



ARLINGTON COUNTY, VIRGINIA

**County Board Agenda Item
Meeting of November 17, 2012**

DATE: October 30, 2012

SUBJECT: County Board Approval of a new Interjurisdictional Joint Action Agreement Regarding the Arlington / Alexandria Waste-to-Energy (WTE) Facility with the City of Alexandria.

C. M. RECOMMENDATIONS:

1. Approve the Interjurisdictional Joint Action Agreement Regarding the Arlington / Alexandria Waste-to-Energy Facility ("Agreement") (**Attachment 1**)
2. Authorize the County Manager to execute the Agreement subject to review and approval of it as to form by the County Attorney.
3. Terminate the Trust Fund created by the Amended and Restated Waste Disposal Trust Fund Cooperative Agreement dated as of October 1, 1985, as amended in 1990 and 1998.

ISSUES: County Board authorization is required to approve and authorize execution by the County Manager of a new inter-local agreement between Arlington County and the City of Alexandria (together, the Jurisdictions) for the supervision and oversight of the WTE facility during the merchant era (2013 to 2025), which may be extended to 2038 by the Jurisdictions, if they so choose at a later time.

SUMMARY: On October 22, 1985, an Amended and Restated Waste Disposal Trust Fund Cooperative Agreement was entered into between the County and the City of Alexandria to manage the relationship and shared funds between the Jurisdictions associated with waste disposal. Separately that same month, an Amended and Restated Interlocal Joint Enterprise Agreement was entered into between the Alexandria Sanitation Authority and the Arlington Solid Waste Authority to manage the joint control of the waste disposal facility and capital contributions. The Cooperative Agreement subsequently was amended in 1990 and 1998.

On January 24, 2012, the County Board authorized the County Manager to execute a new Waste Disposal and Service Agreement among Arlington, Alexandria, and the contract service provider, Covanta Alexandria/Arlington, Inc. With the approval of the new Waste Disposal and

County Manager:

BMD/mjs

County Attorney:

[Signature]

BRC

Staff: Carl Newby, Department of Environmental Services

Service Agreement and the recent retirement of the last revenue bonds associated with the facility, the two existing 27-year-old agreements (the Cooperative Agreement between the Jurisdictions and the Joint Enterprise Agreement between the Authorities) require extensive modification and updating. The Jurisdictions' staffs have jointly developed the new Agreement. The Agreement requires funding to support its program needs and a portion of the existing Trust Fund is to be allocated for those purposes. Any remaining funds will be distributed to the Jurisdictions in equal shares based on the terms of the Cooperative Agreement.

BACKGROUND: On December 1, 1984, an Inter-local Joint Enterprise Agreement was entered into between the Alexandria Sanitation Authority and the Arlington Solid Waste Authority (the "Authorities") for the supervision and oversight of the construction and operation of the jointly owned facility located at 5301 Eisenhower Avenue in Alexandria. A Joint Enterprise, referred to as the Alexandria/Arlington Resource Recovery Corporation, was formed to design, construct, equip, test and operate a solid-waste disposal facility having an installed capacity of 975 tons per day of mixed municipal solid waste. The facility uses waste-to-fuel boilers to power steam-driven generators. The resulting electricity is sold.

On October 22, 1985, the Cooperative Agreement was entered into between the City and the County to manage the relationship and shared funds between the jurisdictions associated with waste disposal. Separately that same month, an Amended and Restated Interlocal Joint Enterprise Agreement was entered into between the Authorities to manage the joint control of the waste disposal facility and capital contributions.

A contractor, now known as Covanta Alexandria/Arlington, Inc. (the Company), was bound to provide waste-disposal services through January 1, 2013, pursuant to an Amended and Restated Facility Construction and Operation Agreement dated as of October 1, 1985, as amended (the "Facility Agreement"), by and among the Company, the Authorities and the City and County.

The Jurisdictions also leased the facility site to the Company for a term of 40 years pursuant to an Amended and Restated Facility Site Lease dated as of October 1, 1985, as amended among the Jurisdictions, Authorities, and Company.

On October 22, 1985, the Authorities sold the facility (but not the land beneath it) to the Company. The 1985 agreement required the Authorities to transfer full title to the facility when principal and interest on outstanding revenue bonds had been paid in full. In July 1998, the Authorities advance refunded over \$55 million of the outstanding revenue bonds (Series 1998A bonds) so that the company could take advantage of lower interest rates. In November 1998, the Arlington Industrial Development Authority issued over \$48 million in new retrofit revenue bonds (Series 1998 B bonds) to cover the cost of new pollution-abatement equipment at the facility required by federal law. The proceeds of the Series 1998 B revenue bonds were loaned to the Authorities to construct the equipment. The construction was completed in November 2000 and lease payments to the Authorities from the Company for use of the abatement equipment began in January 2001. A November 1, 1998, Operating Lease for the pollution-abatement equipment (owned by the Authorities) to the Company runs through October 1, 2025. The Series A bonds matured on January 1, 2008, and the plant was sold to the Corporation for

\$10.00 per a bill of sale dated February 28, 2008. The Series 1998 B bonds were paid in full on July 30, 2012.

Pursuant to the terms of the underlying Site Lease among the Jurisdictions, Authorities and Company, title to the plant and all its equipment (except for the pollution-abatement equipment owned by the Authorities, which is already owned by the Authorities) revert to the Authorities on October 1, 2025. Arlington and Alexandria own the land under the facility in equal shares. Arlington has a 60% interest in the plant and Alexandria has a 40% interest in it.

At the County Board recessed meeting on January 24, 2012, the County Board authorized the County Manager to execute the new Waste Disposal and Service Agreement among Arlington, Alexandria and Covanta Alexandria/Arlington, Inc. (see Board Agenda item 42 of that date). The new Waste Disposal and Service Agreement requires new annual actions from the Jurisdictions, as well as establishes contract and lease extension options not contemplated in the 1985 Cooperative Agreement and Joint Enterprise Agreement. In addition, because of the retirement of the Series 1998B bonds, the Authorities no longer have a role in the Jurisdictions' relationship with the Company. The contractual changes in relationships between the various parties necessitate extensive modifications and updates to the existing 27-year-old Waste Disposal Trust Fund Cooperative Agreement and the Interlocal Joint Enterprise Agreement prior to January 1, 2013. Alexandria and Arlington staffs have jointly developed the new Interjurisdictional Joint Action Agreement (**Attachment 1**). The proposed Agreement includes a new financial relationship and joint trust fund where each Jurisdiction annually budgets for expenses through its normal budget processes.

DISCUSSION: The following outlines and sets forth certain highlights of the proposed Interjurisdictional Joint Action Agreement for supervision and oversight of the WTE facility. The same Agreement is being proposed to the Alexandria City Council for its approval.

Section 1 – Sets the duration of the Agreement, which is initially set to end on September 30, 2025, as the Site Lease and other related relationships conclude.

Section 2 – States the purpose, which is to establish a formal relationship between the Jurisdictions regarding their rights and duties.

Section 3 – Creates a WTE Facility Monitoring Group (WTE FMG) composed of 4 members appointed by the Jurisdictions' Chief Administrative Officers (CAOs) - 2 from each Jurisdiction. The WTE FMG's authority and tasks include providing a single administrative point of contact for Covanta, monitoring routine plant operations, maintaining records, discussing and evaluating major issues, and, to the extent permitted by law and any express authority granted by the Jurisdictions' governing bodies, entering into contracts in accordance with the Agreement.

Section 4 – Establishes a new joint WTE Trust Fund to manage joint jurisdictional WTE-related financial activities. The Fund would be managed by Arlington for accounting convention reasons because the majority of costs will be attributable to Arlington. The Jurisdictions will negotiate a fee that will be paid from the Fund to the managing jurisdiction in exchange for providing these services. Deposits would be made into the Fund by each Jurisdiction

periodically during the year according to the approved operating and capital budgets for the year, and payments to the Company or other vendors would be made from the Fund according to the operating and capital budgets.

Section 5 – Makes arrangements for managing the financial affairs of the WTE FMG, which include developing annual operating and capital budgets for both routine monitoring and record-keeping, the discussion and evaluation of major issues and the costs of any major projects agreed to by the Jurisdictions’ Chief Administrative Officers. Major project costs will be apportioned between the two Jurisdictions on an *ad hoc* basis as agreed to by the CAOs (in consultation with the governing bodies) based on the regional or local impact of the proposed project.

Section 6 – Sets the general allocation of routine costs on a 60% -40% basis (Arlington 60%; Alexandria 40%), unless otherwise agreed to by the WTE FMG or the Jurisdictions’ CAOs.

Section 7 – Acknowledges the automatic renewal clause and optional extensions of the Jurisdictions’ Waste Disposal and Service Agreement with the Company. Requires that both Jurisdictions agree on these decisions to renew or extend the term of the Waste Disposal and Service Agreement with the Company before a renewal or extension is elected. Such renewal or extension would require authorization by both Jurisdictions’ governing bodies to be effective.

Section 8 – Establishes a process for the Jurisdictions to annually adjust and establish projected waste tonnages vis-à-vis the Waste Disposal and Service Agreement.

Section 9 – Provides a method for the allocation and payment of excess tonnage and shortfall fees based on the Jurisdictions’ respective shares of delivery of solid waste over the last full calendar year. This section describes how the Jurisdictions will share fees that may be owed to the Company in the upcoming fiscal year for not delivering the minimum amount of waste required by the Waste Disposal and Service Agreement, or for delivering more than the maximum amount of waste permitted by that Agreement.

Section 10 – Allocates the revenues attributable to the WTE facility that will be available to the Jurisdictions. Taxes paid by the Company will be shared 60% with Arlington and 40% with Alexandria after deduction of a host community fee (for Alexandria) based upon an agreed upon formula calculated by an estimate of the costs of providing City services to support the facility (e.g., public safety, transportation and other public infrastructure and services). All other revenue derived from Covanta or the operation of the WTE facility will be shared 60% - 40% as well. Any other net revenue derived from the sale of the real property, if sold, would be shared 60% - 40% except that the value paid for the land itself would be shared 50% - 50%, which is based on the original Arlington-Alexandria joint land ownership agreement as recorded in the Alexandria Circuit Court’s land records.

Section 11 – Allocates the proceeds from any potential sale of property related to the facility.

Section 12 – Establishes miscellaneous provisions for the term of the new Agreement, which is for the duration of the Waste Disposal and Service Agreement with Covanta up to 2025, or

through 2038, unless mutually agreed changes are made as part of an extension of the Waste Disposal and Service Agreement with the Company.

Section 13 – Provides dispute-resolution procedures.

Section 14 – Provides termination guidance in the event the Jurisdictions terminate this new Agreement.

It should be noted that this proposed Interjurisdictional Joint Action Agreement does not shift or share any WTE-related land use decisions from the usual and customary City of Alexandria land use decision-making processes, which include public review and public hearing requirements.

FISCAL IMPACT:

The existing Trust Fund is projected to have a positive balance on December 31, 2012, when the existing Cooperative Agreement expires. Staff proposes allocating from the existing fund balance after December 31, 2012 an amount sufficient to meet the needs of the regime created by the new Interjurisdictional Joint Action Agreement, with any remaining funds dispersed to the jurisdictions based on the allocation set forth in the Cooperative Agreement.

**INTERJURISDICTIONAL JOINT ACTION AGREEMENT
REGARDING THE ARLINGTON / ALEXANDRIA WASTE-TO-ENERGY FACILITY**

This Interjurisdictional Joint Action Agreement Regarding the Arlington / Alexandria Waste-to-Energy Facility (hereinafter “Agreement”) is made as of the date on which it is last signed by one of the parties hereto, by and between the City of Alexandria, Virginia (hereinafter “City”), and the County Board of Arlington County, Virginia (hereinafter “County”). The City and the County may be referred to individually herein as “Jurisdiction” or collectively herein as the “Jurisdictions”.

W I T N E S S E T H :

WHEREAS, the City and the County together own in equal shares two parcels of real property in Alexandria, Virginia, identified by Alexandria tax Account Numbers 50631180 (“Parcel A”, 3.2644 acres) and 50686420 (“Parcel B”, 4,036 square feet); and

WHEREAS, pursuant to an Amended and Restated Site Lease dated October 1, 1985, as amended, and an Operating Lease Agreement dated November 1, 1998, as amended, the City and the County lease the real estate referenced above to Covanta Alexandria/Arlington, Inc. (hereinafter it or its successors or assigns may be referred to as “Contractor”); and

WHEREAS, the City and the County entered into a Waste Disposal and Service Agreement dated January 24, 2012 (hereinafter “WDSA”), with the Contractor, which provides for the Contractor’s use of the facility on the above-referenced property to incinerate solid waste provided by the Jurisdictions to the Contractor and to convert it into thermal energy; and

WHEREAS, the WDSA addresses the Jurisdictions’ relationship with the Contractor but does not address the relationship between the Jurisdictions stemming from the WDSA, and the Jurisdictions agree that a formal relationship between them is necessary regarding these matters,

further to the Amended and Restated Interlocal Joint Enterprise Agreement dated as of October 1, 1985, between the Alexandria Sanitation Authority and the Arlington Solid Waste Authority and the Amended and Restated Waste Disposal Trust Fund Cooperative Agreement dated as of October 1, 1985, between the Jurisdictions; and

WHEREAS, the Code of Virginia (Title 15.2, Chapter 13) allows for joint actions by localities,

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

1. Duration. The duration of this Agreement (hereinafter “Term”) shall be the same as the duration of the WDSA stated in section 2.3 of the WDSA, unless otherwise agreed by the Jurisdictions in writing. If the WDSA concludes on September 30, 2025, as provided for in the WDSA, then the Jurisdictions will revisit this Agreement and negotiate any amendments or supplements to it that they deem necessary at that time. The Jurisdictions agree to commence any such negotiations not later than two years from the date on which the WDSA is scheduled to expire, insofar as the Jurisdictions are aware of that date two years before it occurs.

2. Purpose. The purpose of this Agreement is to establish a formal relationship between the Jurisdictions regarding their rights and duties under the WDSA and to describe the details of that relationship and how it will function.

3. Waste-To-Energy Facility Monitoring Group. The Jurisdictions hereby establish a Waste-To-Energy (“WTE”) Facility-Monitoring Group (hereinafter “FMG”) and agree to liaise with each other through the FMG regarding the matters discussed in this Agreement.

A. Each Jurisdiction’s chief administrative officer (the City Manager for the City and the County Manager for the County) shall appoint two (2) members to the FMG. Each chief administrative officer may remove, replace, or otherwise change their

appointees to the FMG at any time in their sole discretion. One appointee from each Jurisdiction shall have a financial-management background and the other appointee from each Jurisdiction should have a solid-waste or environmental program background. The appointees shall be department heads or senior members of the Jurisdiction's staff.

B. Each Jurisdiction's chief administrative officer may, in his or her discretion, appoint one alternate FMG member for each of the Jurisdiction's two appointees. In the event that an alternate's respective FMG member is unable to attend a FMG meeting, the alternate FMG member may attend FMG meetings and participate in the activities of the FMG as if he or she was a full-fledged member of the FMG.

C. The four members of the FMG shall elect a chairman from among them. A quorum of the FMG shall consist of four members, including alternates. The FMG shall meet at least quarterly in order to review the operations of the WTE facility. The Jurisdictions may have other staff employed by them attend meetings of the FMG, regardless of whether the staff are FMG members or alternates for members.

D. Duties & Responsibilities of the Facility-Monitoring Group.

1. The FMG shall be the single point of contact for the Contractor to deal with the Jurisdictions regarding routine operational monitoring, financial management, and facility maintenance issues.

2. The FMG shall be a forum for the Jurisdictions' staffs' discussion and evaluation of major environmental and/or capital repairs and improvements, changes in law, and other major issues that may arise.

3. Routine issues that shall be within the FMG's bailiwick include:

a. monitoring the operations of the WTE facility;

- b. monitoring the upkeep and maintenance of the facility and its compliance with environmental and other governmental regulations;
- c. maintaining records of the WTE facility's operations;
- d. maintaining and reporting tonnage records;
- e. performing any necessary financial management revenue- and cost-sharing calculations based on the WDSA and this Agreement; and
- f. responding to questions or interpreting issues related to the WDSA.

4. Other issues that may be discussed or evaluated by the FMG include:

- a. capital repairs and improvements to the WTE facility that are designed to protect the environment;
- b. capital repairs and improvements to the WTE facility that are necessary for the WTE facility's continuing operation but are not the responsibility of the Contractor under the terms of the WDSA;
- c. effects of changes in law on the WTE facility and its operations;
- d. responding to questions or interpreting issues related to the WDSA; and
- e. other issues of significance to the future operation of the WTE facility.

4. Trust Fund. The Jurisdictions hereby establish and declare a joint trust fund (“Fund”) for use by them in administering their financial obligations set forth in the WDSA and this Agreement. The Fund’s formal name shall be the Alexandria & Arlington Waste Disposal Trust Fund. Moneys held in the Fund may be paid from the Fund for one or more of the following purposes: capital costs related to the WTE facility; costs related to increases in tipping fees resulting from uncontrollable circumstances (as those terms are defined in the WDSA); fees and expenses of accountants and other professionals providing services to the Jurisdictions and the FMG related to the WTE facility or the Fund; fees and expenses related to management or administration of the Fund and the WTE facility; and other expenditures for waste disposal, including costs related to the WTE facility.

A. One of the Jurisdictions will manage the Fund for both of them. The Jurisdiction that manages the Fund shall receive an allowance from the other Jurisdiction in exchange for the Jurisdiction’s management of the Fund. The annual allowance initially will be \$7,000.00 plus reimbursement of out-of-pocket audit and other costs. The annual allowance will be reviewed annually by the FMG and adjusted if deemed necessary by the FMG based on the managing Jurisdiction’s estimates of the costs it will incur for managing the Fund. The management allowance shall be budgeted by the Jurisdictions as a routine cost of the FMG. The Fund-managing Jurisdiction shall include the Fund’s transactions and assets in the Jurisdiction’s financial statements to the extent and in the form or forms required by generally accepted accounting principles.

B. The Jurisdiction that manages the Fund shall perform the following tasks:

1. provide (in consultation with the FMG) payments to the Contractor and other vendors providing goods and services to the Jurisdictions at or for the WTE facility according to the terms of the WDSA and this Agreement;

2. provide to the other Jurisdiction, within 30 days of the end of a given quarter, a monthly statement of payments made from the Fund during that quarter;

3. provide annual audited financial statements to the other Jurisdiction within 150 days after the end of the fiscal year, showing payments made from the Fund during the prior fiscal year and allocating those payments between the Jurisdictions according to the terms of the WDSA and this Agreement;

4. ensure that proper financial management and internal controls are in place and respond to questions of any auditor(s) engaged by either Jurisdiction; and

5. apportion any surplus money in the Fund between the Jurisdictions according to the terms of this Agreement, taking into account future anticipated expenses and the Jurisdictions' plans for paying those expenses from the Fund.

C. The Jurisdictions expect that procurement functions will be led and facilitated by the Jurisdiction that is not the Fund-managing Jurisdiction.

D. The annual contribution by each Jurisdiction to the Fund shall be in accordance with the Jurisdiction's adopted budget and based on the calculations of the FMG. Subject to appropriations, each Jurisdiction shall make payment to the Fund for

that Jurisdiction's respective share of WTE facility costs at the beginning of every fiscal year of the Jurisdiction.

E. In the event that the Fund has a positive balance remaining at the end of the then-current fiscal year and the audited financial statements are complete, then the Jurisdictions may divide the Fund between themselves in the following proportions: sixty percent (60%) to the County Board of Arlington County and forty percent (40%) to the City of Alexandria, commensurate with their respective percentages of contributions to the Fund. The Jurisdictions may elect to retain the funds in the Fund for future financial obligation of the FMG.

5. Budget.

A. This Agreement shall in no way affect the Jurisdictions' legal obligations to adopt and implement annual budgets or to fulfill their obligations in the WDSA.

B. The FMG each year shall develop a proposed operating and capital budget for the Fund for the upcoming fiscal year.

C. The FMG's proposed budget shall be submitted by the FMG to the chief administrative officers of the Jurisdictions. The chief administrative officers shall review the proposed budget and ensure that it is reviewed and submitted for approval by their respective Jurisdiction's governing body as part of its annual budget process. The FMG operating and capital budget shall not be considered approved and final until it is approved by each Jurisdiction's governing body.

D. The annual budget developed by the FMG shall address the following:

1. Costs of routine operational monitoring, financial management, and facility maintenance to be borne by the Jurisdictions. These costs may include:

a. a consultant with appropriate professional expertise who is approved by the FMG and qualified to assist in monitoring the operations of the WTE facility to ensure its proper upkeep and maintenance and compliance with environmental and other governmental regulations;

b. any professional association fees and activities necessary to maintain key knowledge of developments in the waste-to-energy industry regionally or generally, or among clients of the Contractor;

c. assistance in studying the desirability or feasibility of minor facility maintenance or repair projects, or implementing such projects. A project may be considered “minor” if the project is estimated to cost less than or equal to \$150,000 in the upcoming fiscal year; and

d. financial-management services.

2. Proposed costs for studies of the feasibility, desirability or impact of major facility repairs and improvements, or responses to changes in law, and the costs of implementing such projects. A project may be considered “major” if the project is estimated to cost more than \$150,000 in the next upcoming fiscal year;

3. The costs of major projects shall be shared by the Jurisdictions in proportions other than 60%/40% if approved by the Jurisdictions’ governing

bodies, taking into account the extent to which a project benefits each of them.

For example:

- a. aesthetic improvements (e.g., landscaping or noise-abatement actions) may be borne entirely or primarily by Alexandria; and
- b. environmental improvements of regional significance such as Low NOx, wastewater reuse, bag house particulate emission controls, excess steam usage, and responses to future Federal or Virginia environmental requirements may be shared equally or otherwise.

E. In the event of a discrepancy between the FMG budget approved by one Jurisdiction and that approved by another, the lower approved budget amount shall control unless the Jurisdictions mutually resolve the discrepancy in writing.

6. Allocation of Expenses. Any and all expenses incurred by the Jurisdictions in the course of their fulfillment of this Agreement shall be allocated sixty percent (60%) to the County and forty percent (40%) to the City, in approximate recognition of their respective utilization of the WTE facility. In no way shall this section affect the Jurisdictions' obligations in the WDSA. The allocations set forth herein may be revised by an amendment to this Agreement.

7. Decisions Regarding Renewal or Extension of WDSA Term. The Jurisdictions acknowledge that the WDSA provides for the automatic renewal of the WDSA's Term (as that term is defined in the WDSA) on July 1, 2019, for a Renewal Term (as that term is defined in the WDSA) to September 30, 2025, and additionally provides for an optional extension of the WDSA's Term to December 31, 2038, if the Jurisdictions jointly exercise that extension right before December 31, 2024. The Jurisdictions agree to reach any decision regarding any such extension by mutual agreement between them.

8. Adjustments in Excess or Shortfall Tonnage Thresholds. The Jurisdictions acknowledge that the WDSA provides for adjustment to waste tonnage amounts - both minimum annual amounts and the threshold at which tonnage is deemed “excess” in a given year. Such adjustments must be made by the Jurisdictions no later than April 1 of a given calendar year, that being the 90th day before July 1, the first day of a new Contract Year as that term is defined in the WDSA. The Jurisdictions agree that they will, through the FMG, project their combined waste-disposal needs for the upcoming Contract Year and allocate each Jurisdiction’s share of the tonnage “band” for the upcoming year. The FMG will adjust the minimum annual amounts and the “excess” tonnage threshold accordingly and will inform the Contractor of same.

9. Allocation and Payment of Shortfall and Excess Tonnage Fees. The Jurisdictions acknowledge that the WDSA provides for the payment of fees to the Contractor if the Jurisdictions 1) do not provide the minimum tonnage amount to the Facility or 2) provide in excess of the excess annual tonnage threshold. The Jurisdictions agree that when their combined waste tonnage provided to the Contractor’s Facility fall short of the minimum amount or in excess of the excess tonnage threshold (after adjustments are made as provided by the WDSA), then the allocation of fees incurred for such shortfall or excess will be made based on each Jurisdiction’s actual tonnage compared with its projection for that Contract Year of the WDSA. Any fees for shortfall or excess paid by the Jurisdictions, through the FMG, to the Contractor shall be adjusted in the FMG’s annual close-out process and allocated to each Jurisdiction based on the portion of the shortfall or excess attributable to each Jurisdiction for that year.

10. Allocation and Use of Revenues. All taxes (including real and personal property and gross receipts) paid by the Contractor to the City will be shared by the City twice each year with the County in the following percentages: 60% to the County and 40% to the City, after

deduction of a host community fee for Alexandria based upon a formula that is to be mutually agreed upon by the Jurisdictions based on an estimate of the costs of providing City services to support the WTE facility (e.g., public safety, transportation and other public services). All other (non-tax) revenue that results from the Contractor or the operation of the WTE facility will be shared between the City and the County in the following percentages: 60% to the County and 40% to the City, regardless of which Jurisdiction receives the revenue or how it is received.

11. Allocation of the Proceeds from Sale of the Jurisdictions' WTE Property. In the event of any sale of Parcel A or Parcel B or any interest therein or sale of personal property owned by the Jurisdictions in or on Parcel A or Parcel B (including, but not limited to, pollution-control systems and equipment), the net proceeds from such sale shall be divided between the Jurisdictions in the following percentages:

A. For the sale of any such personal property, 60% to the County and 40% to the City;

B. For the sale of any such real property, 50% to the County and 50% to the City.

12. Miscellaneous.

A. This Agreement is between the County Board of Arlington County, Virginia, and the City of Alexandria, Virginia, and no other persons or entities. The City and County covenant and agree that they, and no one else, may or shall be beneficiaries of this Agreement or the rights and obligations hereunder.

B. This Agreement may be amended at any time by the Jurisdictions in writing, so long as any amendment is made with the same formality with which this Agreement was first approved and executed.

C. All funds for payments to be made by the Jurisdictions pursuant to this Agreement or the WDSA are subject to the availability of an annual appropriation for such purpose by the governing bodies of the Jurisdictions. In the event of non-appropriation of funds for such purpose by either Jurisdiction's governing body, then the Jurisdictions will collaborate, through the FMG, to wrap-up the FMG and the Fund and to terminate this Agreement.

D. This Agreement will conclude at the end of the Term as it is defined hereinabove, or sooner by mutual written agreement of the Jurisdictions.

E. This Agreement may not be assigned by either Jurisdiction to any person or entity that not a party to this Agreement unless the other Jurisdiction has agreed to such assignment in advance and in writing.

F. This Agreement and the Jurisdictions' actions performed hereunder shall be governed in all respects by the laws of the Commonwealth of Virginia, and the jurisdiction, forum, and venue for any litigation with respect hereto shall be in the Circuit Courts of Arlington County or the City of Alexandria, Virginia, and in no other court.

G. The failure of either Jurisdiction to exercise in any respect a right provided for in this Agreement shall not be deemed to be a subsequent waiver of the same right or any other right.

H. The sections, paragraphs, sentences, clauses and phrases of this Agreement are severable, and if any phrase, clause, sentence, paragraph or section of this Agreement is declared invalid by a court of competent jurisdiction, such invalidity shall not affect any of the remaining phrases, clauses, sentences, paragraphs and sections of this Agreement.

I. Notwithstanding any other provision of this Agreement, nothing herein or any action taken by either Jurisdiction pursuant to this Agreement shall constitute or be construed as a waiver of either the sovereign or governmental immunity of the Jurisdictions. The Jurisdictions intend for this provision to be read as broadly as possible.

13. Dispute Resolution. Disputes between the Jurisdictions shall be resolved as follows:

A. In the event of a dispute between them, the Jurisdictions will engage a qualified mediator to assist them in resolving the dispute. The costs of mediation will be shared equally by the Jurisdictions.

B. In the event that mediation is not successful in resolving a given dispute, then the Jurisdictions will exchange “best and final” offers with each other and will enter into non-binding arbitration. The arbitrator will be asked to choose between the two “best and final” offers and resolve the dispute. The costs of binding arbitration shall be borne by the Jurisdiction whose offer is not chosen. Notwithstanding this subsection’s terms, the Jurisdictions acknowledge that their obligations hereunder are subject to appropriations by them for the purposes stated herein.

14. Termination. This Agreement will be terminated on the sooner of 1) the termination of this Agreement by action of the Jurisdictions, confirmed by them in writing, or 2) the conclusion of the Term of this Agreement or the conclusion of the WDSA.

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IN WITNESS WHEREOF, the County and the City have caused this Agreement to be executed and delivered as their respective acts, intending to be legally bound by its terms.

THE COUNTY BOARD OF ARLINGTON COUNTY, VIRGINIA

By: _____

Printed Name: _____

Title: _____

Date: _____

THE CITY OF ALEXANDRIA, VIRGINIA

By: _____

Printed Name: _____

Title: _____

Date: _____

APPROVED AS TO FORM:

Arlington County Attorney

Alexandria City Attorney

AMENDED AND RESTATED
WASTE DISPOSAL TRUST FUND
COOPERATIVE AGREEMENT
dated as of October 1, 1985

by and between

City of Alexandria, Virginia
and
Arlington County, Virginia

AMENDED AND RESTATED
WASTE DISPOSAL TRUST FUND
COOPERATIVE AGREEMENT

THIS AMENDED AND RESTATED WASTE DISPOSAL TRUST FUND COOPERATIVE AGREEMENT (the "Agreement"), dated as of October 1, 1985, is between the City of Alexandria, Virginia (the "City") and Arlington County, Virginia (the "County").

RECITALS

The City and the County (together, the "Jurisdictions") have determined that a refuse-to-energy solid waste disposal facility is the best means of disposing of solid waste generated in the Jurisdictions at a reasonable cost and in an environmentally acceptable manner.

Section 15.1-21 of the Code of Virginia (1981 Replacement Volume and 1983 Cumulative Supplement) provides that any two or more political subdivisions of the State, through appropriate action by their governing bodies, may enter into agreements with one another for joint or cooperative action to exercise any power exercised or capable of exercise by any political subdivision of the State.

Under Sections 15.1-304 to 15.1-306, inclusive, of the Code of Virginia (1981 Replacement Volume and 1983 Cumulative Supplement) (the "Act"), any two or more counties, cities or towns of the State through their respective boards of supervisors or councils may enter into such contracts and agreements as they deem proper for or concerning the acquisition, construction, maintenance and operation of any building or improvement involving an outlay of a capital nature which may be required by or convenient for the purposes of the county, city or town (a "project").

The Jurisdictions have entered into an Amended and Restated Facility Construction and Operation Agreement dated as of October 1, 1985 with the Alexandria Sanitation Authority and the Arlington Solid Waste Authority (together the "Public Owners") and Alexandria/Arlington Resource Recovery Corporation (the "Company") for the construction and operation of a solid waste disposal facility (the "Facility") to be located at 5301 Eisenhower Avenue in Alexandria, Virginia. The Facility will be owned and operated by the Company.

To provide a reserve for future expenditures for waste disposal, the Jurisdictions have determined to establish a

"Host Community Fee" means an amount equal to the lesser of (1) \$1.38 times one half of the Guaranteed Annual Tonnages of both Jurisdictions or (2) the real property taxes and machinery and tools taxes actually paid on the Facility during the six months immediately preceding the date of calculation of the Host Community Fee.

"Tipping Fee" has the meaning given in the Facility Agreement.

"Trust Fund" means the trust fund created and established by Section 2 of this Agreement.

"Trustee" means a person appointed under Section 4 of this Agreement as a trustee for the Trust Fund or any successor to such trustee.

"Uncontrollable Circumstances" has the meaning given in the Facility Agreement.

"Facility Agreement" means the Facility Construction and Operation Agreement among the Public Owners, the Jurisdictions and the Company, as amended, modified, or supplemented from time to time.

Section 2. Declaration of Trust.

The Jurisdictions hereby create a trust fund to be designated the "Alexandria-Arlington Waste Disposal Trust Fund" (the "Trust Fund"), and convey, assign, transfer and deliver the moneys to be deposited in the Trust Fund to the Trustees to be held in trust in accordance with this Agreement.

Section 3. Uses and Purposes of the Trust Fund.

With the approval of the Trustees, moneys on deposit in the Trust Fund may be applied to:

(1) capital costs of repair, replacement or changes to the Facility or increases in Tipping Fees resulting from Uncontrollable Circumstances;

(2) if the Jurisdictions take possession of the Facility, capital improvements to the Facility or payment of any outstanding bonds or equity used to finance the Facility;

(3) rebates to persons under contract to the Jurisdictions who deliver waste to the Facility that is not part of the Guaranteed Annual Tonnages of the Jurisdictions;

(4) fees and expenses of an independent public accountant for the audit of the annual financial statement of the Public Owners;

(5) expenses incurred for the management or administration of the Trust Fund in accordance with this Agreement; and

(6) such other expenditures for waste disposal, including costs related to the Facility and closing costs related to the transfer of the Facility to the Company, as may be approved by the Trustees.

Section 4. Trustees.

The Jurisdictions hereby appoint as Trustees of the Trust Fund: the City Manager and two of his or her designees and the County Manager and two of his or her designees. The Trustees shall administer the Trust Fund jointly in accordance with this Agreement.

Each Trustee shall signify his or her acceptance of the trust imposed under this Agreement by written notice delivered to the Jurisdictions and upon delivery of such notice shall be deemed to have accepted the trusts and the duties of Trustee.

Section 5. Source of Trust Fund Moneys.

The City shall deposit in the Trust Fund by January 10 and July 10 of each Fiscal Year an amount equal to the sum of any real property taxes and machinery and tools taxes paid on the Facility during the six months preceding each such date minus the Host Community Fee.

The Trustees shall accept and immediately deposit in the Trust Fund all amounts required to be paid to the Trust Fund under the Trust Indenture dated December 1, 1984, between Alexandria Industrial Development Authority and United Virginia Bank, as trustee, or under the Amended and Restated Facility Agreement dated as of October 1, 1985 among the Jurisdictions, the Authorities and the Company or under any other agreement entered into by the Jurisdictions or the Authorities providing for amounts to be paid to the Trust Fund.

All income, interest, profits or dividends from amounts on deposit in the Trust Fund shall become part of the Trust Fund.

Section 6. Investment of Trust Fund Moneys.

Moneys in the Trust Fund may be invested only in obligations and other securities that are legal investments for public funds pursuant to Section 2.1-234.4 of the Code of Virginia (1979 Replacement Volume and 1983 Cumulative Supplement). Neither the Jurisdictions nor the Trustees shall

be liable for any depreciation in the value of, or any loss arising from, any permitted investment.

Section 7. Administration of the Trust Fund.

The Trustees shall meet at least every six months at a mutually agreeable time and place located in one of the Jurisdictions. The Trustees may elect Trustees to serve as convenor, meeting chair and recorder. A quorum of four Trustees shall be required to transact Trust Fund business.

Administrative and investment decisions, other than the application of Trust Fund moneys, shall require the affirmative vote of a majority of the Trustees present at a meeting called for such purpose. No moneys from the Trust Fund may be paid to any person without the affirmative vote of four Trustees and the approval of the City Manager and the County Manager.

Section 8. Management Powers of Trustees.

The Trustees shall manage the Trust Fund and collect the deposits to and income derived from the Trust Fund. The Trustees shall pay from the Trust Fund all taxes, assessments, fees, charges and other expenses of the administration and management of the Trust Fund.

The Trustees may deposit Trust Fund moneys in a bank or trust company. The Trustees may hire attorneys, managers, investment advisors, accountants or other agents or employees that in the Trustees' judgment are necessary or desirable for the administration, management or protection of the Trust Fund and pay reasonable compensation for their services.

The Trustees may enter into contracts in connection with the administration of the Trust Fund.

The Trustees may rely upon any document they believe to be genuine and to have been signed or presented by the proper person and not investigate any matter or fact stated in the document. Before acting or refraining from acting, the Trustees may require a written opinion or certificate of any attorney, architect, engineer, insurance consultant, management consultant or accountant they believe to be qualified, and the Trustees shall not be liable for any action they take or omit in good faith in reliance upon such opinion or certificate.

The enumeration of management powers granted to the Trustees shall not limit the general or implied power of the Trustees. The Trustees shall have all additional powers that are necessary or desirable to administer the Trust Fund in accordance with the provisions of this Agreement.

Section 9. Compensation.

The Trustees shall receive no compensation for acting as Trustees. The Trustees shall be entitled to reimbursement from the Trust Fund for reasonable out-of-pocket expenses incurred in the administration of the Trust Fund.

Section 10. Liability of the Trustees.

(a) No Trustee shall be relieved of liability for its own gross negligence or willful misconduct except that no Trustee shall be liable for any payment or distribution from the Trust Fund pursuant to Section 3 of this Agreement made in good faith and without actual notice or knowledge of any change in circumstances that would preclude such payment.

(b) The Trustees shall not be personally liable under any contract made regarding the Trust Fund and other parties to or beneficiaries of such contracts shall look only to the Trust Fund for any remedy for breach of contract.

Section 11. Budget, Accounts and Audits.

The Trustees shall prepare an annual budget for the Trust Fund for each Fiscal Year and shall submit the budget to the Jurisdictions by the March 1 preceding the Fiscal Year for which such budget is to be effective.

The Trustees shall keep proper books of records and accounts in which complete and correct entries shall be made of all receipts and disbursements of the Trust Fund. These books shall be available to a Jurisdiction upon its request. These books shall be maintained according to generally accepted accounting principles and shall be audited annually by a certified public accountant selected by the Trustees. Signed copies of the audit report shall be furnished to the Jurisdictions within 30 days after its receipt by the Trustees.

Section 12. Removal, Retirement and Succession of Trustees.

The City Manager or County Manager may remove one or both of his or her Designated Trustees by written notice to the Designated Trustee.

Upon the death, resignation, or removal ("retirement") of a Designated Trustee, the City Manager or the County Manager, as the case may be, shall designate a successor Designated Trustee.

Upon the retirement of any Trustee, the remaining Trustees shall have full authority to administer the Trust

Fund subject, however, to the provisions of Section 7 of this Agreement.

When a successor Trustee has executed, acknowledged and delivered written acceptance of his or her appointment as Trustee to the remaining Trustees and to the Jurisdictions, such successor Trustee shall have all the rights, powers and duties of a Trustee under this Agreement. The retiring Trustee shall transfer promptly all right, title and interest in and to all property held by him or her as Trustee under this Agreement to the successor Trustee.

Section 13. Termination.

(a) This Agreement shall be in full force and effect from the date of its execution until the Trust Fund has terminated and all outstanding debts and obligations for which moneys have been set aside pursuant to Paragraph (b) below have been paid.

(b) On January 1, 2034, or if either Jurisdiction ceases to use the Facility as a waste disposal facility for 12 months and requests the Trustees and the other Jurisdiction to terminate the Trust Fund or if both Jurisdictions agree to terminate the Trust Fund, the Trustees shall (1) pay all costs, expenses and charges incurred under this Agreement, (2) set aside moneys and make provision for the payment of any outstanding debts and obligations made pursuant to this Agreement and (3) pay one-half of the amount remaining in the Trust Fund to each Jurisdiction. Upon the payment of the remaining amount to the Jurisdiction, the Trust Fund shall terminate.

Section 14. Entire and Complete Agreement.

This Agreement constitutes the entire and complete agreement of the parties with respect to the subject matter it contains, and supersedes all prior or contemporaneous understandings, arrangements, commitments and representations, all of which, whether oral or written, are merged into this Agreement.

Section 15. Other Documents.

Each party shall execute and deliver any instruments and perform any acts which may be necessary or reasonably

requested by the other party in order to give full effect to this Agreement.

Section 16. Applicable Law.

The laws of Virginia shall govern the validity, interpretation, construction and performance of this Agreement.

Section 17. Counterparts.

This Agreement may be executed in counterparts, each of which shall be deemed an original, and all of which when executed and delivered shall together constitute one and the same instrument.

Section 18. Severability of Invalid Provision.

If any one or more of the provisions of this Agreement should be contrary to law, then such provisions shall be null and void and shall in no way affect the validity of the other provisions of this Agreement.

IN WITNESS WHEREOF, the City and the County have executed and sealed this Agreement as of October 22, 1985.

[SEAL]

CITY OF ALEXANDRIA, VIRGINIA

Attest:

By: Clifford H. Rusch
Clifford H. Rusch
Deputy City Manager

By: Helen Hollemen
Helen Hollemen
Clerk of the City Council

[SEAL]

ARLINGTON COUNTY, VIRGINIA

Attest:

By: John G. Milliken
John G. Milliken
Chairman

By: Jean C. Julian
Jean C. Julian
Clerk of the County Board

AMENDMENT NO. 1

This First Amendment, dated as of July 1, 1990, to the Amended and Restated Waste Disposal Trust Fund Cooperative Agreement, dated as of October 1, 1985 (the "Agreement"), is between the City of Alexandria, Virginia, and Arlington County, Virginia (the "Jurisdictions"). The Jurisdictions have agreed to amend the Agreement to clarify that monies on deposit in the Trust Fund created by the Agreement may be applied, with the approval of the Trust Fund Trustees, to expenditures for waste recycling programs, facilities and activities sponsored, constructed or undertaken either separately or jointly by the Jurisdictions and for other programs, facilities and activities designed to dispose of waste generated within the Jurisdictions by means other than incineration at the waste-to-energy facility at 5301 Eisenhower Avenue, in the City of Alexandria. The Jurisdictions therefore have agreed to amend the Agreement as follows:

1. The Agreement is amended by deleting the word "and" at the conclusion of paragraph (5) of Section 3.

2. The Agreement is amended by inserting in paragraph (6) of Section 3, following the phrase "for waste disposal" and the comma, the phrase "at the Facility" and by deleting the period at the end of said paragraph (6) and inserting in lieu thereof a semicolon followed by "and".

3. The Agreement is amended by adding new paragraphs (7), (8) and (9) at the conclusion of Section 3 to read as

follows:

(7) expenditures for waste recycling programs, facilities, equipment and activities that are sponsored, constructed, acquired or undertaken jointly by the Jurisdictions and that benefit both Jurisdictions;

(8) expenditures for programs, facilities, equipment and activities that provide for the disposal of waste generated within the Jurisdictions by means other than incineration at the Facility and recycling, that are sponsored, constructed, acquired or undertaken jointly by the Jurisdictions and that benefit both Jurisdictions; and

(9) expenditures for waste recycling programs, facilities, equipment and activities that are sponsored, constructed, acquired or undertaken separately by either Jurisdiction and that solely benefit that Jurisdiction; provided, that, except as otherwise provided in this paragraph, expenditures made under this paragraph in any fiscal year on behalf of one Jurisdiction shall not exceed those made on behalf of the other; provided further, that expenditures made under this paragraph in any fiscal year which involve surcharge monies deposited into the trust fund pursuant to Section 4.21 of the Amended and Restated Facility Construction and Operation Agreement shall reflect the ratio of the amount of waste to be delivered to the Facility by each Jurisdiction under that Agreement, which ratio in 1990 is 1.5 (Arlington County) to 1 (City of Alexandria); provided further, that the ratio stated in the prior proviso may, upon the request of either Jurisdiction, be altered by the trustees to reflect the ratio of the amount of waste which the trustees find to have been actually delivered to the Facility by each Jurisdiction during the 12-month period ending on the last day of the month immediately preceding the month in which the request is made; provided further, that the ratio referenced in the two prior provisos may be altered by agreement of the two Jurisdictions, as set forth in a resolution adopted by their governing bodies.

4. This Amendment amends the Agreement only in the manner set out above. In all other respects, the Agreement remains in full force and effect.

IN WITNESS WHEREOF, the Jurisdictions have caused this
Amendment No. 1 to be executed and sealed as of this 1st day of
July, 1990.

Attest:

CITY OF ALEXANDRIA, VIRGINIA

By: Beverly J. Jett

By: Henry Howard
for Vola Lawson
City Manager

Approved as to form:

PS
City Attorney

Attest:

ARLINGTON COUNTY, VIRGINIA

By: Juan C. Harms

By: Anton S. Gardner
Anton S. Gardner
County Manager

AMENDMENT NO. 2

This AMENDMENT NO. 2, dated as of July 1, 1998 (this "Amendment No. 2"), is between the City of Alexandria, Virginia (the "City"), and Arlington County, Virginia (the "County") and amends the Amended and Restated Waste Disposal Trust Fund Cooperative Agreement, dated as of October 1, 1985, as amended by Amendment No. 1, dated as of July 1, 1990 (as so amended, the "Original Trust Agreement"), each between the City and the County (collectively, the "Jurisdictions").

WHEREAS, pursuant to the Original Trust Agreement the City and the County have established a trust fund (the "Trust Fund") to be held jointly by the City and the County as a reserve for future expenditures for waste disposal and to be applied for the uses and purposes set forth in Section 3 of the Original Trust Agreement;

WHEREAS, pursuant to that certain Amended and Restated Facility Construction and Operation Agreement, dated as of October 1, 1985, as amended (as so amended, the "Facility Agreement"), among the Alexandria Sanitation Authority (the "Alexandria Authority"), the Arlington Solid Waste Authority (the "Arlington Authority" and together with the Alexandria Authority, the "Authorities"), the City, the County and Ogden Martin Systems of Alexandria/Arlington, Inc. (the "Company"), the Authorities, the Jurisdictions and the Company have agreed to certain terms and conditions relating to the construction and operation of that certain waste-to-energy facility described therein (the "Facility");

WHEREAS, the Industrial Development Authority of the City of Alexandria has heretofore issued its Weekly Adjustable/Fixed Rate Resource Recovery Revenue Bonds, Series 1984 (Alexandria/Arlington Waste-to-Energy Facility) (the "Series 1984 Bonds") to finance construction of the Facility under and pursuant to that certain Trust Indenture, dated as of December 1, 1984, as amended (as so amended, the "Bond Indenture"), between the Issuer and United Virginia Bank, as trustee;

WHEREAS, concurrently with the execution and delivery of this Amendment, the Industrial Development Authority of Arlington County, Virginia is issuing \$55,025,000 aggregate principal amount of its Resource Recovery Revenue Refunding Bonds, Series 1998A (Alexandria/Arlington Waste-to-Energy Facility) (the "Series 1998A Refunding Bonds"), for the purpose of providing funds sufficient to defease and redeem the Series 1984 Bonds in accordance with the Bond Indenture;

WHEREAS, in connection with the issuance of the Series 1998 Refunding Bonds, the Trustees of the Trust Fund and the Company are entering into a Company Reimbursed Costs Agreement, dated as of July 1, 1998 (the "Company Reimbursed Costs Agreement"), pursuant to which certain unamortized costs of issuance and certain negative arbitrage during escrow relating to the Series 1984 Bonds shall be paid to the Company from the Trust Fund in accordance with the terms of said agreement; and

WHEREAS, the Jurisdictions have agreed to amend the Original Trust Fund Agreement to authorize the Trustees to enter into the Company Reimbursed Costs Agreement, to apply moneys on deposit in the Trust Fund to the payment of amounts payable to the Company by the Jurisdictions under the Company Reimbursed Costs Agreement and amounts payable to the Company by the Jurisdictions under the Facility Agreement and under agreements between the Company and the Jurisdictions related to Other Disposal Contracts (as defined in the Facility Agreement) entered into by the Company pursuant to the Facility Agreement;

NOW, THEREFORE, the parties to this Amendment No. 2 hereby agree as follows:

1. ***Amendment of Section 1 of the Original Trust Agreement.*** Section 1 of the Original Trust Agreement is hereby amended as follows:

(a) The definition of the term "Company" is hereby amended to read in its entirety as follows:

"Company" means Ogden Martin Systems of Alexandria/Arlington, Inc., and its permitted successors and assigns.

(b) A definition for the term "Company Reimbursed Costs Agreement" is hereby inserted following the definition of the term "Company", reading in its entirety as follows:

"Company Reimbursed Costs Agreement" means that certain Company Reimbursed Costs Agreement, dated as of July 1, 1998, among the Trustees and the Company, as the same may be amended and supplemented from time to time.

(c) The definition of the term "Facility Agreement" is hereby deleted and a new definition of the term "Facility Agreement" is inserted after the term "Facility", reading in its entirety as follows:

"Facility Agreement" means the Amended and Restated Facility Construction and Operation Agreement, dated as of October 1, 1985, among the Public Owners, the Jurisdictions and the Company, as the same may be amended from time to time.

2. ***Amendment of Section 3 of the Original Trust Agreement.*** Paragraph (4) of Section 3 of the Original Trust Agreement is hereby amended to read in its entirety as follows:

(4) fees and expenses (I) of an independent public accountant for the audit of the annual financial statement of the Public Owners, (ii) of persons retained by the Trustees to provide services related to the operation and maintenance of, or the provision of construction services at, the Facility, and (iii) associated with the issuance of bonds, including the Series 1998A Bonds, for the Facility.

Section 3 of the Original Trust Agreement is hereby amended by the addition of a new paragraph which shall be inserted immediately following the current conclusion thereof and which shall read in its entirety as follows:

In addition to the foregoing uses and purposes, moneys in the Trust Fund shall be applied (I) to the payment of all Company Reimbursed Costs (as defined in the Company Reimbursed Costs Agreement) when due in accordance with the Company Reimbursed Costs Agreement., (ii) to the payment, on behalf of the City and the County of Underpayments arising under Section 5(a) of Schedule 10 of the Facility Agreement or of other obligations arising under the Facility Agreement, and (iii) to the payment of amounts owed to the Company pursuant to the letter dated May 29, 1998 between the City, the County and the Company relating to the Guaranteed Waste Delivery Agreement with BFI Waste Systems of North America, Inc., and pursuant to similar Agreements between the City, the County and the company relating to Other Disposal Contracts.

3. ***Amendment of Section 8 of the Original Trust Agreement.*** The third paragraph of Section 8 of the Original Trust Agreement is hereby amended to read in its entirety as follows:

The Trustees may enter into contracts in connection with the administration of the Trust Fund and with any of the uses to which moneys on deposit in the Trust Fund may be applied under Section 3 of this Agreement, and shall enter into the Company Reimbursed Costs Agreement and such other contracts, agreements, and other instruments as the Trustees deem necessary in connection with the Facility and consistent with the uses and purposes of the Trust Fund.

4. **Effect on Original Trust Agreement.** This Agreement No. 2 amends the Original Trust Agreement only to the extent provided herein. All of the terms of the Original Trust Agreement not specifically amended by this Amendment No. 2 are hereby ratified and affirmed by the parties hereto and remain in full force and effect.

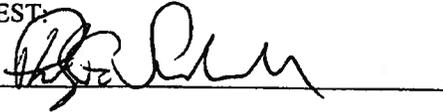
5. **Effective Date.** This Amendment No. 2 shall become effective immediately upon the execution and delivery hereof.

IN WITNESS WHEREOF, the Jurisdictions have caused this Amendment No. 2 to be executed and sealed as of this 1st day of July, 1998.

(SEAL)

ATTEST:

By: _____



CITY OF ALEXANDRIA, VIRGINIA

By: _____



(SEAL)

ATTEST:

By: _____

ARLINGTON COUNTY, VIRGINIA

By: _____

The Trustees may enter into contracts in connection with the administration of the Trust Fund and with any of the uses to which moneys on deposit in the Trust Fund may be applied under Section 3 of this Agreement, and shall enter into the Company Reimbursed Costs Agreement and such other contracts, agreements, and other instruments as the Trustees deem necessary in connection with the Facility and consistent with the uses and purposes of the Trust Fund.

4. **Effect on Original Trust Agreement.** This Agreement No. 2 amends the Original Trust Agreement only to the extent provided herein. All of the terms of the Original Trust Agreement not specifically amended by this Amendment No. 2 are hereby ratified and affirmed by the parties hereto and remain in full force and effect.

5. **Effective Date.** This Amendment No. 2 shall become effective immediately upon the execution and delivery hereof.

IN WITNESS WHEREOF, the Jurisdictions have caused this Amendment No. 2 to be executed and sealed as of this 1st day of July, 1998.

(SEAL)

CITY OF ALEXANDRIA, VIRGINIA

ATTEST:

By: _____

By: _____

(SEAL)

ARLINGTON COUNTY, VIRGINIA

ATTEST:

By: William T. Donahue

By: Michelle H. Cowan