspection, the **CONTRACTOR** shall prepare, at its expense, a final Closeout Change Order, adjusting final Construction Price to be reflective of additional reimbursement, if any, due it for design engineering services for preparation of any prior Change Orders which were not subsequently executed by the **CITY**. The Closeout Change Order shall be submitted with the final application for payment, the amount of said application being adjusted to show the line item sub-total for the Closeout Change Order as well as the adjusted total amount due. The **CITY** shall execute the Closeout Change Order adjusting Contract Price by the amount of mutually-agreed additional reimbursement due to the **CONTRACTOR** and shall make final payment in the adjusted amount due.

6.6 Incidental Changes in the Work. The **CONTRACTOR** may, without formal Change Order, make incidental changes in the work, provided:

(a) That the Design Engineer shall provide to the **CITY** a signed and sealed notification that any such incidental change is consistent with the design intent and requirements of the Construction Permit; that landfill capacity is not reduced; and that implementation of such incidental change does not adversely affect either the functional value or the quality of the Work.

(b) Such incidental change shall comply with the more stringent of (a) the requirements of federal, state and local laws, rules and regulations at the time the work is to be performed, or (b) the requirements of the then current permits for the Facility.

(c) Neither contract time nor contract price is increased by such incidental change.

(d) The Resident Project Representative shall have been given prior notification of the incidental change.

(e) Any such incidental change shall be clearly noted on the Record Drawings furnished by **CONTRACTOR** to the **CITY** prior to final payment.

6.7 Emergencies. The **CONTRACTOR** shall take reasonable action to deal with emergencies on Site which could cause damage to the Work or the property or harm to persons. The **CONTRACTOR** shall notify the **CITY** of any such emergency action as soon as possible and thereafter shall follow the **CITY**'s instructions concerning such emergency action. The Contract Time and Contract Price shall be equitably adjusted to reflect the actual delay caused by emergency conditions and the actual cost of reasonable emergency action undertaken by the **CONTRACTOR**.

7.0 INDEMNIFICATION, INSURANCE, AGREEMENT SECURITY, WARRANTIES

7.1 Indemnification. To the fullest extent permitted by law, the **CONTRACTOR** shall indemnify and hold harmless the **CITY** and its officers, directors, employees, agents and consultants from and against all claims, costs, losses and damages (including but not limited to all attorneys' fees and all court costs) caused by, arising out of or resulting from the performance of the Work, provided that any such claim, cost, loss or damage: (i) is attributable to bodily injury, sickness, disease or death, or to injury to or destruction of

tangible property (other than the Work itself), including the loss of use resulting therefrom; and (ii) is caused in whole or in part by a negligent act or omission of **CONTRACTOR**, any Subcontractor, any Supplier, any person or organization directly or indirectly employed by any of them to perform or furnish any of the Work or anyone for whose acts any of them may be liable. In the event of joint negligence on the part of the **CITY** and the **CONTRACTOR**, any loss shall be apportioned in accordance with the provisions of Section 768.31, Florida Statutes, the Uniform Contribution Among Tortfeasors Act, as it exists on the date first above written. Nothing herein contained shall be interpreted as waiving or abrogating the **CITY's** right of sovereign immunity pursuant to Section 768.28, Florida Statutes, or any successor statute.

In any and all claims against the **CITY** or its officers, directors, employees, agents or consultants by any employee (or the survivor or personal representative of such employee) of **CONTRACTOR**, any Subcontractor, any Supplier, any person or organization directly or indirectly employed by any of them to perform or furnish any of the Work or anyone for whose acts any of them may be liable, the indemnification obligation under the prior paragraph shall not be limited in any way by any limitation on the amount or type of damages, compensation or benefits payable by or for **CONTRACTOR** or for any such Subcontractor, Supplier or person or organization under workers' compensation acts, disability benefit acts or other employee benefit acts.

7.2 Insurance. Without limiting its liability under this Agreement, the **CONTRACTOR** shall procure and maintain at its sole expense during the life of the Agreement, insurance of the types and in the minimum amounts stated below:

<u>Schedule</u>	<u>Limits</u>
<u>Workers' Compensation</u> Florida Statutory Coverage & Employer's Liability (including appropriate federal acts)	Statutory/\$100,000
<u>Commercial General Liability</u> Premises-Operations Products-Completed Operations Contractual Liability Independent Contractors	\$500,000 Combined Single Limit
<u>Automobile Liability</u> All Autos - Owned, Hired or Used	\$300,000 Combined Single Limit

The **CONTRACTOR's** commercial general liability policy shall include contractual liability on a blanket or specific basis to cover the indemnification contained in Paragraph 7.1 hereof. It shall also name the **CITY** as an additional insured for liability arising out of operations performed for the **CITY**.

All insurance shall be written by a company or companies licensed to do business in the State of Florida and shall be in a form reasonably satisfactory to the **CITY**. Prior to commencing any work under this Agreement, certificates evidencing the maintenance of said insurance shall be furnished to the **CITY** and shall be subject to the approval of the **CITY's** Office of Insurance and Risk Management.

All insurance shall provide that no material alteration or cancellation, including expiration and non-renewal, shall be effective until thirty (30) days after receipt of written notice by the **CITY**, addressed to Office of Insurance and Risk Management, Room 605, City Hall, 220 East Bay Street, Jacksonville, Florida 32202.

7.3 Agreement Security. The **CONTRACTOR** shall obtain and maintain at his expense for the Construction Period as specified in the Notice to Proceed with construction of the Initial Landfill Project a Contract Performance Bond written by a surety licensed in the State of Florida and acceptable to the **CITY**. Copies of the Bond shall be delivered to the **CITY** within ten (10) days following **CITY** notification to the **CONTRACTOR** so to do and prior to the **CITY's** issuance of a Notice to Proceed. Amounts of the Bond shall be one hundred percent (100%) of the Construction Price for the Initial Landfill Project as will be specified in the Notice to Proceed.

The Contract Performance Bond shall be maintained in full force and effect until expiration of the **CONTRACTOR's** one-year Warranty Period as specified in Paragraph 7.4.

7.4 Warranty. The **CONTRACTOR** warrants that all work performed under provisions of this Agreement will be free of defects in material and workmanship for a period of one year following Final Acceptance of the Work. The Contract Performance Bond shall be maintained in full force and effect for the duration of the one-year warranty period.

Extended warranties, if any, by the **CONTRACTOR**, any manufacturer or supplier, of specific mechanical equipment items or systems or of items of classes of work,

as required by the **CITY**, shall be furnished by the **CONTRACTOR** as scheduled in Exhibit 11 - Extended Warranties, incorporated in this Agreement precedent to issuance of the Notice to Proceed.

8.0 PAYMENTS TO CONTRACTOR

8.1 Facility Site Payment. The **CONTRACTOR** shall convey fee simple title to the site to the **CITY** pursuant to Section 2.4 of this Agreement. The **CONTRACTOR** shall arrange and schedule the closing. The **CITY** shall make payment for the site at closing and, thereafter, will be Owner of record and exercise those rights of ownership and management as provided in Paragraph 4.1.

(a) If the closing date is on or before February 28, 1991, the amount of payment shall be the amount stated in Paragraph 5.2.1.

(b) If the closing date is subsequent to February 28, 1991, the amount of payment shall be the sum of the amount stated in Paragraph 5.2.1 and an additive increment. The additive increment shall be the amount of fifteen thousand dollars (\$15,000.00) applied on the first day of each month, commencing March 1, 1991, and continuing until date of closing; provided that following the adjustment on August 1, 1991, the additive increment shall remain fixed in the total amount of ninety thousand dollars (\$90,000.00).

8.2 Environmental Permitting Payment. Concurrent with issuance of Notice to Proceed with the Initial Landfill Project Construction, the **CITY** shall pay to the **CONTRACTOR** a single lump sum amount which shall be full compensation to the **CONTRACTOR** for environmental permitting of the Initial Landfill Project in accordance with provisions of Paragraph 3.2.

(a) If the Notice to Proceed is issued on or before February 15, 1991, the amount of payment shall be the amount stated in Paragraph 5.2.2.

(b) If the Notice to Proceed is issued subsequent to February 15, 1991, the amount of payment shall be the sum of the amount stated in Paragraph 5.2.2 and interest at the rate of nine percent (9%) per annum from February 15, 1991, through the date of payment, but in no event shall such interest accrue beyond August 15, 1991.

8.3 Engineering Design Payment. Concurrent with issuance of Notice to Proceed with the Initial Landfill Project, the **CITY** shall pay to the **CONTRACTOR** a single lump sum amount which shall be full compensation to the **CONTRACTOR** for engineering design of the Initial Landfill Project including the development of all Contract Documents attached as Exhibits to this Agreement and all required services of the Design Engineer during the Construction Period.

(a) If the Notice to Proceed is issued on or before February 15, 1991, the amount of payment shall be the amount stated in Paragraph 5.2.3.

(b) If the Notice to Proceed is issued subsequent to February 15, 1991, the amount of payment shall be the sum of the amount stated in Paragraph 5.2.3 and interest at the rate of nine percent (9%) per annum from February 15, 1991, through the date of payment, but in no event shall such interest accrue beyond August 15, 1991.

8.4 Construction Price.

(a) The Notice to Proceed for the Initial Landfill Project shall set forth a fixed price for the Work to be performed. That price shall be substantiated by the Schedule of Values incorporated herein in Exhibit 6 and shall provide the basis for the Drawdown Schedule set forth in that Exhibit. That price may include the price for design, permitting and construction of the Additional Ancillary Facilities at the option of the **CITY**. The price for the Initial Landfill Project specified in the Notice to Proceed shall remain fixed for the duration of the Construction Period specified in the Notice to Proceed and such time extension(s) as may be granted by Change Order.

(b) If the Notice to Proceed is issued on or before February 15, 1991, the price stipulated in the Notice to Proceed shall be the lump sum amount set forth in Paragraph 5.2.4 (and Paragraph 5.2.6, if applicable), which shall be consistent with the Price quoted in the **CONTRACTOR's** Proposal dated August 15, 1990, deviations therefrom being only those deviations occasioned by differences in quantities of work between Item 4.3, "Schedule of Values", incorporated in the Proposal and the Schedule of Values incorporated herein in Exhibit 6.

(c) If the Notice to Proceed is issued subsequent to February 15, 1991, the Notice to Proceed shall provide for the specified price for the Initial Landfill Project to be determined as the product of: (1) the price indicated in Paragraph 5.2.4 (and Paragraph 5.2.6, if applicable); and (2) a decimal fraction, the numerator of which shall be the Consumer Price Index on the date of issuance and the denominator of which shall be the Consumer Price Index on February 15, 1991. For purposes of determining the Consumer Price Index values for specific dates if published information is not available for those dates, published information available for the latest date prior to February 15, 1991, and the latest date prior to the actual date of issuance shall be used as a basis for straight-line interpolation and/or extrapolation for values as of February 15, 1991, and the actual date of issuance of Notice to Proceed.

(d) Neither time of completion for the Work covered by the Notice to Proceed nor the price of such Work may be modified except by issuance of a Change Order. The CITY may, upon presentation of acceptable documentation by the CONTRACTOR, with signed and sealed endorsement by the Design Engineer, that the Work has been delayed by circumstances beyond its control, grant a time extension for the scope of work included in the Notice to Proceed, the Contract time (Construction Period) to be adjusted by Change Order. However, in no event shall the granting of a time extension be considered grounds for an increase in the previously stipulated Landfill Construction Price.

8.5 Landfill Construction Price Payments. The CITY shall make progress payments to the CONTRACTOR for construction of the Initial Landfill Project and for construction of the Additional Ancillary Facilities, if elected by the CITY and successfully permitted by the CONTRACTOR. The CITY shall pay to the CONTRACTOR the lump sum construction price as stated in the Notice to Proceed, as provided in Paragraph 8.4, in accordance with the provisions of Paragraphs 8.6, 8.7 and 8.8.

8.6 Progress Payments.

(a) Once monthly, on a date as the Parties will agree in writing, the CONTRACTOR may make written Application for Progress Payments in accordance with provisions of this Paragraph 8.6.

(b) The **CONTRACTOR** shall submit Applications for Progress Payment utilizing the form included in Exhibit 8 or adaptation or facsimile thereof acceptable to the **CITY**.

(c) The **CONTRACTOR's** monthly progress payment Applications shall:

(1) Be submitted in the number of counterparts as directed by the **CITY**.

(2) Be numbered sequentially.

(3) Clearly indicate the time period (dates) during which work covered by the Application was accomplished.

(4) Show both incremental units or percentages of each item completed during the period and cumulative units or percentages of each item completed at the end of the period.

(5) Be supported by detailed schedules of stored **CONTRACTOR**-purchased materials for which the **CONTRACTOR** requests payment with bills of sale, invoices or other documentation warranting that the **CONTRACTOR** has received the materials or equipment and that such items are clear of all liens, charges and encumbrances.

(6) Be signed by a designated authorized signatory on behalf of the **CONTRACTOR**, certifying that quantities and amounts shown in the Application are true and correct.

(7) Be endorsed by both the Design Engineer and the Resident Project Representative, verifying that each has independently reviewed quantities and values of work reflected in the Application and that they are, in fact, in place as evidenced by his signature and date.

(8) Be accompanied by the **CONTRACTOR's** notarized listing of all Subcontractors and Suppliers who have provided labor, services, or **CONTRACTOR**-purchased materials or equipment incorporated or to be incorporated in the Work, certified by the **CONTRACTOR** to be current, true and complete, and a signed statement by each listed Subcontractor and Supplier that as of the date of the **CONTRACTOR's** Application for Progress

Payment, the **CONTRACTOR's** payments to it are current and that no monies are owed to it which would be the basis for any lien against the Work.

(9) Be accompanied by **CONTRACTOR's** Monthly Progress Report comparing actual status of the Work to projected status from the Project Progress Schedule of Exhibit 5. The Monthly Progress Report shall detail the causes should actual progress lag projected progress and shall set forth the **CONTRACTOR's** proposed means for bringing the Work back to schedule in the succeeding month(s). The Monthly Progress Reports shall be numbered consecutively, corresponding to the numbers of the concurrent Applications for Progress Payments, and shall be endorsed by both the Design Engineer and the Resident Project Representative as provided in subitem (e) of Paragraph 4.6.

(d) Within ten (10) days following receipt of **CONTRACTOR's** Application for Progress Payment, the **CITY** will either approve such Application in writing, with a copy to the **CONTRACTOR**, in the amount requested or notify the **CONTRACTOR** in writing of its reasons for withholding its approval of all or any portion of such Application. The **CONTRACTOR's** failure to comply fully with the Application requirements set forth in subparagraph (c) of this Paragraph 8.6 shall be grounds for the **CITY's** withholding of approval.

The **CITY** may also decline to approve the **CONTRACTOR's** Application for Progress Payment and will withhold its approval, in whole or in part, to the extent that the Work has not progressed to the status indicated in the Application or if the quality of the Work does not conform to requirements of the Technical Specifications of Exhibit 4. The **CITY** will approve and pay the portion of each Application which is not in dispute. If the **CONTRACTOR** and **CITY** cannot agree on a revised amount, the **CITY** will promptly approve for payment any further amount it believes, in the exercise of its reasonable judgment, is properly payable to the **CONTRACTOR**.

When the **CONTRACTOR** has taken steps satisfactory to the **CITY** to remove the grounds for withholding of **CITY** approval of payments, the **CONTRACTOR** may resubmit Application for Progress Payment for the amounts withheld, said

Application to comply fully with the provisions of subparagraph (c), and the Application will be reviewed and, if acceptable, be approved by the **CITY** within ten (10) days of its receipt.

Upon approval of all or any portion of an Application for Progress Payment, the **CITY** will promptly pay the **CONTRACTOR** the approved amount, subject to the provisions of Paragraph 8.8, and, in any event, the **CITY's** payment to the **CONTRACTOR** will be made within thirty (30) days following **CITY** receipt of the Application so approved.

8.7 Application for Final Payment. Following notification by the **CONTRACTOR**, with endorsement by the Design Engineer, that the Work is complete as provided in Paragraph 3.7(n), the **CITY** will make a final inspection and provide to the **CONTRACTOR** a written listing of items requiring corrective work, as provided in Paragraph 4.7. Upon the **CONTRACTOR's** performance of listed corrective work items and satisfactory reinspection by the **CITY**, or certification of completion by both the Design Engineer and the Resident Project Representative if reinspection is waived by the **CITY**, as provided in Paragraph 4.7, the **CONTRACTOR** may make application for final payment.

The **CONTRACTOR's** Application for final payment shall be in the form and content as set forth in subparagraph (c) of Paragraph 8.6 and shall be marked with the proper sequential number followed by the word "FINAL". The Application for final payment shall request release of the retainage, previously held by the **CITY** as provided in Paragraph 8.8.

Application for final payment shall not be deemed complete or subject to processing by the **CITY** unless accompanied or preceded by submittals of:

(a) The **CONTRACTOR's** affidavit of payment of all debts and claims for payment, waivers of claim for payment from all Subcontractors and Suppliers and their sureties, in form and content acceptable to the **CITY**; or,

(b) Alternatively, if any such Subcontractor or Supplier fails to furnish such a waiver, the **CONTRACTOR** may instead furnish a bond or other collateral or establish a reserve satisfactory to the **CITY** to indemnify the **CITY** against any such lien or claim.

(c) All manufacturer's or supplier's operation and maintenance manuals, acceptable to the **CITY**, as required by the approved list of **CONTRACTOR** submittals, Exhibit 7, and extended warranties as required by Exhibit 11.

(d) A complete and accurate set of Record Drawings, on mylar drafting film with drafting performed by an experienced draftsman and equal in quality to drafting of the original Drawings, Exhibit 3. The Record Drawings shall accurately depict "as built" locations and conditions and shall be accompanied by signed certifications obtained by the **CONTRACTOR** from both the Design Engineer and the Resident Project Representative that each has reviewed the Record Drawings, as submitted, and that, in his opinion, they are complete and accurate.

(e) Certifications of Completion of Construction, properly completed and executed by the Design Engineer. In the case of the Landfill facilities governed by the FDER Construction Permit, the certification shall be in the form prescribed by FDER, with evidence satisfactory to the **CITY** that the Certification has been submitted to FDER. A separate certification, in similar form, content and detail, pertaining to ancillary facilities not subject to FDER Construction Permit provisions, shall be completed and executed by Design Engineer and submitted by the **CONTRACTOR** with or prior to Application for final payment.

(f) Closeout Change Order, as provided by Paragraph 6.5, if applicable.

Within ten (10) days of receipt of complete and correct Application for final payment, the **CITY** shall approve payment to the **CONTRACTOR** of the amount due, and shall provide a copy of the written approval to the **CONTRACTOR**. Within thirty (30) days following receipt of a complete and correct Application, final payment shall be made to the **CONTRACTOR**.

8.8 Retainage. The **CITY** shall withhold a retainage amount of ten percent (10%) of each monthly payment otherwise due and payable to the **CONTRACTOR** under provisions of Paragraph 8.6 until the construction of the Initial Landfill Project is fifty percent (50%) complete. Thereafter, the **CITY** shall withhold a retainage amount of five percent (5%) of each additional monthly payment otherwise due and payable to the **CONTRACTOR** until the construction of the Initial Landfill Project is one hundred percent (100%) complete and a final inspection has been made.

Following the final inspection and concurrent with provision to the **CONTRACTOR** of the list of items requiring corrective work, the **CITY** shall notify the **CONTRACTOR** of what extent, if any, the **CITY** is willing to reduce the amount of retainage prior to final completion and acceptance. The **CITY's** decision shall be based on retaining sufficient funds to pay for correction and completion of the Work, and the determination of the amount required shall be the prerogative of the **CITY** solely.

Upon receipt of the **CITY's** notification of the amount of retainage it will agree to release, the **CONTRACTOR** may make Application for a semi-final payment, requesting release of retainage to the extent agreed by the **CITY** and any other monies then due it. Such Application shall be in the form and content as set forth in subparagraph (c) of Paragraph 8.6 and shall be marked with the proper sequential number, followed by the word, "SEMI-FINAL".

Upon receipt of a complete and correct Application for semi-final payment, the **CITY** shall process the Application, approve payment and make payment to the **CONTRACTOR** by procedures as specified in subparagraph (d) of Paragraph 8.6.

9.0 TERMINATION

9.1 For Cause. Except as otherwise provided herein, if either party breaches this Agreement or defaults in the performance of any of the covenants or conditions contained herein for thirty (30) days after the other party has given the party breaching or defaulting written notice of such breach or default, the other party may: (i) terminate this Agreement as of any date; (ii) cure the breach or default at the expense of the breaching or defaulting party; and/or, (iii) have recourse to any other right or remedy to which it may be entitled by law or equity.

In the event that in the exercise of due diligence during the aforesaid thirty (30) day period a cure cannot reasonably be effected, such thirty (30) day period shall be extended to include such additional time as is reasonably necessary to effect cure provided the defaulting party exercises continuous diligent efforts to cure such default during such extended cure period.

In the event either party waives default by the other party, such waiver shall not be construed or determined to be a continuing waiver of the same or any subsequent breach or default.

10.0 GENERAL CONDITIONS

10.1 Notices. Notices of conditions or situations affecting the work to be performed under this Agreement shall be given in writing between designated operating personnel of the **CONTRACTOR** and the **CITY**. All other notices shall be given in writing, to be delivered by certified mail, to the parties at their respective addresses as set forth below:

If to **CONTRACTOR**, at:

Trail Ridge Landfill, Inc.
c/o Waste Management of North America, Inc.
500 Cypress Creek Road, W., Suite 300
Ft. Lauderdale, Florida 33309

If to **CITY**, at:

Director of Public Utilities
City of Jacksonville
219 Newnan Street
Jacksonville, Florida 32202

10.2 Force Majeure. Neither party shall be liable for its failure to perform hereunder if its performance is rendered impossible by any act, event or condition beyond its reasonable control which by the exercise of due diligence it shall be unable to overcome. Such acts, events or conditions shall include, but not be limited to, the following:

- (a) strike, work stoppage or slowdown;
- (b) acts of God (except normal weather conditions for the Jacksonville, Florida area), hurricane, tornado, lightning, or earthquake;
- (c) acts of war, civil insurrection or terrorism; or
- (d) fire or flood not caused by the party unable to perform.

10.3 Assignment. This Agreement is assignable only upon the written consent of the other party and subject to such consent, shall be binding upon, and inure to the benefit of, the assignor's successors and assigns.

10.4 Amendment. This Agreement may be amended only as provided in Article 6 or by other written instrument specifically referring to this Agreement and executed with the same formalities as this Agreement.

10.5 Governing Law and Venue. This Agreement shall be interpreted and enforced pursuant to Florida law. Any action to interpret and/or enforce this Agreement shall be brought and maintained in either the Circuit Court, Fourth Judicial Circuit in and

for Duval County, Florida, or the United States District Court, Middle District of Florida, Jacksonville Division.

10.6 Order of Precedence. In the event of any conflict between the provisions of this Agreement and those of the Exhibits attached hereto, the provisions of this Agreement shall govern.

10.7 Construction. Both parties acknowledge that they have had meaningful input into the terms and conditions contained in this Agreement. Therefore, any doubtful or ambiguous provisions contained herein shall not be construed against the party who physically prepared this Agreement. The rule sometimes referred to as "Fortius Contra Proferentum" shall not be applied to the interpretation of this Agreement.

10.8 Savings Clause. In the event that one or more of the provisions contained in this Agreement shall be held to be invalid, illegal or unenforceable in any respect, such invalidity, illegality or unenforceability shall not affect any other provision of this Agreement and this Agreement shall be construed as if such invalid, illegal or unenforceable provision had never been contained herein.

10.9 Authority. The **CITY** represents and warrants that it has the power and authority to enter into this Agreement, that all necessary ordinances, resolutions and other approvals have been duly enacted or obtained, and that upon execution hereof by the **CITY** and approval by the City Council, this Agreement shall become a valid and binding obligation of the **CITY**.

10.10 Performance Guarantee. In the event that Trail Ridge Landfill, Inc. fails to fulfill any of the responsibilities of the **CONTRACTOR** set forth herein within the time limits specified or, if no time limit is specified, within a reasonable time, Waste Management of North America, Inc. shall fulfill said responsibilities and thereafter shall be treated as the "**CONTRACTOR**" hereunder for all purposes.

10.11 Financial Guarantee. In the event Waste Management of North America, Inc. fails to fulfill the Performance Guarantee set forth in Section 10.10 hereof within the time limits specified or, if no time limit is specified, within a reasonable time, Waste Management, Inc. shall provide the financial support and resources necessary to allow Trail Ridge Landfill, Inc. and/or Waste Management of North, Inc. to fulfill their responsibilities

and/or to pay any damages the CITY may incur as a result of their failure to perform their responsibilities.

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be duly executed as of the date first above written.

ATTEST:

CITY OF JACKSONVILLE

Linnie C. Williams
Linnie C. Williams
Corporation Secretary

Thomas L. Hazouri
Thomas L. Hazouri
Mayor

ATTEST:

TRAIL RIDGE LANDFILL, INC.

By: [Signature]
Its Secretary

By: [Signature]
Its Vice President

ATTEST:

WASTE MANAGEMENT OF NORTH AMERICA, INC.

By: [Signature]
Its Secretary

By: [Signature]
Its Executive Vice President

ATTEST:

WASTE MANAGEMENT, INC.

By: [Signature]
Its Secretary

By: [Signature]
Its Vice President

In compliance with the Charter of the City of Jacksonville, I certify that there is an unexpended, unencumbered and unimpounded balance in the appropriation sufficient to cover the foregoing Agreement and that provision has been made for the payment of the monies provided therein to be paid. Said certification is made subject to issuance and sale of the Financing referred to in Paragraph 2.4(4) of the foregoing Agreement.

Form Approved:

[Signature]
Assistant Counsel
City of Jacksonville

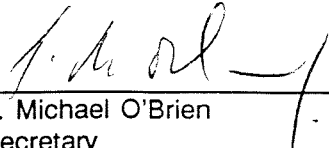
[Signature]
Director of Finance
City of Jacksonville
6951

[Handwritten initials]

CERTIFICATE OF ASSISTANT SECRETARY OF TRAIL RIDGE LANDFILL, INC.

I, T. Michael O'Brien, the duly elected Secretary of Trail Ridge Landfill, Inc., a Delaware corporation (the "Corporation"), hereby certify that Warren N. Smith is a duly elected Vice President of the Corporation and that he executed the Landfill Design and Construction Agreement between the City of Jacksonville and the Corporation on behalf of the Corporation.

IN WITNESS WHEREOF, I have subscribed my name as Secretary this 18th of June, 1991.



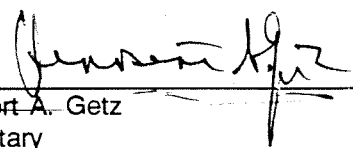
T. Michael O'Brien
Secretary

(SEAL)

CERTIFICATE OF SECRETARY OF WASTE MANAGEMENT OF NORTH AMERICA, INC.

I, Herbert A. Getz, the duly elected Secretary of Waste Management of North America, Inc., an Illinois corporation (the "Corporation"), hereby certify that Jerome D. Girsch is a duly elected Executive Vice President of the Corporation and that he executed the Landfill Design and Construction Agreement between the City of Jacksonville and Trail Ridge Landfill, Inc. on behalf of the Corporation.

IN WITNESS WHEREOF, I have subscribed my name as Secretary this 23rd day of JUNE, 1991.



Herbert A. Getz
Secretary

(SEAL)

CERTIFICATE OF THE SECRETARY OF WASTE MANAGEMENT, INC.

I, Herbert A. Getz, the duly elected Secretary of Waste Management, Inc., a Delaware corporation (the "Corporation"), hereby certify that the persons listed below are duly elected officers of the Corporation and that the persons who executed the Landfill Design and Construction Agreement between the City of Jacksonville and Trail Ridge Landfill, Inc. of behalf of the Corporation are the same persons who appear on this Certificate.

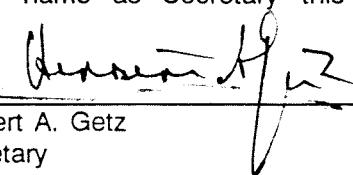
Incumbent

Jerome D. Girsch
James E. Koenig

Title

Vice President
Vice President

IN WITNESS WHEREOF, I have subscribed my name as Secretary this 25th day of JUNE, 1991.



Herbert A. Getz
Secretary

(SEAL)

