

SOLID WASTE SERVICES AGREEMENT

THIS SOLID WASTE SERVICES AGREEMENT (the "Agreement") made as of this 1 day of August, 1994 by and between HYDE COUNTY, a political subdivision of the State of North Carolina (the "County") and SMITHTON SANITATION SERVICE, INC., a North Carolina corporation (the "Company");

W I T N E S S E T H :

WHEREAS, pursuant to Sections 153A-292 of the General Statutes of North Carolina, as amended, the County is authorized to enter into agreements with private parties for the purpose of contracting for the collection and disposal of solid waste; and

WHEREAS, the County desires to contract with the Company for Company's services in collecting and disposing of Solid Waste (excluding "Hazardous Waste"), as defined in Section 130A-290 of the General Statutes of North Carolina as amended ("Solid Waste") from residences and certain commercial and governmental operations located within Hyde County, and perform certain other waste management services; and

WHEREAS, the Company desires to contract with County to provide such services;

NOW, THEREFORE, for and in consideration of the mutual covenants herein contained, the parties hereto agree as follows:

1. Purpose. The purposes of this Agreement are: (a) to provide for the collection and disposal by Company of Solid Waste consisting of nonhazardous household waste and specified recyclable materials generated from the normal

cleaning and maintenance of residences within the County, (b) assume the operation and maintenance of established Sanitary Landfills (Demolition-Landscape) within the county, (c) provide collection service for the County school system, (d) process and deliver white goods and tires collected from specified drop-off locations, (e) coordinate and perform certain recycling activities throughout the County (including Ocracoke). Unless the island of Ocracoke is specifically mentioned in a provision of this Agreement, references herein to the County as a geographic area excludes Ocracoke.

2. Company's Duties. During the term of this Agreement the Company shall collect Solid Waste, placed as specified herein for collection, within the County. In connection with the performance of its work hereunder the Company shall:

A. Provide all labor and equipment necessary to provide the services described;

B. Perform its work in a careful and workmanlike manner, including collection of spillage;

C. Haul the collected Solid Waste to an appropriate disposal facility;

D. Process and market specified recyclable materials;

3. Residential Solid Waste Collection. Each residence in the County shall be serviced on a once per week schedule as established by the Company and County. The designated collection day may be altered from time to time to accommodate Holidays and/or days when inclement weather would make collections dangerous. Company shall notify County promptly when schedule changes are needed.

All waste to be collected must be placed at the curb by 7:00 a.m. on the scheduled collection day in order to receive service. All waste should be securely bagged or boxed and

must be stored in such a manner that allows it to be safely collected and avoids spillage by animals. Company will collect all solid waste spilled during collection but has no responsibility for spillage caused by residents failing to use animal-proof containers.

Waste storage containers must not exceed 40 gallons in volume or 50 lbs. per unit in weight unless specifically approved by Company.

If the volume of solid waste placed for collection at a residence regularly exceeds five 30 gallon containers (or an equivalent volume) or 200 lbs. per week, the Company shall request that the County designate that residence as equivalent to two, three, or more residences as appropriate to the Solid Waste generated and adjust the Company's compensation accordingly (or have the residence utilize commercial service provided by the Company).

Company will offer 90 gallon roll-out carts to residents or businesses for a rental rate of \$2.00 per month.

4. Recycling Collections. The Company shall provide an 18 gallon tub to each residence receiving solid waste collection within the County. Residents will place recyclable materials into the tub and place the tub at the curbside by 7:00 a.m. on the designated collection day.

Company shall collect recyclable materials placed in the tubs once per week. The materials to be collected shall be determined cooperatively by the Company and County from time to time based on the availability of markets and the economic feasibility of recycling such material in light of collection and processing costs. Recyclable materials to be collected initially include unbroken green, brown, and clear glass food containers, aluminum, and newspaper.

5. Small Business Service. The Company shall provide at least one 90 gallon rollout cart for rent to each business producing a volume of waste appropriate for collection in this manner. Each small business account will receive at least one recycling tub and will be serviced once each week. Small businesses requiring more than one recycling tub may rent additional units from the Company for \$.50 per month. Small businesses producing a volume of waste in excess of (3) three carts serviced once per week will be required to utilize commercial dumpster service.

6. Responsibilities for Company Equipment - Tubs and Carts.

Each tub will be assigned to a residence or small business by serial number. Residents and small businesses shall be notified that they have care and custody of the tub while it is in their possession and that they are to use reasonable diligence and good judgment regarding its proper use. Residents and small businesses shall bear responsibility for any accidents or injuries resulting from the use of the tub except when being physically handled by Company's employees. Small businesses will have care and custody of Company's cart(s) while in their possession and shall bear responsibility for any accidents or injuries resulting from the use of the cart(s) except when being physically handled by Company's employees. Carts or tubs damaged due to negligence or improper use shall be repaired or replaced at the expense of the customer. If a cart or tub becomes unserviceable due to normal wear and tear, any replacement cart or tub shall be at Company's expense.

7. Manned Dump Sites. The County has established three sites located in Ponzer, Swan Quarter, and Engelhard for use as Sanitary Landfills (Demolition-Landscape) hereinafter referred to as "Dump Sites", for collection of

materials now designated by NCDEHNR as "Land Clearing and Inert Debris." As provided for in 15A NCAC 13B. 0101 (72-73) and NCGS 130A-309.09B (a) (1) these materials include: stumps, trees, limbs, brush, grass, and other naturally occurring vegetative material, concrete, brick, concrete block, uncontaminated soil, gravel and rock, untreated and unpainted wood, used asphalt or used asphalt mixed with dirt, sand, gravel, rock and concrete.

Improvements were erected at each of these sites in 1991 and the sites became attended when open in order to accommodate public collections of Solid Waste and recyclable materials. Smithton has rented "rolloff" containers to the County for these sites as requested from time to time and serviced these containers "on demand". Operation of the Dump Sites during the term of this Agreement shall be as follows:

A. County's Duties. The County shall:

* i. Cooperate with the Company in considering regulations or ordinances which would benefit the County and the Company in the operation of the Convenience Centers

* ii. Cooperate with the Company in matters relating to changes in state and federal regulations affecting the operation of the Convenience Centers.

* iii. Maintain the improvements owned by the County at each site, including signage, fences, buildings, ramps, and electrical primaries,

* iv. Maintain state-issued permits for operation of each site.

B. Attendant Service. The Company will provide an attendant to attend each Dump Site during hours when the site is open. For the compensation herein provided the hours shall be from 8:00 a.m.-6:00 p.m., Wednesday through Saturday for a total of 40 hours per week, subject to holiday closings. The duties of the attendant shall

include: (i) opening and closing the Dump Site on schedule, (ii) directing traffic flow, (iii) directing users to dispose of materials in the proper areas, (iv) maintaining the Dump Site to control litter and vegetation, (v) providing incidental maintenance, (vi) reporting of violators of ^{a.c.} rules for use of the Dump Sites, and (vii) reporting daily to the Company as to the status of operations of the Dump Sites.

C. Equipment. The Company will provide one forty cubic yard container at each Dump Site for the rental rates specified herein to collect bulky materials consisting of materials generated by households which are not permitted to be disposed of in the "demolition sites" and which are inappropriate for collection as household waste. Examples include but are not limited to: bulky metal parts, painted or treated wood and other miscellaneous demolition materials, mattresses, furniture, televisions, crab pots, etc...

One forty cubic yard container will be located at the Engelhard Dump Site for collection of cardboard generated and delivered by households and businesses.

Company will service each forty yard container as necessary to assure that each Dump Site remains usable by the public and that the use of the container is not hampered by overflow conditions.

D. Site Maintenance. Company will pay for electric and phone utility service at each site. Each Dump Site will be maintained in accordance with current permit specifications and based on County's past site maintenance practices. Materials collected as defined in Section 7 for disposal at each site will be pushed back as needed but at a minimum, once each quarter year. Company will provide

incidental maintenance of driving surfaces at the sites. Company's duties relating to site maintenance does not include covering materials collected at the sites with soil or other additional services that may be required by the state from time to time in order to maintain compliance with regulations or changes in operating permits for the Dump Sites. / If changes in regulations require that additional services be performed to maintain the Dump Sites, then County and Company will negotiate the additional services to be performed by the Company and the cost related to performing these services. The performance of additional services must be by mutual consent. /

8. White Goods. Company shall accept white goods consisting of household appliances delivered by residents at each Dump Site. Any white goods whose design function is to refrigerate must be certified in writing by the resident delivering the item to be free of freon gases in order to be accepted. Certifiable proof may be demonstrated by a certificate indicating the unit has been purged of freon by a properly licensed technician or must have a visible freon line rupture. Smithton will process each unit and deliver the unit to a proper recycling and/or disposal facility.

9. Tires. Company shall accept tires delivered by residents at each Dump Site. All tires delivered must be clean, dry and off the rim. Company will load tires delivered to each site into the "tire trailer" provided by the County and will deliver the tires to a proper recycling and/or disposal facility.

10. Public School Service. Company will provide front-load containers as necessary at each public school site or other site operating as a function of County Government designated by the County to be serviced. Each site will be serviced twice per week.

11. Ocracoke Recycling Collections. The Company shall provide an 18 gallon tub to each residence on Ocracoke Island (Small businesses may also be provided a tub(s) upon approval by the County) in which to store recyclable materials of the type collected from time to time under Section 4 hereof. Company shall collect recyclable materials placed in the tubs on an every-other-week schedule during the months of May through October and on a once per month schedule during the months of November through April. Residents will place the tubs at the roadside by 7:00 a.m. on the designated collection day.

12. Ocracoke Recycling Drop-Off Site. The Company will place two roll-off containers at the jail site on Ocracoke to serve its residents and businesses as a recycling drop-off center. These containers will accommodate the collection of recyclable materials as provided for in Section 11 and cardboard. Recyclable materials collected by the Company from resident's tubs will be stored in these containers. Company will service these containers as necessary to assure that the containers remain usable by the public and that the use of the containers is not hampered by overflow conditions.

The Company will service the containers by using the Swan Quarter-Ocracoke Ferry. County will make arrangements with the NCDOT, Ferry Service to assure that Company will pay no fees for passage on the ferry in connection with providing the services described herein. Company will schedule passage on the ferry directly with NCDOT Ferry Service. County will cooperate with Company to gain assurance from NCDOT, Ferry Service of priority loading on the ferry so that barring unforeseen delays, the Company's service vehicle can return on the immediate next ferry. Should access to boarding the immediate next ferry be denied and

Company vehicle must return to Swan Quarter via the Ocracoke - Hatteras ferry, or must remain on Ocracoke overnight, then County will reimburse Company for such reasonable fees for extra mileage, labor, accommodations and meals incurred by Company in connection with the delay in service. If, however, the delay is caused due to Company's equipment failure or ferry equipment failure, then County will not be required to make restitution.

13. Recycling Reports. Company will prepare monthly reports on the status of recycling efforts within the County (including Ocracoke) which are being coordinated by the Company, including data on types and amounts of materials recycled, chronological statistical comparisons, and further proposals for enhancement of the recycling effort. The Company will provide one or more qualified individuals to serve as members of such task forces, boards or other planning organizations as may be established by the County from time to time to assist the County in implementing recycling measures as a means of reducing the volume of Solid Waste from the County entering landfills.

As compensation for the Company's services under this Section, the Company shall be paid a fee of \$10.00 per ton for each ton of recyclable material collected in the County and delivered for recycling. The Company will provide documentation of the tonnages so delivered upon request of payment from County.

14. Unacceptable Waste. Company shall not be required to collect any hazardous waste as defined in the Federal Resource Conservation and Recovery Act or in Section 130 A-290 of the General Statutes of North Carolina, or any waste which is volatile, pathological, infectious or toxic. Company shall not be obligated to collect materials

generated from construction or demolition activities, dead animals or other obnoxious or dangerous wastes.

15. Salvage rights. Company shall have the right to salvage or recycle any Solid Waste collected within the County (including Ocracoke) and any material delivered to the Dump Sites, and County hereby quitclaims to Company any such materials salvaged by Company or diverted by Company for recycling.

16. Allowance for Future Contract Amendments. Company and County shall cooperate to cause amendment of this agreement whenever changes in laws (or regulations) shall occur which require changes in the methods of waste collection or disposal. Any amendment shall address the performance of any additional services and shall provide for reasonable additional compensation for the provision of these services.

17. Compliance with Laws and Ordinances. The Company agrees to comply with all federal, state and existing local laws, ordinances and regulations pertaining to Solid Waste collection and disposal.

18. Insurance. The Company shall maintain in force a policy of general public liability and property damage insurance, including vehicle coverage, issued to the Company and insuring against all claims for destruction of or damage to property, arising out of or in connection with the Company's performance of its obligations hereunder. Such insurance shall be written with a coverage amount of not less than \$1,000,000 for all damages arising out of bodily injury, including death at any time resulting therefore, sustained by any one person in any one accident, and a limit of coverage of not less than \$1,000,000 aggregate for any such damages sustained by two or more persons in any one

accident. The property damage insurance component of such policy shall be written with a limit of coverage of not less than \$250,000 aggregate for any such damage sustained by one or more persons in any one accident. The County shall be named in any such policy as an additional insured. The Company shall also maintain workman's compensation insurance (which may be maintained through a self-insurance mutual association licensed to operate within North Carolina) in an amount at least equal to the minimum limits established by North Carolina law.

* 19. County's Duties. County shall cooperate with Company to develop and distribute information regarding changes in collection methods, proper preparation of recyclable materials, and schedule changes from time to time by use of printed notices, newspaper advertising, public access channel announcements, etc... The County shall cooperate with the Company in resolving problems which may arise from time to time regarding placement of unacceptable waste for collection, improper preparation and placement of waste to be collected, routing, missed pickups, citizens' concerns, and Company's performance.

20. Disposal. Company shall deliver solid waste collected in the County to an appropriate disposal facility. For the compensation set forth in this agreement, Company shall have access to the Regional Solid Waste Management Authority transfer station located in Manteo and the Beaufort County Transfer Facility located near Bath as disposal sites for solid waste collected in the County. In the event that the disposal sites shall be changed, the compensation rate will be adjusted to reflect additional costs to the Company caused by additional equipment costs, labor costs, and other direct and indirect costs and losses of efficiencies resulting from the Company being required to dispose of such Solid Waste elsewhere. Company will process

and market all recyclable materials, white goods, and tires collected under this agreement.

21. Disposal Fees. County will pay all fees charged for disposal of the Solid Waste collected by the Company under this Agreement. County shall bear the responsibility for payment of all disposal fees directly to the disposal facility when due in order to avoid disruption of Company's service.

22. Compensation. During the first contract year of this Agreement (July 1, 1994 through June 30, 1995) the compensation to be paid by the County to the Company for the services provided for under this agreement shall not exceed \$291,800. For each contract year thereafter, at least ninety (90) days prior to the anniversary of this agreement, Company shall submit to County a proposed budget for the services provided for herein reflecting CPI adjustments as described in Section 24. Any additional services, changes in service or special (nonrecurring) services for the next contract year may be included in the proposed budget but will be adopted only upon mutual agreement of Company and County.

23. Payment Terms. Company will invoice County monthly for services performed during the previous month based on the "Schedule of Charges for Service-Hyde County-Contract Year July 1, 1994-June 30, 1995" attached hereto (the "Rates Schedule") which invoice(s) shall be payable ten (10) days after the date thereof.

24. Adjustments to Compensation. County shall increase the compensation rates on the Rates Schedule as of each anniversary date of this Agreement based on the percentage increase in the Consumer Price Index, all items,

as compiled and published by the U.S. Dept of Commerce for the preceding calendar year ("CPI").

A significant influence on the Company's performance of this Agreement is the cost of fuel. Additional compensation shall be paid to reflect any increases in the cost of diesel fuel if it exceeds \$1.25 per gallon.

25. Service Charge. Payments not received within 30 days of their due date shall bear interest from the due date at 12% per annum.

26. Term. The term of this agreement shall begin as of August 1, 1994 and shall continue for 2 (two) one-year trial periods. The County shall have the right to terminate this agreement upon written notice to the Company at least 90 days prior to the expiration of either trial period.

If the collection system proves satisfactory, then upon expiration of the second trial period, the term of this agreement shall become effective for five years from that date.

27. Contract Renewal. The Company and County may, by mutual consent, renew or extend the term of this agreement at any time prior to the expiration of its term. County shall notify Company in writing at least 90 days prior to the termination of this Agreement of its intention not to renew this Agreement or to accept competitive offers. If County serves notice that it intends to accept competitive offers, then County agrees that Company shall have the right of first refusal to match any competitive offer for providing solid waste collection services provided that Company is not in default of any material obligations specified by this agreement.

28. Default and Cancellation. Either party may cancel this Agreement if the other party defaults on any material

obligation or responsibility imposed on it hereunder and does not cure said default as provided below:

A. In the case of any default in the payment of monies due, such default must be cured within ten (10) business days after written notice thereof.

B. In the case of any default of a non-monetary nature, such default must be cured within thirty (30) days after written notice thereof, or if such default is incapable of being cured within (30) days but is capable of being cured with a reasonable time thereafter (not to exceed ninety (90) days) such default may be cured within such reasonable longer period.

In the event any party takes advantage of any bankruptcy, insolvency or other law for the relief of debtors, this Agreement may be canceled at the option of the other party and no cure period shall be provided.

29. **Notice.** All formal notices required or permitted hereunder shall be given by certified mail or hand delivery to the following addresses or such other address as may be specified by a party by formal notice:

If to County:

Hyde County Manager
Hyde County Courthouse
P.O. Box 188
Swan Quarter, NC 27885

If to Company:

Smithton Sanitation Service, Inc.
Rt. 2 Box 414
Washington, NC 27889
ATTN: Chester Smith or Rob Cuthrell

or at such other address as any party shall by written notice to the other parties direct. Such notices shall be made or given personally or sent by registered or certified first class mail, return receipt requested, with all postage prepaid and if so mailed, shall be deemed effective three (3) days after deposit of same in the United States mail.

30. Relationship of Parties. In carrying out the terms and conditions of this agreement, Company is an independent contractor and is not an agent or employee of the County.

31. Entire Agreement. The parties agree that the covenants and the conditions set forth herein constitute the entire and complete agreement between the parties and that all prior negotiations and conditions, including the provisions of the proposal submitted by Company to County, have been superseded by this agreement.

32. Illegal Provision; Governing Law. If any provision of this Agreement shall be declared illegal, void or unenforceable, the other provisions shall not be affected, but shall remain in full force and effect. This Agreement shall be governed by and construed in accordance with the laws of North Carolina.

IN WITNESS WHEREOF, the County, by and through its Board of County Commissioners, has authorized this Agreement to be executed by its Chairman and attested by the County Clerk and Smithton Sanitation Service, Inc. has caused this Agreement to be executed by its President, attested by its Assistant Secretary and its corporate seal to be hereunto affixed, all by proper corporate authority duly given. This

Agreement has been executed in duplicate originals, one of which is being retained by each of the parties, all as of this 1st day of August 1994.

HYDE COUNTY

BY: Troy Lane Mayo

Troy Lane Mayo, Chairman
Hyde County Board of

Commissioners

ATTEST:

Linda M. Baixet
COUNTY CLERK

(COUNTY SEAL)

SMITHTON SANITATION SERVICE, INC.

BY: Charles Smith

CORPORATE PRESIDENT

ATTEST:

Bob Caldwell
CORPORATE Assistant SECRETARY

(CORPORATE SEAL)

SCHEDULE OF CHARGES FOR SERVICE - HYDE COUNTY

Contract year July 1, 1994 - June 30, 1995

Residential/Small Business Service

Curbside collection of household solid waste and recyclable materials (includes supply of one recycling tub to each unit).

\$7.50 per unit per month

90 gallon roll-off cart rental -

\$24.00/year

Rental additional recycling tubs -

\$6.00/year

(Billed directly to renter by Company)

Pump Sites

Attendant service for 40 hours per week for three sites -

\$50,000.00 per year

10 cubic yard rolloff container Rent -

\$100.00 per unit per month

10 cubic yard rolloff container Service:

Engelhard

\$200.00 per occurrence

Swan Quarter

\$150.00 per occurrence

Ponzer

\$100.00 per occurrence

Additional delivery mileage beyond White Post -

\$2.00 per mile (one way)

Site Maintenance

\$9,000.00 per year

White Goods processing and disposal

\$10.00 per unit

Tire disposal

\$8,000.00 per year

Public School Service

Front-load service for public schools and other County sites

\$1.34 per cubic yard

Recycling Subsidy

\$10.00 per ton of
recyclable materials

Recycling Collections: Ocracoke

Curbside collection of recyclable materials (includes providing one recycling tub per unit) for a minimum of 400 units

\$.75 per unit per
collection

Drop-Off Site - Equipment rental for three rolloff containers (two on site and one to swap)

\$300.00 per month

Rolloff Container Service (via Swan Quarter/Ocracoke Ferry)

\$360.00 per occurrence

