

No. 999393

Street Sweeping Agreement
Between
The City of Tallahassee, Florida
and
Leon County, Florida

This Agreement is made and entered into this 30th day of March, 2006, by and between the City of Tallahassee, a municipal corporation organized under the laws of the State of Florida, hereinafter referred to as the CITY, and Leon County, a political subdivision of the State of Florida, hereinafter referred to as the COUNTY.

WITNESSETH

WHEREAS, the CITY has a proactive street sweeping program that routinely sweeps curbed street sections as a major component of the operation and maintenance of the CITY'S streets to enhance their appearance and to reduce the potential for pollution of lakes and other receiving water bodies from stormwater runoff, and;

WHEREAS, the COUNTY desires to have its curbed street sections within the City limits routinely swept, and;

WHEREAS, it is in the best interest of the public that both the CITY and the COUNTY provide the same level of street sweeping service within the City limits;

NOW THEREFORE, in consideration of these premises and the covenants contained herein, the parties agree to the following:

1. The CITY shall routinely sweep, with mechanical street sweepers, all curbed street sections under the COUNTY'S administrative jurisdiction within the City limits. These curbed street sections, including medians, shall be swept once monthly (twelve (12) times annually).
2. The work performed by the CITY shall be subject to periodic routine inspections by the COUNTY.
3. Exhibit "A" is the listing of curbed street sections, including medians, under the COUNTY'S administrative jurisdiction covered by this Street Sweeping Agreement. Additionally, sweeping of the parking lot and roadway at the Transfer Station on Gum Road will be provided one time per week. It is understood between the parties hereto that any street covered by this Street Sweeping Agreement may be removed or adjusted at anytime in the future as determined to be necessary by the COUNTY in order that the COUNTY road can be widened, altered or otherwise changed. The CITY shall be given sixty (60) calendar days to remove said street after which the COUNTY may remove said street.
4. The COUNTY, as compensation to the CITY for performance of these street sweeping services, shall pay the City at the rate of \$85 per curb-mile swept (\$42,450.36 annually) and \$5,167.76 annually for the additional sweeping of the Transfer Station, for a total cost of \$47,618.12 per year. Such compensation shall be payable quarterly in accordance with Paragraph 5 of the Agreement.
5. Invoices shall be submitted by the City for services rendered after each quarter ending in September, December, March, and June of each year. Lump sum payments by the COUNTY shall be made to the CITY on a quarterly basis within thirty (30) days after receipt of invoice.

6. This Street Sweeping Agreement may be terminated under any one of the following conditions:

a. By the COUNTY, if the CITY fails to perform its duties under the terms of this Street Sweeping Agreement. If at anytime it shall come to the attention of the COUNTY'S Public Works Director that the limits of Exhibit "A" or a part thereof is not properly maintained pursuant to the terms of this Street Sweeping Agreement, the COUNTY'S Public Works Director may at his option issue a written notice that a deficiency or deficiencies exists(s), by sending a certified letter in the care of Mr. Gabriel P. Menendez, P.E., Director of Public Works, 300 South Adams Street, Tallahassee, FL 32301-1731, to place said CITY on Notice thereof. Thereafter, the CITY shall have a period of thirty (30) calendar days within which to correct the cited deficiencies. If said deficiencies are not corrected within this time period, the COUNTY may at its option terminate this Street Sweeping Agreement following ten (10) days written notice.

b. By the CITY, if the COUNTY fails to perform its duties under this Street Sweeping Agreement and fails to make timely payments in accordance with paragraph 5. The CITY'S Public Works Director may issue a written notice of late or nonpayment by sending a certified letter in the care of Mr. Tony Park, P.E., Public Works Director, 2280 Miccosukee Road, Tallahassee, FL 32308, to place said COUNTY on Notice thereof. Thereafter, the COUNTY shall have a period of ten (10) calendar days to make payment. If payment is not made within this time period, the CITY may at its option terminate this Street Sweeping Agreement following ten (10) days written notice.

c. By either party following sixty (60) calendar days written notice.

d. By both parties, thirty (30) calendar days following the complete execution by both parties, of an agreement to terminate this agreement.

7. This Street Sweeping Agreement is for a period of two (2) years from the date of this agreement. This Street Sweeping Agreement may be renewed after the initial (2) year period, for an additional two (2) year period. Any renewal must be agreed upon by both parties in writing (30) days prior to the expiration of the existing agreement.

8. To the extent permitted by Section 768.28, Florida Statutes, and the Florida Constitution, the City agrees to indemnify and hold harmless the County from all claims, damages, liabilities, or suits of any nature whatsoever arising out of, because of, or due to the breach of this agreement by the City, its delegates, agents, employees, or due to any act or occurrence of omission or commission of the City, including but not limited to costs and a reasonable attorney's fee. The County, may at its sole option, defend itself or allow the City to provide the defense. The City acknowledges that ten dollars (\$10.00) of the amount paid to the City is sufficient consideration for the City's indemnification of the County. The liability of the City, as set forth in this paragraph, is intended to be consistent with limitations of Florida law, including the state's waiver of sovereign immunity pursuant to Section 768.28, Florida Statutes. No obligation imposed by this paragraph shall be deemed to alter said waiver or to extend the liability of the City beyond such limits, nor shall any such obligation be deemed or construed as a waiver of any defense of sovereign immunity to which the City may be entitled.

9. The performance of Leon County of any of its obligations under this agreement shall be subject to and contingent upon the availability of funds budgeted by the County or otherwise lawfully expendable for the purposes of this agreement for the current and future periods.

10. Disputes
 - 10.1 The parties shall attempt to resolve any disputes that arise under this Agreement in good faith and in accordance with this Section. The provisions of the "Florida Governmental Conflict Resolution Act" shall not apply to disputes under this Agreement, as an alternative dispute resolution process is hereby encompassed within this Section 10. The

aggrieved Party shall give written notice to the other Party setting forth the nature of the dispute, date of occurrence (if known), and proposed resolution, hereinafter referred to as the "Dispute Notice".

- 10.2 The appropriate City and County department heads shall meet at the earliest opportunity, but in any event within 10 days from the date the Dispute Notice is received, to discuss and resolve the dispute. If the dispute is resolved to the mutual satisfaction of both, the department heads shall report their decision, in writing, to the City Manager and the County Administrator.
- 10.3 If the department heads are unable to reconcile the dispute, they shall report their impasse to the City Manager and the County Administrator who shall then convene a meeting at their earliest opportunity, but in any event within 20 days following receipt of the Dispute Notice, to attempt to reconcile the dispute.
- 10.4 If a dispute is not resolved by the foregoing steps within thirty (30) days after receipt of the Dispute Notice, unless such time is extended by mutual agreement of the parties, then either party may require the dispute to be submitted to mediation by delivering written notice thereof (the "Mediation Notice") to the other Party. The mediator shall meet the qualifications set forth in Rule 10.010(c), Florida Rules for Mediators, and shall be selected by the parties within 10 days following receipt of the Mediation Notice. If agreement on a mediator cannot be reached in that 10-day period, then either party can request that a mediator be selected by an independent conflict resolution organization, and such selection shall be binding on the parties. The costs of the mediator shall be borne equally by the parties.
- 10.5 If an amicable resolution of a dispute has not been reached within 60 calendar days following selection of the mediator, or by such later date as may be mutually agreed upon by the parties, then such dispute may be referred to binding arbitration by either party. Such arbitration shall be

conducted in accordance with the Florida Arbitration Code (Chapter 682, Florida Statutes).

- 10.5.1 Such arbitration shall be initiated by delivery, from one party (the "claimant") to the other (the "Respondent"), of a written demand therefore containing a statement of the nature of the dispute and the amount, if any, involved. The Respondent, within ten (10) days following its receipt of such demand, shall deliver an answering statement to the Claimant. After the delivery of such statements, either party may make new or different claims by providing the other with written notice thereof specifying the nature of such claims and the amount, if any, involved.
- 10.5.2 Within ten (10) days following the delivery of such demand, each party shall select an arbitrator and shall deliver written notice of that selection to the other. If either party fails to select an arbitrator within such time, the other party may make application to the court for such appointment in accordance with the Florida Arbitration Code. Within ten (10) days following delivery of the last such written notices, the two arbitrators so selected shall confer and shall select a third arbitrator. Each of the arbitrators so appointed shall have experience in local government solid waste issues.
- 10.5.3 The arbitration hearing shall be commenced in Leon County, Florida within sixty (60) days following selection of the third arbitrator. Except as may be specifically provided herein, the arbitration shall be conducted in accordance with Rules R-23 - R-48, of the Commercial Arbitration Rules of the American Arbitration Association.

IN WITNESS WHEREOF, the CITY and COUNTY have caused this Agreement to be executed by their duly authorized representatives effective the date first written above.

LEON COUNTY, FLORIDA

CITY OF TALLAHASSEE, FLORIDA

By: Cliff Thabell, V. Chair
Cliff Thabell, Chairman
Board of County Commissioners

By: Anita R. Favors Thompson
Anita R. Favors Thompson, Manager
City of Tallahassee



ATTEST:
Bob Inzer, Clerk of the Court
Leon County, Florida

ATTEST:
Gary Herndon, City Treasurer-Clerk
City of Tallahassee, Florida

BY: [Signature]

BY: [Signature]

APPROVED AS TO FORM:
Leon County Attorney's Office

APPROVED AS TO FORM:
City of Tallahassee Attorney's Office

By: [Signature]
Herbert W.A. Thiele, Esq.
County Attorney

By: [Signature]
James R. English
City Attorney

APPROVED BY CITY COMMISSION
January 25 2006