

COUNTY ORDINANCE NO. 88-49

AN ORDINANCE OF ST. JOHNS COUNTY, FLORIDA, RELATING TO WASTE MANAGEMENT; AUTHORIZING THE ACQUISITION AND CONSTRUCTION OF SOLID WASTE DISPOSAL FACILITIES, RECYCLING FACILITIES, RESOURCE RECOVERY FACILITIES, OTHER WASTE MANAGEMENT FACILITIES AND APPURTENANT AND RELATED FACILITIES; PROVIDING FOR THE ISSUANCE OF REVENUE BONDS BY THE COUNTY TO FINANCE THE COST THEREOF; PROVIDING FOR THE PAYMENT OF SUCH BONDS FROM THE REVENUES TO BE DERIVED FROM THE OPERATION OF ANY SUCH FACILITIES, SOLID WASTE DISPOSAL FEES, NON-AD VALOREM ASSESSMENTS FOR THE USE OF SUCH FACILITIES OR THE SERVICES PROVIDED THEREBY, AND ANY OTHER LEGALLY AVAILABLE MONEYS DERIVED FROM SOURCES OTHER THAN AD VALOREM TAXATION; AUTHORIZING THE IMPOSITION OF WASTE DISPOSAL FEES AND THE LEVY AND COLLECTION OF NON-AD VALOREM ASSESSMENTS; AND PROVIDING THE METHOD BY WHICH THIS ORDINANCE SHALL BECOME EFFECTIVE.

BE IT ORDAINED BY THE BOARD OF COUNTY COMMISSIONERS OF ST. JOHNS COUNTY, FLORIDA:

SECTION 1. DEFINITIONS. As used in this ordinance, the words and terms which are defined in the Act shall have the respective meanings assigned thereto by the Act, and the following words and terms shall have the following meanings, unless some other meaning is plainly intended:

"Act" shall mean Chapter 88-130, Laws of Florida, Acts of 1988.

"Assessments" shall mean the proceeds to be derived by the County from any non-ad valorem assessments which may be levied by the County against certain classifications of lands and properties specially benefited by any Project, including interest on such assessments and any penalties thereon and moneys received upon the foreclosure of the liens of any such assessments and, by reason of such assessments, upon the sale of tax certificates.

"Board" shall mean the Board of County Commissioners of the County.

"Bonds" shall mean the obligations issued by the County pursuant to the provisions of this ordinance, as supplemented by the provisions of any other county ordinance or by general or

special law, to pay the Cost of a Project or Projects and payable from any of the revenues authorized by this ordinance to be pledged to the payment of Bonds.

"Closure Fund" shall mean any landfill management escrow account established by the Issuer for the purpose of complying with the Act to ensure the availability of financial resources for the proper closure of one or more County landfills, including without limitation all costs and expenses of monitoring any closed landfill in such manner and for such period of time as shall be required by applicable law or, absent such law, as shall be determined by the Board.

"Cost" when used in connection with a Project, shall mean all costs and expenses of the County in establishing such Project, as determined by generally accepted accounting principles, including without limitation: (1) the County's cost of physical construction; (2) costs of acquisition by or for the County of such Project; (3) costs of land and interests therein and the cost of the County incidental to such acquisition; (4) costs of machinery or equipment required by the County for the operation of such Project; (5) the cost of any indemnity and surety bonds and premiums for insurance during construction; (6) all interest due to be paid on Bonds and other obligations incurred and issued to finance the Project during the construction period of such Project and for a reasonable period thereafter; (7) engineering, legal and other consultant fees and expenses; (8) costs and expenses incidental to the issuance of such Bonds and other obligations including without limitation bond insurance premium, rating agency fees and the fees and expenses of any auditors, paying agent, registrar, credit bank or depository; (9) payments, when due (whether at the maturity of principal or the due date of interest or upon redemption) on any indebtedness of the County (other than such Bonds and other obligations) incurred for such Project; (10) costs and expenses of conducting hearings for the determination of Rates and of proceedings for the imposition of Assessments, including without limitation the preparation of assessment plats and rolls and the publication and mailing of notices; and (11) reimbursement to the County for any such items of Cost advanced by the County prior to the issuance of Bonds.

"County" shall mean St. Johns County, Florida.

"Gross Revenues" shall mean all moneys or other income received by the County from Rates, and all earnings and income derived from the use or investment thereof, with such limitations as may be placed thereon by any resolution of the Board.

"Net Revenues" shall mean Gross Revenues less Operating Expenses.

"Non-ad Valorem Funds" shall mean revenues which shall be derived by the County from one, several or all sources, designated and defined by the Board, other than ad valorem taxation and which shall be legally available for application by the County in accordance with the provisions hereof.

"Operating Expenses" shall mean the County's expenses (i) for operation, maintenance, repairs and replacements with respect to a Project and (ii) incurred to administer, levy and collect the Rates pertaining to such Project and any Assessments levied for the benefits derived from such Project (the "Collection"), and shall include without limitation administration expenses, insurance and surety bond premiums, the fees to any provider of a reserve account insurance policy or reserve account letter of credit (but excluding any expenses or reimbursement obligations for draws made thereunder), the fees of any rebate compliance service or of bond counsel relating to compliance with the provisions of Section 148 of the United States Internal Revenue Code of 1986, as the same may from time to time be amended, legal and engineering expenses, ordinary and current rentals of equipment or other property, refunds of moneys lawfully due to others, wages, salaries, payments to pension, retirement, health and hospitalization funds, and any other expenses required to be paid for or with respect to proper operation or maintenance of the Project or the Collection, all to the extent properly attributable to the Project or the Collection in accordance with generally accepted accounting principles employed in respect of activities such as those involved in the Collection or in the operation of public facilities similar to the Project, as the case may be, and disbursements for the expenses, liabilities and compensation of any paying agent or registrar, but does not include any costs or expenses in respect of original construction or improvement other than expenditures necessary to prevent an interruption or continuance of an interruption of the Gross Revenues and minor capital expenditures necessary for the proper and economical operation or maintenance of the Project, or any provision for interest, depreciation, amortization or similar charges.

"Project" shall mean the closure of any existing or new Solid Waste disposal site and, if necessary, the monitoring of such closed site, and/or the acquisition of and/or construction necessary for any existing or new Solid Waste management facilities including without limitation (i) Solid Waste disposal sites, including buffer and testing sites, (ii) Solid Waste recycling facilities and/or (iii) Solid waste resource recovery facilities, and such equipment and appurtenant facilities necessary or useful in connection with any such Solid Waste management facilities.

"Rates" shall mean the tipping fees and other charges, except Assessments, which may be made and collected by the County

for the use of the services or facilities of a Project and the charges and prices for which any product or valuable by-product of any Project may be sold.

"Renewal and Replacement Fund" shall mean any account established by the County for any Project or Projects to receive moneys to be held therein until applied to pay the costs of extensions and additions to, or renewals and replacements of the capital assets of, such Project or Projects, or extraordinary repairs thereto, which moneys may also be pledged and applied by the County, for default avoidance, to the payment of the principal of, premium, if any, and interest on any Bonds payable entirely or in part from the Net Revenues of such Project or Projects.

"Reserve Account" shall mean any debt service reserve fund or account established by the County for any issue or issues of Bonds.

"Solid Waste" shall have all of the meanings ascribed thereto in the Act and shall be deemed to include without limitation such wastes of liquid or other consistency, or combinations thereof, as shall be declared by resolution of the Board as being solid waste within the meaning of this ordinance and subject to the provisions hereof.

"State" shall mean the State of Florida.

The terms "herein," "hereunder," "hereby," "hereto," "hereof," and any similar term shall refer to this ordinance; the term "heretofore" shall mean before the date of enactment of this ordinance; and the term "hereafter" shall mean after the date of enactment of this ordinance.

Words importing the singular number shall include the plural number and vice versa.

SECTION 2. FINDINGS. It is hereby found, determined and declared that:

A. Pursuant to Article VIII, Section 1 of the Constitution of the State of Florida and Sections 125.01 and 125.66, Florida Statutes, as amended, the County, acting by and through the Board, has all powers of local self-government to perform county functions and to render public services in a manner not inconsistent with general or special law and such power may be exercised by the enactment of county ordinances.

B. It is necessary for the public health, safety, economy and general welfare of the County and its citizens and of the businesses and industries which operate within the County that

provision be made by the County for the acquisition, construction, erection, improving, equipping, installing and/or closing of Projects necessary for responsible waste management in the County and for financing the Cost of such Projects.

C. Provision for financing the Cost of such Projects with the proceeds of Bonds and for payment of the principal of, premium, if any, interest on and reserves for the Bonds and Operating Expenses and reserves therefor from the Net Revenues of such Projects, Assessments and Non-ad Valorem Funds is in the best interest of the County and its citizens and of the businesses and industries which operate within the County and is necessary for their respective finances, safety, health and general welfare.

D. No holder of Bonds shall ever be entitled to compel the payment of the principal of, premium, if any, or interest on the Bonds or any other payments provide for by the County to be made to any Reserve Account, Renewal and Replacement Fund or other fund or account from any funds or revenues of the County other than Net Revenues, Assessments or Non-ad Valorem Funds as herein provided; nor will the holder of any Bonds or any letter of credit provider, reserve account insurance provider or bond insurance provider ever have the right to compel the exercise of the ad valorem taxing power of the County to pay the principal of, premium, if any, or interest on Bonds or to make any such other payments; and no Bonds shall constitute a lien upon any property of the County or situated within its territorial limits, except Net Revenues, Assessments or Non-ad Valorem Funds expressly pledged to such Bonds.

SECTION 3. POWERS OF COUNTY. The County shall have the power to, and all powers necessary and incidental to, accomplish the purpose of this ordinance, including without limitation the power to:

A. Plan, design, acquire, construct, erect, improve, equip, operate, maintain, close and monitor one or more Projects, from time to time, and issue Bonds to finance the Cost thereof.

B. Fix and collect Rates for the use of the services and facilities furnished by any Project and determine the selling prices for, charge such prices for and sell the products and any valuable byproducts produced by any Project.

C. Acquire, by either purchase or the exercise of the power of eminent domain, such lands and rights and interests therein, including lands underwater and riparian rights, as it may deem necessary for any Project.

D. Make and enter into all contracts and agreements necessary or incidental to the performance of its duties and the execution of its powers under this ordinance, and employ such consulting engineers, financial advisors, accountants, attorneys, superintendents, managers and other employees and agents as may, in the judgment of the Board, be deemed necessary to such performance and fix their compensation.

E. Receive and accept from the State or the United States or any agency of either loans and grants for and in aid of the planning, designing, construction, reconstruction, financing, refinancing or closing of any Project, or monitoring of any closed Project, and receive and accept loans or other aid or contributions, from any source, of money, property, labor or other things of value, to be held, used, and applied only for the purposes for which such grants and contributions may be made.

F. Establish one or more Closure Funds and provide for the funding thereof from any Non-ad Valorem Funds, including without limitation Assessments and/or the Net Revenues of any Project or Projects which shall be available for such purpose after making provision for the payment of the debt service and Reserve Account requirements for any Bonds issued to finance such Project or Projects and contributions to any Renewal and Replacement Fund established for such Project or Projects.

G. Enter into interlocal agreements with one or more municipalities located within the County and/or with one or more other counties of the State, for the purpose of providing Solid Waste disposal, recycling and/or resource recovery facilities jointly with or for sharing the use thereof with such municipality, municipalities, county or counties and providing for payment of all or any part of the Cost thereof from the proceeds of Bonds.

H. Levy and collect Assessments in the manner provided in Sections 68 and 69 of the Act or in such manner as may be authorized by county ordinance or be permitted by general or special law, for any one or more of the following purposes: to pay the Cost of any Project; to pay the Operating Expenses for any Project; and to pay the principal of, premium, if any, and interest on any Bonds.

I. Provide by resolution, at one time or from time to time, for the issuance of Bonds for the purpose of paying all or a part of the Cost of any Project or combination of Projects or the cost of refunding any Bonds or other outstanding obligations payable from any revenues herein authorized to be pledged to the payment of the Bonds. The principal of, premium, if any, and interest on Bonds shall be payable from Net Revenues, Assessments and/or Non-ad Valorem Funds. The Bonds of each issue shall be dated, shall bear interest at such rate or rates, shall mature at

such time or times not exceeding forty (40) years from their date or dates, and have such other terms and provisions as may be determined by resolution of the Board. The Board shall determine the form of the Bonds, the manner of executing the Bonds, the denomination or denominations of the Bonds and the place or places of payment of the principal of, premium, if any, and interest on the Bonds, all or any of which may be payable at any bank or trust company within or without the State of Florida. In case any officer whose signature or a facsimile of whose signature shall appear on any Bonds shall cease to be such officer before the delivery of such Bonds, such signature or such facsimile shall nevertheless be valid and sufficient for all purposes the same as if he had remained in office until such delivery. The Board may declare that any Bonds shall have all the qualities and incidents of negotiable instruments under the laws of Florida. The Board may sell Bonds in such manner, at such interest rate or rates, and for such price, without limitation except as provided by general law, as it may determine to be in the best interest of the County. Prior to the preparation of definitive Bonds, the Board may, under like restrictions issue temporary Bonds, exchangeable for definitive Bonds when such Bonds have been executed and are available for delivery. The Board may also provide for the replacement of any Bonds which shall become mutilated, or be destroyed or be lost. The Board may issue bond anticipation notes in the manner provided by general law. Bonds and bond anticipation notes may be issued without any other proceedings, or the happening of any other conditions or things, than those proceedings, conditions or things which are specifically required by this ordinance.

In the event that the County shall have acquired or constructed a Project and, to pay the Cost of such acquisition or construction, shall have issued Bonds, and in the further event that the County shall desire to construct additions, extensions, improvements or betterments to such Project or to close such Project or to acquire by purchase or to construct an additional Project and to combine such additional Project with the Project theretofore purchased or constructed, and to refund such outstanding Bonds, the County may provide for the issuance of a single issue of Bonds under the provisions of this ordinance for the combined purposes of refunding or acquiring such Bonds then outstanding and of constructing such additions, extensions, improvements or betterments or closing such Project or of acquiring by purchase or of constructing such additional Project. In the event that the County shall have acquired or constructed a Project and, to pay the Cost of such acquisition or construction, shall have issued Bonds, and in the further event that such Cost shall have exceeded or be expected to exceed the proceeds of such Bonds, the County may provide for the issuance of additional Bonds to finance the cost of completing such Project, subject only to the vested rights of holders of the outstanding Bonds.

SECTION 4. BONDS NOT GENERAL OBLIGATIONS. No Bond shall be deemed to be a general obligation of the County or a pledge of its faith and credit. No holder of Bonds shall ever be entitled to compel the payment of the principal of, premium, if any, or interest on such Bonds or any other payments provided for by the County to be made to any Reserve Account, Renewal and Replacement Fund or other fund or account from any funds or revenues of the County other than such Net Revenues, Assessments or Non-ad Valorem Funds as shall be expressly pledged as security for such payment; nor will the holder of any Bonds or any letter of credit provider, reserve account insurance provider or bond insurance provider ever have the right to compel the exercise of the ad valorem taxing power of the County to pay the principal of, premium, if any, or interest on Bonds or to make any such other payments. No Bonds shall constitute a lien upon any property of the County or situated within its territorial limits, except such Net Revenues, Assessments or Non-ad Valorem Funds as shall be expressly pledged to the payment of such Bonds.

SECTION 5. REMEDIES OF BONDHOLDERS. Any holder of Bonds, except to the extent the rights herein granted may be restricted by resolution of the Board adopted before the issuance of such Bonds, may by suit, action, mandamus or other proceedings, protect and enforce any and all rights under the laws of Florida or granted hereunder or under such resolution and may enforce and compel the performance of all duties required by this ordinance or by such resolution to be performed by the County or the Board or by any officer thereof.

SECTION 6. AD VALOREM TAX REVENUES. Nothing herein contained shall be construed to prevent the Board from budgeting and spending ad valorem revenues in any current fiscal year for the Cost of any Project or Projects or for Operating Expenses, or from issuing bonds or other obligations or evidence of indebtedness of the County payable from ad valorem tax revenues in any manner authorized by state law.

SECTION 7. ENACTMENT AND EFFECTIVE DATE. This ordinance is enacted at a regular meeting of the Board, notice of intent to consider the same having been given by the Clerk of the Board by publication in a newspaper of general circulation within the County fifteen (15) days prior to such meeting, excluding Sundays and legal holidays. A copy of this ordinance has been kept in the office of the Clerk available to the public for inspection during regular business hours. A certified copy of this ordinance, as enacted, shall be filed by the Clerk with the Department of State of Florida within ten (10) days after enactment, and this ordinance shall take effect upon receipt of of-

official acknowledgment from said office that this ordinance has been so filed.

ENACTED BY THE BOARD OF COUNTY COMMISSIONERS OF ST. JOHNS COUNTY, FLORIDA, this thirteenth day of September, 1988.

ST. JOHNS COUNTY, FLORIDA



Lawrence O. Hatley
Chairman, Board of County
Commissioners, St. Johns County,
Florida

Paul Leo Markel
Clerk, Board of County
Commissioners, St. Johns County,
Florida

DG90D4

Adopted regular meeting September 13, 1988.

Effective Septmeber 19, 1988

The St. Augustine Record
 PUBLISHED EVERY AFTERNOON EXCEPT SUNDAY
 ST. AUGUSTINE AND ST. JOHNS COUNTY, FLORIDA

STATE OF FLORIDA, }
 COUNTY OF ST. JOHNS }

Before the undersigned authority personally appeared _____
 Kristi Robertson _____ who on oath says that he is
 Accounting Clerk _____ of the St. Augustine Record, a
 daily newspaper published at St. Augustine in St. Johns County, Florida;
 that the attached copy of advertisement, being a _____
 Notice of Regular Meeting _____
 _____ in the matter of _____
 Waste Management Ordinance _____
 _____ in the _____ Court,
 was published in said newspaper in the issues of _____
 August 25, 1988 _____

Affiant further says that the St. Augustine Record is a newspaper published at St. Augustine, in said St. Johns County, Florida, and that the said newspaper has heretofore been continuously published in said St. Johns County, Florida, each day, except Sundays, and has been entered as second class mail matter at the post office in the City of St. Augustine, in said St. Johns County, Florida, for a period of one year next preceding the first publication of the attached copy of advertisement; and affiant further says that he has neither paid nor promised any person, firm or corporation any discount, rebate, commission or refund for the purpose of securing this advertisement for publication in the said newspaper.

Sworn to and subscribed before me Kristi Robertson
 this 25th day of August

A.D. 19 88
[Signature]

Notary Public, State of Florida Notary Public
 My Commission Expires Aug. 4, 1989
 - Bonded This Copy Until: Issuance, etc.

NOTICE IS HEREBY GIVEN THAT THE BOARD OF COUNTY COMMISSIONERS OF ST. JOHNS COUNTY, FLORIDA, AT ITS REGULAR MEETING ON SEPTEMBER 13, 1988 AT 11:15 A.M. IN THE COUNTY AUDITORIUM, COUNTY ADMINISTRATION BUILDING, LEWIS SPEEDWAY (COUNTY ROAD 14-A) AND U.S. 91 NORTH, ST. AUGUSTINE, FLORIDA, WILL HOLD A PUBLIC HEARING TO CONSIDER

THE PASSAGE OF THE FOLLOWING ORDINANCE:
 AN ORDINANCE OF ST. JOHNS COUNTY, FLORIDA, RELATING TO WASTE MANAGEMENT; AUTHORIZING THE ACQUISITION AND CONSTRUCTION OF SOLID WASTE DISPOSAL FACILITIES; RECYCLING FACILITIES; RESOURCE RECOVERY FACILITIES; OTHER WASTE MANAGEMENT FACILITIES; AND APPURTENANT AND RELATED FACILITIES; PROVIDING FOR THE ISSUANCE OF REVENUE BONDS BY THE COUNTY TO FINANCE THE COST THEREOF; PROVIDING FOR THE PAYMENT OF SUCH BONDS FROM THE REVENUES TO BE DERIVED FROM THE OPERATION OF ANY SUCH FACILITIES; SOLID WASTE DISPOSAL FEES; NON-AD VALOREM ASSESSMENTS FOR THE USE OF SUCH FACILITIES OR THE SERVICES PROVIDED THEREBY; AND ANY OTHER LEGALLY AVAILABLE MONIES DERIVED FROM SOURCES OTHER THAN AD VALOREM TAXATION; AUTHORIZING THE IMPOSITION OF WASTE DISPOSAL FEES AND THE LEVY AND COLLECTION OF NON-AD VALOREM ASSESSMENTS; AND PROVIDING THE METHOD BY WHICH THIS ORDINANCE SHALL BECOME EFFECTIVE.
 The substance of the contemplated ordinance is to provide a grant of authority for the acquisition and construction of solid waste disposal facilities, recycling facilities, resource recovery facilities, other waste management facilities and appurtenant and related facilities, for the benefit and use of the citizens of and the businesses and industries operating in St. Johns County, and the method of financing such facilities through the issuance of County revenue bonds.
 All interested persons may appear at said meeting of the Board and be heard with respect to such proposed ordinance. Comments made at said meeting are for the consideration of the Board and will not bind any legal action to be taken by the Board.
 The proposed Ordinance is on file in the office of the Clerk of the Circuit Court, St. Johns County, Florida, St. Johns County Administration Building, Lewis Speedway, and may be examined by parties interested prior to said public hearing.
 All parties having any interest in said Ordinance will be afforded an opportunity to be heard at the public hearing.
 If a person decided to appeal any decision made by the Board of County Commissioners with respect to any matter considered at the meeting or hearing, he will need a record of the proceedings, and for such purposes he may need to ensure that a verbatim record of the proceedings is made, which record includes the testimony and evidence upon which the appeal is to be based.
 BOARD OF COUNTY COMMISSIONERS OF ST. JOHNS COUNTY, FLORIDA
 By Carl "Bud" Markel, Its Clerk
 By Lynn M. McDonald
 Deputy Clerk
 L257 Aug. 25, 1988



FLORIDA DEPARTMENT OF STATE

Jim Smith
Secretary of State
DIVISION OF ELECTIONS
Room 1802, The Capitol
Tallahassee, Florida 32399-0250
(904) 488-8427

September 15, 1988

RECEIVED
ST. JOHNS COUNTY, FLORIDA

Honorable Carl "Bud" Markel
Clerk of Circuit Court - St. Johns County
Post Office Drawer 300
St. Augustine, Florida 32085

'88 SEP 19 AM 1:10

Carl Bud Markel
CLERK, COUNTY COMMISSION

Attention: Connie E. McDaniel, Deputy Clerk

Dear Mr. Markel:

Pursuant to the provisions of Section 125.66, Florida Statutes, this will acknowledge:

1. Receipt of letter/s of September 13, 1988
and certified copy/ies of St. Johns
County Ordinance(s) No. 88-49
2. Receipt of _____ County Ordinance(s)
relative to:
(a) _____
which we have numbered _____
(b) _____
which we have numbered _____
3. We have filed this/ese ordinances in this office
on September 15, 1988.
4. The original/duplicate copy/ies showing the filing date
is/are being returned for your records.

Sincerely,

Liz Cloud

Liz Cloud, Chief
Bureau of Administrative Code

LC/mb