

**INTERLOCAL AGREEMENT BETWEEN
ALACHUA COUNTY & CITY OF NEWBERRY
FOR A SOLID WASTE COLLECTION CENTER**

THIS INTERLOCAL AGREEMENT (“Agreement”) is entered by and between Alachua County, a political subdivision of the State of Florida, by and through its Board of County Commissioners (“County”), and the City of Newberry, Florida, a municipal corporation (“City”), collectively the “Parties”.

WITNESSETH:

WHEREAS, the County and the City are authorized by Section 163.01, Florida Statutes, to enter into interlocal agreements on a basis of mutual advantage and for provisions of services that benefit the public health, safety and welfare; and

WHEREAS, the County operates and staffs rural collection centers in Alachua County for the collection of recycling, solid waste, yard trash, bulk items and hazardous waste for residential use; and

WHEREAS, the services provided by rural collection centers are available to citizen countywide and are primarily used by those citizens who do not have curbside services; and

WHEREAS, the County operates and staffs a hazardous waste collection facility for the collection of household hazardous waste; and

WHEREAS, the services provided by the hazardous waste collection facility are available to citizen and business countywide; and

WHEREAS, the County’s Solid Waste and Resources Recovery Department has indicated a need to have an additional rural collection center and an additional hazardous waste collection facility to serve the residents in the Newberry area and other residents of the County; and

WHEREAS, the City is the owner of real property located on SW 266th Street, Newberry, Alachua County, Florida identified by Parcel ID number 02538-009-001 and 02538-008-000, commonly referred to as the ‘Newberry Environmental Park’ (“City Property”); and

WHEREAS, a part of the City Property is used for the City’s wastewater treatment facility; and

WHEREAS, use of portion of the City Property for an additional rural collection center and hazardous waste facility, to be operated by the County, would benefit residents that live in or near the County and the City; and

WHEREAS, the Parties desire to enter into this Agreement to set forth the terms to use of part of the City Property for a solid waste rural collection center and hazardous waste collection facility.

NOW, THEREFORE, the County and the City agree as follows:

1. **Recitals**. The foregoing recitals are incorporated herein.

2. **Term.** This Agreement is effective after it has been executed by both Parties and recorded as provided in Section 163.01(11), Florida Statutes. The “effective date” will be the date it is recorded in the Official Records of Alachua County, Florida. This Agreement will remain in effect for 50 years from the effective date with the option to renew, until and unless earlier terminated by the Parties. After execution, the County will record this Interlocal Agreement in the Official Records of Alachua County, Florida.

3. **Use, License and Agreement.**

- A. For use of a rural collection center (“Center”) and a hazardous waste collection facility (“Facility”), the City hereby grants to the County the right and irrevocable license to enter, access and use a portion of the City’s Property, being approximately 10 acres of land generally shown on the diagram attached hereto as **Exhibit “A”** and incorporated herein and marked as ‘Solid Waste’ (“Premise”).
- B. The City is working, at its expense, on a site plan and obtaining the proper zoning and land use designations for the Property to allow the intended uses listed in paragraph 3A. In the event that the Premise is not in the exact location as shown in Exhibit A, the County Manager and the City Manager are hereby authorized to enter into a written amendment to this Agreement to amend Exhibit “A” as to the location or size of the Premise only.
- C. The County agrees that the Center and the Facility will be operated, maintained, and staffed by the County or its authorized contractor. No third party shall be given authorization to use the Premise without first obtaining the consent of both the County Manager and City Manager.
- D. The County has the authority to set the hours and days of operation of the Center and the Facility.
- E. The County Facility will comply with the City’s utility standards for backflow prevention and wastewater pretreatment.
- F. The County may construct, install, and/or place sheds, structures, dumpsters, lighting, storage (hereinafter “improvements”) on the Premise without having to obtain the prior consent of the City. The City will assist the County in applying or issuing approvals related to building permits, environmental permitting, and obtaining a certificate of occupancy. The Parties will cooperate on design and landscaping for the Facility.
- G. The County has the right to place signage on the Premise and on the exterior of the Center and the Facility. The County may place directional signage on the Property outside of the Premise at the request of the County Solid Waste & Recovery Department Director and the approval of the City Manager.
- H. The Parties agree that the use of the Premise by the County will comply with all applicable federal, state, and local laws, rules, ordinances and regulations. The County will apply and obtain any environmental clearances, permits or governmental approvals, at the County’s expense, that may be applicable to the Center and the Facility. As the owner of the Property, the City will assist the County at the County’s request for any such application or approvals.

4. **Funding.** As this Agreement provides a benefit to the community and provides a public purpose, the Parties agree there is no rent or payment (\$0.00) due from either Party for use of the Premise. It is expressly agreed by and between the Parties that all obligations under this Agreement are conditioned upon and subject to the availability of funds lawfully appropriated and budgeted annually for the purposes stated herein at a level which, in the sole discretion of the respective Parties, permits the successful continuation of the intended uses of the Property.

5. **Security.** If the Property is secured by the City, the City shall provide the County with sufficient means of access (i.e. keys, code, etc.) to the Premise.

6. **Maintenance.** The County agrees to maintain the Premise in good condition, with normal wear and tear expected. The County agrees to keep the Premise mowed, at the County's expense, and be responsible for litter removal, pest control, lighting, signage, and traffic flow measures. The City will provide the County with connections to utilities for the Center and the Facility.

7. **Property and Notice.** The Parties agree to promptly, without delay, notify the other Party, respectfully, either in phone, email, or orally of any hazardous, dangerous, unsafe, or destructive conditions, trespassers, vandalism or damages that either the City or the County, including any of their employees or agents or invitees, notices or is made aware of on or at the Center or the Facility.

8. Contingencies:

- a. The Parties acknowledge that the City is working on a site plan for the Property and the site plan will indicate the Premise. The City will, at its effort and expense, obtain the necessary zoning and land use approvals and designations for the intended uses of the Property. This Agreement is contingent upon the City receiving the site plan approval and the appropriate zoning and land use designation to have the Facility located on the Property. Failure to obtain the appropriate zoning or land use designation during the term of this Agreement is cause for termination.
- b. The Parties acknowledge that prior to or following the effective date of this Agreement an environmental assessment will be completed regarding the Property. Once the results of the assessments or any other environmental report(s) are received by the County, the County will determine if, in its discretion, whether the Property, in whole or in part, is acceptable for the proposed use for the Facility. If the results of the environmental assessment or any other environmental report(s) about the Property furnished to the County reveal that the Premise, or any portion of the Property, is unsatisfactory, contaminated, or violates applicable environmental federal, state, or local laws, ordinances, codes, rules, regulations or standards ("environmental defect"), the County will notify the City. The County may (a) accept the environmental defect and continue with use of the Premise, or a part of the Property, pursuant to this Agreement, or (b) terminate this Agreement.
- c. It is agreed by the Parties that all obligations under this Agreement are conditioned upon and subject to the availability of funds lawfully appropriated and budgeted annually for the purposes stated herein at a level which, in the sole discretion of the respective parties, permits the successful continuation of such purposes. In the event either Party chooses to discontinue said purposes or arrangements due to the unavailability of funds, that Party shall send written notice of termination.

9. **Insurance.** The County will obtain coverage insurance on the Premise and the Center and Facility and any improvements thereto in its full insurable value.

10. Default and Termination.

- A. If either Party fails to fulfill its obligations under this Agreement or if any Party breaches any of the terms or stipulations under this Agreement, the other Party will give the other Party with written notice of the default. The notice shall state the specifics of the failure or breach and shall provide a reasonable time for correction of same. If the correction is not made within the time stated (or if none stated than within thirty calendar days), then the County Manager and the City Manager will meet to resolve the dispute. If unsuccessful, then either Party may then terminate this Agreement by following section (B) below.
- B. Either Party may terminate this Agreement by providing written notice to the other Party. The notice of termination shall state the date of termination of this Agreement, which shall be no less than 90 calendar days from the date of the notice (“termination date”). Prior to the termination date, the County will remove its improvements located on the Premise. The County Manager and the City Manager may by a separate written agreement agree to an extension of time, if needed.

11. **Damages and Liabilities.** Each Party shall be solely responsible, and agrees to indemnify and hold harmless the other Party, for any liabilities, claims, injuries and damages arising out of the omissions, misconduct, negligent or wrongful acts of the Party and the Party’s employees and its agents concerning or involving the Center and Facility and its infrastructure. Nothing contained herein shall be construed as consent to be sued by third parties in any manner. Nothing contained herein shall constitute a waiver by either Party of its sovereign immunity or the provisions of Section 768.28, Florida Statutes. The County, and City further agree that nothing contained herein shall be construed or interpreted as: (1) denying to either Party any remedy or defense available to such Party under the laws of the State of Florida; (2) the consent of the County or the City be sued; (3) a waiver of the sovereign immunity of County or the City beyond the waiver provided in Section 768.28, Florida Statutes; (4) cause the County to be responsible for the acts or omissions of the City or the City’s respective officers, employees, servants, agents, contractors, or subcontractors; and (4) cause the City to be responsible for the acts or omissions of the County or the County’s respective officers, employees, servants, agents, contractors, or subcontractors. This section will survive the termination or expiration of this Agreement. Upon termination of this Agreement, notice of the termination will be recorded in the Official Records.

12. **Non-Waiver.** The failure of either Party to exercise any right in this Agreement shall not be considered a waiver of such right.

13. **Notice.** Except as otherwise provided in this Agreement, any notice from either Party to the other Party must be in writing and delivered by email, hand delivery with receipt or sent by certified mail, return receipt requested, to the addresses below. Except for notice sent by email which is deemed received when sent, all notices will be deemed delivered five (5) business days after mailing. Each Party may change its mailing address by giving the other Party, written notice of election to change the address.

To City:

City of Newberry, Florida
Attn: City Manager
310 NW 250th Street
Newberry, FL 32669

To County:

Alachua County, FL
Attn: County Manager
12 SE NW 1st Street
Gainesville, FL 32601

With a copy sent to:
Alachua County Solid Waste & Recovery
Attn: Director
5620 NW 120th Lane
Gainesville, FL 32653

Alachua County Procurement, Attn: Contracts
acpur@alachuacounty.us

14. **Third Party Beneficiaries.** This Agreement does not create any relationship with, or any rights in favor of, any third party.
15. **Public Records.** Each Party agrees to be responsible for its own public records retention and compliance with Florida's Public Records Laws related to this Agreement.
16. **Amendments.** This Agreement shall only be amended upon written agreement mutually agreed to by both Parties.
17. **Assignment.** This Agreement shall not be assigned without the prior written consent of both Parties. The City shall notify the County prior to any conveyance, lease, sublease or assignment of the Property.
18. **Governing Law.** This Lease Agreement shall be governed in accordance with the laws of the State of Florida. Venue shall be in Alachua County, Florida.
19. **Force Majeure.** The Parties shall exercise every reasonable effort to meet their respective duties under this Agreement but will not be liable for delays resulting from force majeure or other causes beyond their reasonable control, including, but not limited to, compliance with any government laws or regulation, acts of nature, fires, strikes, national disasters, wars, riots, transportation problems, and any other cause whatsoever beyond the reasonable control of the Parties. Any such cause will reasonably extend the performance of the delayed duty to the extent of the delay so incurred and so agreed by the Parties. In the event the Facility is damaged, destroyed, or has experienced another casualty, the County and the City will either (1) jointly agree to terminate this Agreement by a separate writing or (2) jointly agree to amend this Agreement to provide for a re-build and re-pair of the Facility.
20. **Counterparts.** This Agreement may be executed in any number of and by the Parties on separate counterparts, each of which when so executed shall be deemed to be an original, and such counterparts shall together constitute but one and the same instrument. Receipt via email with pdf attachment by a party or its designated legal counsel of an executed counterpart of this Agreement shall constitute valid and sufficient delivery in order to complete execution and delivery of this Agreement and bind the Parties to the terms hereof.
21. **Severability and Ambiguity.** It is understood and agreed by the Parties that if any of the provisions of the Agreement shall contravene or be invalid under the laws of the State of Florida, such contravention or invalidity shall not invalidate the entire Agreement, but it shall be construed as if not containing the particular provision(s) held to be invalid, and the rights and obligations of the Parties shall be construed and enforced accordingly. This Agreement shall not be construed

more strictly against one Party than against the other Party, merely due to fact that it may have been prepared by one of the Parties. Each Party represents and agrees that it has had the opportunity to seek the advice of appropriate professionals, including legal counsel, in the review and execution of this Agreement.

22. **Electronic Signatures.** The Parties agree that an electronic version of this Agreement shall have the same legal effect and enforceability as a paper version. The Parties further agree that this Agreement, regardless of whether in electronic or paper form, may be executed by use of electronic signatures. Electronic signatures shall have the same legal effect and enforceability as manually written signatures. Delivery of this Agreement or any other document contemplated hereby bearing a manual written or electronic signature, by electronic mail in “portable document format” (“.pdf”) form, or by any other electronic means intended to preserve the original graphic and pictorial appearance of a document, will have the same effect as physical delivery of the paper document bearing an original or electronic signature.

23. **Entire Agreement.** This Agreement constitutes the entire Agreement and supersedes all prior written or oral agreements, understandings, or representations of the Parties regarding the Facility.

{Remainder of page intentionally left blank – Signature page to follow }

IN WITNESS WHEREOF, the Parties have caused this Agreement to be executed on the respective dates under each signature: by Alachua County, Florida by its Chair of the Board of County Commissioners who is authorized to sign, and by the City of Newberry, Florida, through its Mayor, who is authorized to sign this Agreement.

ALACHUA COUNTY, FLORIDA

By: _____

Anna Prizzia, Chair

Board of County Commissioners

Date: _____

ATTEST:

APPROVED AS TO FORM

J.K. "Jess" Irby, Esq., Clerk

Alachua County Attorney's Office

(SEAL)

CITY OF NEWBERRY, FLORIDA

By: _____

Jordan Marlowe, Mayor

ATTEST:

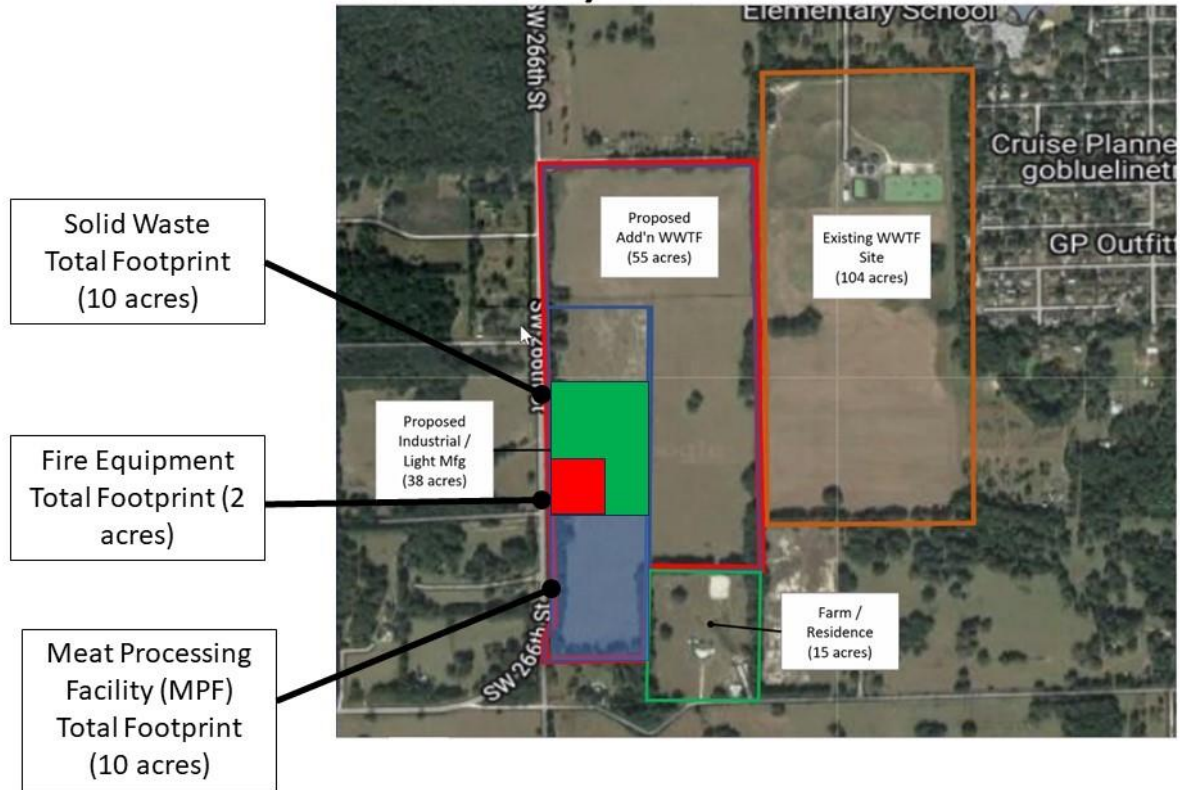
Judy S. Rice, City Clerk

Approved as to form and legality:

City Attorney

Exhibit 1 – Licensed Premise (Solid Waste)

Newberry Environmental Park



DR