

RESOLUTION NO. 2010- 15

A RESOLUTION BY THE BOARD OF COUNTY COMMISSIONERS OF ST. JOHNS COUNTY, FLORIDA, APPROVING THE TERMS, CONDITIONS, AND PROVISIONS OF A SETTLEMENT AND RELEASE AGREEMENT BETWEEN ST. JOHNS COUNTY, FLORIDA, AND REPUBLIC SERVICES OF FLORIDA, LIMITED PARTNERSHIP, A DELAWARE LIMITED PARTNERSHIP D/B/A SEABOARD WASTE SYSTEMS; AND AUTHORIZING THE COUNTY ADMINISTRATOR, OR DESIGNEE, TO EXECUTE THE SETTLEMENT AND RELEASE AGREEMENT, ON BEHALF OF ST. JOHNS COUNTY.

RECITALS:

WHEREAS, on or about August 1, 2003, the County and Seaboard executed a Franchise Agreement for the Collection and Transportation of Residential Solid Waste in St. Johns County; and

WHEREAS, under the Franchise Agreement, the County agreed to pay Seaboard certain fees for the services Seaboard provides to the County's residents; and

WHEREAS, the amount of the Fee is based on the number of customers that are served each month by Seaboard; and

WHEREAS, the County and Seaboard currently disagree about the money that the County owes Seaboard under the Franchise Agreement because, among other things, the County and Seaboard disagree about the number of eligible customers that have been provided service by Seaboard; and

WHEREAS, by letter dated November 1, 2009, Seaboard submitted a Settlement Letter to the County; and

WHEREAS, based in part on the Settlement Letter, Seaboard and the County have drafted a Settlement and Release Agreement, which specifically addresses the payment dispute; and

WHEREAS, under the proposed Settlement and Release Agreement, and without acknowledging the validity of Seaboard's claim, the County would pay Seaboard a one-time payment of \$162,500.00 in order to extinguish any and all existing issues related to payment and number of eligible customers; and

WHEREAS, in order to avoid future disputes over the matters addressed in the Settlement and Release Agreement, the County and Seaboard have agreed to revise some of the provisions of the Franchise Agreement as shown in the attached and incorporated

Franchise Extension Agreement for the Collection and Transportation of Residential Solid Waste in St. Johns County; and

WHEREAS, as part of the Settlement and Release Agreement, Seaboard agrees that it will be bound by, and comply with, the terms, conditions, and provisions contained in the Extension Agreement from the Effective Date of the Settlement Agreement, and continuing until the Extension Agreement expires, or is terminated, in accordance with its terms.

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF COUNTY COMMISSIONERS OF ST. JOHNS COUNTY, FLORIDA, AS FOLLOWS:

Section 1. The above recitals are hereby incorporated into the body of this Resolution and are adopted as Findings of Fact.

Section 2. The Board of County Commissioners of St. Johns County, Florida, approves the terms, provisions, conditions, and requirements of a Settlement and Release Agreement between St. Johns County, Florida, and Republic Services of Florida, Limited Partnership, a Delaware limited partnership d/b/a Seaboard Waste Systems and authorizes the County Administrator, or designee, to execute the attached and incorporated Settlement and Release Agreement, on behalf of St. Johns County.

Section 3. To the extent that there are typographical and/or administrative errors or issues that do not change the tone, tenor, or concept of this Resolution and/or the attached and incorporated Settlement and Release Agreement, then this Resolution and/or the attached and incorporated Settlement and Release Agreement may be revised without subsequent approval of the Board of County Commissioners.

PASSED AND ADOPTED by the Board of County Commissioners of St. Johns County, Florida, this 19th day of January, 2010.

BOARD OF COUNTY COMMISSIONERS OF ST. JOHNS COUNTY, FLORIDA

Attest: Cheryl Strickland, Clerk

By: Pam Halterman
Deputy Clerk

By:

Ron Sanchez
Ron Sanchez, Chair

RENDITION DATE 1/20/10



SETTLEMENT AND RELEASE

This Settlement and Release is entered as of this _____ day of _____, 2009, among St. Johns County, Florida ("County"), a political subdivision of the State of Florida, whose address is 500 San Sebastian View, St. Augustine, Florida 32084, and Republic Services of Florida, Limited Partnership, a Delaware limited partnership d/b/a Seaboard Waste Systems ("Seaboard"), whose local address is 445 International Golf Parkway, St. Augustine, Florida 32095.

Background Information

On or about August 1, 2003, the County and Seaboard executed a "Franchise Agreement for the Collection and Transportation of Residential Solid Waste in St. Johns County" ("Franchise Agreement"). Under the Franchise Agreement, the County agreed to pay Seaboard certain fees for the services Seaboard provides to the County's residents. The amount of the fee is based on the number of customers that are served each month by Seaboard.

The County and Seaboard currently disagree about the amount of money that the County owes Seaboard under the Franchise Agreement because, among other things, they disagree about the number of eligible customers that have been provided service by Seaboard.

Acknowledgment.

It is acknowledged by the County that Seaboard submitted a Settlement Letter, dated November 11, 2009, to Assistant County Administrator Darrell Locklear and County Public Works Director Joe Stephenson. Said Settlement Letter referenced the on-going discrepancy and dispute concerning the precise number of service accounts eligible for residential solid waste payment by the County, and the actual amount owed by the County to Seaboard, based on those eligible service accounts.

No Admission by County as to Responsibility and/or Liability.

With respect to the claims of Seaboard, the County neither admits, nor accepts the veracity of any amount claimed in the past, present, or in the future by **Seaboard** concerning the amount owed to Seaboard under the Franchise Agreement.

Payment for Settlement of Any, and All Current and/or Future Claims.

Notwithstanding the County's legal position stated above, the County agrees to pay, and Seaboard agrees to accept, a one-time **\$162,500.00 (One hundred sixty-two thousand, five hundred dollar)** payment from the County. **This one-time \$162,500.00 (One hundred sixty-two thousand, five hundred dollar) payment shall be considered a settlement of all claims, damages, or expenses (of whatever kind, and of whatever nature) asserted/claimed in the past, present, or in the future, by Seaboard and are in any way, form, or fashion associated with the dispute between the County and Seaboard concerning the amounts owing to Seaboard under the Franchise Agreement as of the date of this Settlement Agreement.**

Release.

In consideration of the \$162,500.00 (One hundred sixty-two thousand, five hundred dollar) payment by the County, to Seaboard, Seaboard, its successors, and assigns release, acquit, abandon, and forever discharge the County, all Departments of the County (specifically including but not limited to the County's Solid Waste Division), County officials, County employees, agents, and staff from all claims (contractual and injunctive), losses (including property (personal and/or real) and bodily injury), expenses, costs (including attorneys' fees), suits, administrative actions, arbitration, mediation, that are pending now or arise in the future and are in any way, form, or fashion associated with or derived from the dispute between the County and Seaboard over the Franchise Agreement, and referenced in the above-noted November 11, 2009 Settlement Letter (attached and incorporated herein) from Seaboard.

Moreover, Seaboard will not authorize any other person, party, or entity to seek payment of any kind, and/or any amount that is associated with the dispute between the County, and Seaboard, and referenced in the above-noted November 13, 2009 Settlement Letter from Seaboard.

Franchise Extension Agreement.

To avoid future disputes over the issues addressed herein, the County and Seaboard have agreed to revise some of the provisions in the Franchise Agreement, as shown in the "Franchise Extension Agreement for the Collection and Transportation of Residential Solid Waste in St. Johns County" ("Extension Agreement") that is attached hereto and incorporated herein by this reference. As part of this Settlement Agreement, Seaboard agrees that it will be bound by and will comply with the terms and conditions contained in the Extension Agreement, beginning on the Effective Date of this Settlement Agreement and continuing until the Extension Agreement expires or is terminated in accordance with its terms.

Absence of Duress.

The County, and Seaboard enter into, and execute this Settlement and Release free of any duress, or other illegal form of enticement.

Severability.

If any word, phrase, sentence, part, subsection, section, or other portion of this Settlement and Release, or any application thereof, to any person or circumstance is declared void, unconstitutional, or invalid for any reason, then such word, phrase, sentence, part, subsection, or other portion, or the proscribed application thereof, shall be severable, and the remaining portions of this Settlement and Release, all applications thereof, not having been declared void, unconstitutional, or invalid, shall remain in full force and effect.

Governing Law/Venue.

This **Settlement** and **Release** shall be construed according to the laws of the State of Florida. Venue for any legal action arising under this **Settlement** and **Release** shall only be in St. Johns County, Florida.

Enforcement of this Settlement and Release.

Should any party retain counsel for the purpose of enforcing or preventing the breach of any provision of this **Settlement** and **Release**, the prevailing party shall be entitled to recover all reasonable costs and expenses incurred, including, but not limited to, reasonable attorneys' fees and costs for the services rendered to the prevailing party, including on appeal.

Effective Date.

This **Settlement** and **Release** shall be effective upon 1) payment of \$162,500.00 (One hundred sixty-two thousand, five hundred dollars) by the **County** to **Seaboard**; 2) both the **County** and **Seaboard** executing and dating this **Settlement** and **Release**; and 3) both the **County** and **Seaboard** executing and dating the **Extension Agreement** that is attached hereto as Exhibit A.

WHEREFORE, in consideration of the covenants and promises contained herein, the County, and Seaboard individually, and collectively by their signatures below agree to be bound by the terms herein, and acknowledge that there exist no other promises, representations, or agreements relating to this **Settlement** and **Release**, except as specifically set forth in this document.

[Signatures on following page]

Republic Services of Florida, Limited Partnership

By: _____
Name: _____
Title: _____
Date: _____

STATE OF FLORIDA
COUNTY OF _____

The foregoing instrument was acknowledged before me this _____ day of _____, 2010, by _____ . Such person did take an oath and: *(notary must check applicable box)*;

_____ is/are personally known to me.

_____ produced a current Florida driver's license as identification.

_____ produced _____ as identification.

Signature of Notary Public
Printed Name: _____
Commission Number: _____

**[NOTARY SEAL
MUST BE AFFIXED]**
My commission expires:

Date: _____

St. Johns County, Florida

By its _____
County Administrator

Date: _____

STATE OF FLORIDA
COUNTY OF _____

The foregoing instrument was acknowledged before me this _____ day of _____, 2010, by _____. Such person did take an oath and: *(notary must check applicable box)*

_____ is/are personally known to me.
_____ produced a current Florida driver's license as identification.

_____ produced _____ as identification.

Signature of Notary Public
Printed Name: _____
Commission Number: _____

**[NOTARY SEAL
MUST BE AFFIXED]**
My commission expires:

Date: _____

Michael D. Hunt

Deputy County Attorney

EXHIBIT A
Franchise Extension Agreement

[See attached]

Exh. A.

**FRANCHISE EXTENSION AGREEMENT
FOR THE COLLECTION AND TRANSPORTATION
OF RESIDENTIAL SOLID WASTE
IN ST. JOHNS COUNTY**

This "Franchise Extension Agreement for the Collection and Transportation of Residential Solid Waste in St. Johns County" ("Extension Agreement") is made and entered into this ____ day of _____, 2010, by and between St. Johns County, a political subdivision of the state of Florida (hereinafter referred to as "County"), and Republic Services of Florida, LP, a Delaware limited partnership d/b/a Seaboard Waste Systems, which is authorized to do business in Florida (hereinafter referred to as "Contractor").

WHEREAS, on February 14, 2003, the County issued a request for proposals ("RFP") from private companies for the collection and transportation of Residential Solid Waste in the County; and

WHEREAS, on May 28, 2003 the Board of County Commissioners ("Board") held a public hearing to evaluate the proposals it received in response to the County's RFP; and

WHEREAS, the Board selected the Contractor to provide its services in certain designated areas of the County; and

WHEREAS, on August 1, 2003 the Board entered into a "Franchise Agreement for the Collection and Transportation of Residential Solid Waste in St. Johns County" ("Franchise Agreement") with the Contractor;

WHEREAS, the Franchise Agreement contains terms and conditions that govern the Contractor's services to the County and otherwise are in the public interest; and

WHEREAS, the Franchise Agreement explicitly provides that the County and the Contractor may extend their agreement for a term of seven (7) years or less; and

WHEREAS, the County wishes to continue to receive the solid waste services provided by the Contractor, and the Contractor wishes to continue to provide the solid waste services needed by the County, subject to the terms and conditions set forth in this Extension Agreement

WHEREAS, on January 19th, 2010, the Board held a public meeting and concluded that it is in the public interest to enter into this Extension Agreement with the Contractor.

NOW, THEREFORE, in consideration of the mutual covenants contained in this Extension Agreement and the other good and valuable consideration provided by the parties to each other, the receipt and sufficiency of which are hereby acknowledged, the County and the Contractor agree to be bound by and comply with all of the terms and conditions of this Extension Agreement, as set forth below.

1. Term

The term of this Extension Agreement shall be seven (7) years, beginning at 12:01 a.m. on August 1, 2010. For the purposes of this Extension Agreement, the County and the Contractor agree that the term of the original Franchise Agreement expires at midnight on July 31, 2010.

2. The Franchise Agreement

The Contractor shall provide its services to the County in compliance with the terms and conditions contained in the Franchise Agreement, as amended and modified by this Extension Agreement. The Franchise Agreement is hereby adopted by reference and incorporated herein, subject to the terms and conditions contained in this Extension Agreement. If there is a conflict between a provision in this Extension Agreement and a provision in the Franchise Agreement, the provisions contained in this Extension Agreement shall prevail. The Franchise Agreement is Attachment A to this Extension Agreement.

3. Amendments to Franchise Agreement

This Extension Agreement amends some of the provisions contained in the Franchise Agreement, as described below. Additions to the Franchise Agreement are shown herein by underlining. Deletions from the Franchise Agreement are shown herein by striking through the text of the Franchise Agreement. All of the terms and conditions contained in the Franchise Agreement shall remain unchanged, except as shown in paragraphs 3.A through 3.R, below.

A. Section 2.27 of the Franchise Agreement is amended as follows:

Recyclable Materials or **Recyclables** means all of the materials identified in Attachment B, which is attached to the Extension Agreement newspaper, metal containers, corrugated cardboard, plastic containers (all types), and aluminum containers.

B. Section 2.28 (Residential Property) of the Franchise Agreement is amended by deleting the last sentence in the definition of Residential Property, as follows:

~~Residential Property shall not mean those portions of mobile home parks or the mobile homes located thereon where the County Property Appraiser does not individually assess the parcels.~~

C. Section 5.14 (Recycling Containers) of the Franchise Agreement is amended by adding the following paragraph to the end of Section 5.14:

On or before October 1, 2010, the Contractor shall purchase and deliver one new recycling container to each Customer in the Service Area. All of the recycling containers provided by the Contractor pursuant to this paragraph shall be equal to or better than the recycling containers that were previously provided by the County to the Customers. The size, color, and technical specifications of the recycling containers shall be subject to the prior approval of the Contract Administrator. All costs associated with the procurement, storage, and distribution of the recycling containers pursuant to this paragraph shall be paid by the Contractor.

D. Section 9.2 (CPI Adjustment) of the Franchise Agreement is amended as follows:

CPI Adjustment: Once each year, the County shall adjust the Contractor's rates, upward or downward, to

reflect changes in the consumer price index (CPI) that have occurred during the preceding twelve months. However, the CPI adjustment shall not exceed five percent (5%) in any one year. The CPI adjustments shall be based on the consumer price index published by the United States Department of Labor, Bureau of Labor Statistics, for all items in the wage earners and clerical workers (CPI-W) category for the South Urban Area Region. The first CPI adjustment shall take effect on October 1, 2010 ~~2004~~.

Each CPI adjustment shall take effect on October 1. The CPI adjustment shall reflect the percentage change in the CPI, measured from April 1st in the previous calendar year to March 31st of the calendar year in which the adjustment will occur. Notwithstanding anything else contained herein, there shall not be any increase in the rates set forth in Attachment C to the Extension Agreement, based on a change in the CPI, before October 1, 2010.

E. Section 9.10 ("Overpayments and Underpayments") of the Franchise Agreement shall be amended by adding the following paragraph to the end of Section 9.10:

Notwithstanding anything else contained herein, the County shall have no obligation to pay the Contractor for services rendered by the Contractor more than one (1) calendar month before the Contractor notifies the Contract Administrator that the Contractor has been providing its service to a person that was omitted from the County's list of Customers. The Contractor waives its right to payment for services provided more than one (1) calendar month prior to its notice to the Contract Administrator. For example, if the Contractor gives notice in October that the Contractor has provided service to a Customer since June, the Contractor shall receive payment for the services it provided in September and October, but the Contractor shall not be entitled to any payment for services it rendered prior to September.

F. The Franchise Agreement is amended by adding a new Section 9.11 (Fuel Adjustment Fee), as follows:

9.11 Fuel Adjustment Fee: The County shall pay an additional fee (i.e., "the Fuel Adjustment Fee") to the Contractor, and the Contractor shall pay a Fuel Adjustment Fee to the County, when required by the provisions of this Section 9.11. The Fuel Adjustment Fee shall be invoiced quarterly in arrears. The Fuel Adjustment Fee shall reflect the monthly changes in the price of Number 2 Diesel, as reported in the FDOT Fuel and Bit Price Index (FDOT Index) (<http://www.dot.state.fl.us/construction/fuel&bit/Fuel&Bit.shtm>), and the amount of fuel used by the Contractor.

The Fuel Adjustment Fee shall be paid for fuel that is used by the Contractor's collection vehicles, but only when such vehicles are used to collect and transport the County's Residential Solid Waste in St. Johns County in compliance with the Agreement. The Contractor shall compile and maintain accurate records demonstrating that the Contractor has complied with the requirements in this Section 9.11. The County may withhold payment of any invoice from the Contractor for the Fuel Adjustment Fee until the Contractor provides adequate documentation to support the invoice. At any time the County may monitor and audit the fuel consumption records of the Contractor for collection and transportation of the County's Residential Solid Waste.

The "Base Fuel Price" (BFP) will be set at \$1.3700 per gallon, beginning October 1, 2009. The Base Fuel Price shall be adjusted each month thereafter, based on the change during the preceding month in the Consumer Price Index published by the United States Department of Labor, Bureau of Labor Statistics, for all items in the wage earners and clerical workers (CPI-W) category for the South Urban Area. This CPI adjustment will establish a "Monthly Base Fuel Price" (MBFP).

The MBFP will be subtracted from the FDOT Index Price for that month to derive the "Unfunded Cost" per gallon for the subject month. This Unfunded Cost will then be multiplied by the number of gallons consumed

by the Contractor during the month. When this calculation produces a positive number, the resulting amount will be paid by the County to the Contractor. When this process produces a negative number, the County will deduct the resulting amount from the County's payments to the Contractor.

The Fuel Adjustment Fee shall be calculated by using the following formulas:

$$\text{BFP} \times \text{Monthly CPI Adjustment} = \text{MBFP}$$

$$\text{FDOT Index} - \text{MBFP} = \text{Unfunded Cost (Per Gallon)}$$

$$\text{Gallons Used by Contractor} \times \text{Unfunded Cost} = \text{Fuel Adjustment Fee}$$

The following examples demonstrate how the Fuel Adjustment Fee will be calculated:

Example No. 1:

$$\text{\$1.3700 (BFP)} \times \text{1.003 (CPI Adjustment)} = \text{\$1.3741 (MBFP)}$$

$$\text{\$1.8399 (FDOT Index)} - \text{\$1.3741 (MBFP)} = \text{\$0.4658 (Unfunded Cost)}$$

$$\text{1,000 Gallons (Fuel Used)} \times \text{\$0.4658 (Unfunded Cost)} = \text{\$465.80 (Fuel Adjustment Fee paid by the County to the Contractor)}$$

Example No. 2:

$$\text{\$1.3700 (BFP)} \times \text{0.995 (CPI Adjustment)} = \text{\$1.3631 (MBFP)}$$

$$\text{\$1.3000 (FDOT Index)} - \text{\$1.3631 (MBFP)} = \text{(\$0.0631) (Unfunded Cost)}$$

$$\text{1,000 Gallons (Fuel Used)} \times \text{(\$0.0631) (Unfunded Cost)} = \text{\$63.10 (Fuel Adjustment Fee paid by the Contractor to the County)}$$

G. Section 17.2 of the Franchise Agreement is amended as follows:

On or before the tenth day of each month, the Contractor shall provide the Contract Administrator with a copy of a monthly summary of the ~~the standard forms for each~~ complaints received by the Contractor during the preceding month ~~prior day~~.

H. Section 17.4 of the Franchise Agreement is amended as follows:

Each month ~~day~~ the Contractor shall provide the Contract Administrator with a written report, in a format approved by the Contract Administrator, concerning the complaints received during the preceding month.

I. Section 20.1 of the Franchise Agreement is amended by adding the following provisions to the end of Section 20.1:

Notwithstanding anything else contained herein, the County has the exclusive authority to determine: (a) whether any emergency services are needed from the Contractor; (b) the scope of any emergency services that shall be provided by the Contractor; (c) the duration of any emergency services that are provided by the Contractor; (d) whether the Contractor must use open-top trucks and open-top containers when providing emergency services; and (e) whether, and the extent to which, the County shall use the services of other contractors to provide emergency services.

J. Section 20.3 of the Franchise Agreement is amended by deleting the following paragraph from Section 20.3:

~~In the event that a Major Storm generates such a large quantity of Storm Debris that the Contractor cannot reasonably collect and dispose of all of the Storm Debris, the County may also utilize other parties to perform clean up work.~~

K. Section 20.6 ("Compensation and Payment to the Contractor") of the Franchise Agreement is amended by adding the following paragraph to the end of Section 20.6:

Notwithstanding anything else contained herein, the County may, in its sole discretion, compensate the Contractor for Storm Debris clean-up work based on the volume (e.g., cubic yards) of material collected by the Contractor, instead of paying an hourly rate. In such cases, the Contractor shall be paid the applicable rates set forth in Attachment C to the Extension Agreement. In all cases, however, the Contractor shall fully comply with the most current FEMA requirements and procedures that are applicable to the Contractor's operations, recordkeeping, reporting, and other matters related to the collection, removal, and disposal of debris.

The Contractor shall not be required to pay any disposal fee for the disposal of Storm Debris collected from Customers in the Service Area, if the Contractor (a) complies with all of the applicable requirements in Section 20 of the Franchise Agreement and (b) delivers the Storm Debris to the Solid Waste Management Facility designated by the County for the disposal of such Storm Debris.

L. Section 24.1 (Insurance; General Requirements) of the Franchise Agreement is amended by adding the following language to the end of Section 24.1:

The County shall be named as an additional insured in the general liability, vehicle liability, and umbrella liability policies required pursuant to Sections 24.2, 24.3, and 24.5, below to the extent of Contractor's negligence. The Contractor shall ensure that any subcontractors comply with the insurance requirements herein.

M. Section 26 (Indemnification) of the Franchise Agreement is amended as follows:

The Contractor shall indemnify, defend, and hold harmless the County (including its elected officials, officers, employees, agents, and representatives) from and against any and all liabilities, losses, claims, damages, taxes (including interest or penalties), costs and expenses (including reasonable attorney's fees, paralegal fees, and the costs of investigations, whether incurred prior to, during or after a trial, appeal, arbitration, or mediation), that in any way arise from, or in connection with, or as a result of (a) this Agreement; ~~or~~ (b) the Contractor's negligent acts or omissions or willful misconduct under this Agreement or in the County; or (c) the County's decision to award the Extension Agreement to the Contractor. The provisions of this Section shall survive the termination of the ~~is~~ Extension Agreement.

N. Section 29 (Contract Termination) of the Franchise Agreement is amended by adding a new Section 29.2 (Termination for Convenience), as follows:

29.2 Termination for Convenience: The County and the Contractor shall each have the right to terminate the Extension Agreement, without cause and solely for the convenience of the terminating party, on August 1, 2013 or any time thereafter. To exercise this right, the party wishing to terminate the Extension Agreement must deliver written notice of termination to the other party at least one year (365 calendar days) before the date when termination will occur.

O. Section 39 (Notices) of the Franchise Agreement is amended by adding the following paragraph at the end of Section 39:

Either party may designate a new representative or a new address for the delivery of any notice that is given to them. The designation of a new representative or new address shall be accomplished by providing written notice to the other party of such change.

P. The Franchise Agreement includes Exhibit A, which is a map and legal description of the Service Area. The map and legal description attached to the Franchise Agreement as Exhibit A are hereby deleted in their entirety and replaced with the map and legal description attached to this Extension Agreement as Attachment D.

Q. Exhibit B to the Franchise Agreement is amended as follows:

Subject to the requirements contained in the Franchise Agreement, the County shall pay the disposal fees (i.e., tipping fees) for Residential Solid Waste pursuant to Section 3.4 of the Franchise Agreement, and the County shall pay the disposal fees for Storm Debris pursuant to Section 20.6 of the Franchise Agreement, if the Residential Solid Waste and Storm Debris are delivered to the recycling or disposal facility designated by the County.

R. Exhibit D (Awarded Bid Rate) to the Franchise Agreement is deleted in its entirety and replaced with Attachment C, which is attached to this Extension Agreement.

4. Attachments to the Extension Agreement

All of the attachments to this Extension Agreement are incorporated herein by reference.

5. Amendments to the Extension Agreement

This Extension Agreement constitutes the entire agreement and understanding between the County and the Contractor with regard to the issues addressed herein. This Extension Agreement shall not be considered modified, altered, changed, or amended in any respect unless this Extension Agreement is amended in writing and the amendment is signed by the Contractor and the Board or its designee.

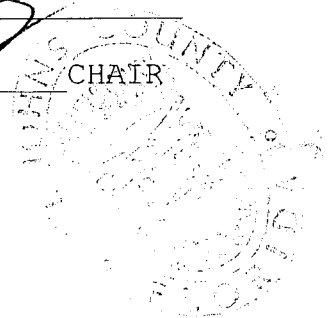
IN WITNESS WHEREOF, the County and the Contractor have each, by an authorized person or agent, executed this Extension Agreement as of the date first written above.

ATTEST: Cheryl Strickland, Clerk

BOARD OF COUNTY COMMISSIONERS,
ST. JOHNS COUNTY, FLORIDA

By: Pam Halterman
Deputy Clerk
PAM HALTERMAN
Printed Name

By: Ron Sanchez
Ron Sanchez
CHAIR



APPROVED AS TO FORM AND
CORRECTNESS:

Deputy Michael J. Hall
COUNTY ATTORNEY

WITNESS

REPUBLIC SERVICES OF FLORIDA
D/B/A SEABOARD WASTE SYSTEMS

Signature

BY _____

Printed Name

Printed Name: _____

Date: _____

Title: _____

Date: _____

WITNESS

Signature

Printed Name

Date: _____

RESOLUTION NO. 2010-15

A RESOLUTION BY THE BOARD OF COUNTY COMMISSIONERS OF ST. JOHNS COUNTY, FLORIDA, APPROVING THE TERMS, CONDITIONS, AND PROVISIONS OF A SETTLEMENT AND RELEASE AGREEMENT BETWEEN ST. JOHNS COUNTY, FLORIDA, AND REPUBLIC SERVICES OF FLORIDA, LIMITED PARTNERSHIP, A DELAWARE LIMITED PARTNERSHIP D/B/A SEABOARD WASTE SYSTEMS; AND AUTHORIZING THE COUNTY ADMINISTRATOR, OR DESIGNEE, TO EXECUTE THE SETTLEMENT AND RELEASE AGREEMENT, ON BEHALF OF ST. JOHNS COUNTY.

RECITALS:

WHEREAS, on or about August 1, 2003, the County and Seaboard executed a Franchise Agreement for the Collection and Transportation of Residential Solid Waste in St. Johns County; and

WHEREAS, under the Franchise Agreement, the County agreed to pay Seaboard certain fees for the services Seaboard provides to the County's residents; and

WHEREAS, the amount of the Fee is based on the number of customers that are served each month by Seaboard; and

WHEREAS, the County and Seaboard currently disagree about the money that the County owes Seaboard under the Franchise Agreement because, among other things, the County and Seaboard disagree about the number of eligible customers that have been provided service by Seaboard; and

WHEREAS, by letter dated November 1, 2009, Seaboard submitted a Settlement Letter to the County; and

WHEREAS, based in part on the Settlement Letter, Seaboard and the County have drafted a Settlement and Release Agreement, which specifically addresses the payment dispute; and

WHEREAS, under the proposed Settlement and Release Agreement, and without acknowledging the validity of Seaboard's claim, the County would pay Seaboard a one-time payment of \$162,500.00 in order to extinguish any and all existing issues related to payment and number of eligible customers; and

WHEREAS, in order to avoid future disputes over the matters addressed in the Settlement and Release Agreement, the County and Seaboard have agreed to revise some of the provisions of the Franchise Agreement as shown in the attached and incorporated

Franchise Extension Agreement for the Collection and Transportation of Residential Solid Waste in St. Johns County; and

WHEREAS, as part of the Settlement and Release Agreement, Seaboard agrees that it will be bound by, and comply with, the terms, conditions, and provisions contained in the Extension Agreement from the Effective Date of the Settlement Agreement, and continuing until the Extension Agreement expires, or is terminated, in accordance with its terms.

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF COUNTY COMMISSIONERS OF ST. JOHNS COUNTY, FLORIDA, AS FOLLOWS:

Section 1. The above recitals are hereby incorporated into the body of this Resolution and are adopted as Findings of Fact.

Section 2. The Board of County Commissioners of St. Johns County, Florida, approves the terms, provisions, conditions, and requirements of a Settlement and Release Agreement between St. Johns County, Florida, and Republic Services of Florida, Limited Partnership, a Delaware limited partnership d/b/a Seaboard Waste Systems and authorizes the County Administrator, or designee, to execute the attached and incorporated Settlement and Release Agreement, on behalf of St. Johns County.

Section 3. To the extent that there are typographical and/or administrative errors or issues that do not change the tone, tenor, or concept of this Resolution and/or the attached and incorporated Settlement and Release Agreement, then this Resolution and/or the attached and incorporated Settlement and Release Agreement may be revised without subsequent approval of the Board of County Commissioners.

PASSED AND ADOPTED by the Board of County Commissioners of St. Johns County, Florida, this 19th day of January, 2010.

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

Attest: Cheryl Strickland, Clerk

By: Pam Halteman
Deputy Clerk

By:

Ron Sanchez
Ron Sanchez, Chair

RENDITION DATE 1/20/10

