

35.1

**OSCEOLA COUNTY BOARD OF COUNTY COMMISSIONERS
AGENDA REQUEST**

DEPARTMENT:	PUBLIC WORKS ADMINISTRATION	MEETING DATE:	APRIL 1, 2019
DIVISION/OFFICE:	PUBLIC WORKS	MEETING TYPE:	ADDENDUM
DIRECTOR/MANAGER:	DANIELLE SLATERPRYCE	REQUEST TYPE:	CONSENT

AGENDA REQUEST

Page 7, NEW Consent Agenda Item #35.1: Approval and authorization for the Chair/Vice Chair to sign the First Supplement to Amended Agreement with Waste Connections of Osceola County, LLC, for Solid Waste Management Service as requested by the contractor for authorization to accept and dispose of coal combustion residuals from coal fired power plants shipped from Puerto Rico; contractor shall pay the \$2.00 Host Fee described in clause (1).of subsection 8(A) of the Amended Agreement to the County for each ton of Imported Coal Ash accepted and disposed of at the JED Disposal Facility; the County waives payment of Host Fees described in clauses (2) and (3) of subsection 8(A) for Imported Coal Ash accepted and disposed of at the JED Disposal Facility; the term of this First Supplement shall commence on April 01, 2019, and expire on December 31, 2019. Commission District 5.

STRATEGIC PLAN

Grow and Diversify the County's Economy

FINANCIAL INFORMATION

TOTAL REQUESTED AMOUNT: \$ 0

Per the Amended Agreement the County will receive \$2.00 per ton, however the estimated tonnage is not yet known.

APPROVING DEPARTMENTS

COUNTY ATTORNEY

BACKGROUND INFORMATION

- First Supplement to Amended Agreement with Waste Connections of Osceola County, LLC formerly known as Omni Waste of Osceola County, LLC, a Florida limited liability company.
- Contractor entered into an Agreement for Solid Waste Management Services on March 25, 2002 and agreed to provide certain Solid Waste management and disposal services for the County.
- The Contractor is authorized to accept and dispose of Imported Coal Ash at the JED Disposal Facility, subject to compliance with all State and Federal permits, laws and regulations.
- Commission District: 5
- Project Manager: Danielle Slaterpryce, Public Works Director

**FIRST SUPPLEMENT TO AMENDED AGREEMENT
FOR SOLID WASTE MANAGEMENT SERVICES**

THIS FIRST SUPPLEMENT TO AMENDED AGREEMENT FOR SOLID WASTE SERVICES (this "First Supplement"), is made and entered into as of April 1, 2019, by and between Osceola County, a charter county and political subdivision of the State of Florida (the "County") and Waste Connections of Osceola County, LLC, formerly known as Omni Waste of Osceola County, LLC, a Florida limited liability company (the "Contractor"). Capitalized terms not otherwise defined herein shall have the meanings set forth in the Amended Agreement for Solid Waste Management Services, dated as of October 1, 2012 (the "Amended Agreement").

WITNESSETH:

WHEREAS, the County and the Contractor entered into an Agreement for Solid Waste Management Services on March 25, 2002 (the "2002 Agreement") whereby Contractor agreed to provide certain Solid Waste management and disposal services for the County; and

WHEREAS, the County and the Contractor subsequently entered into the Amended Agreement for the purpose of amending and extending the 2002 Agreement; and

WHEREAS, the Contractor has complete operational control of the JED Disposal Facility and is fully responsible for any environmental or other damages resulting from operation of the JED Disposal Facility; and

WHEREAS, the Contractor is allowed to accept and dispose of Solid Waste from any county within the State of Florida; provided that the volume of Solid Waste accepted shall not exceed amounts established or permitted under State or Federal permits, State or Federal law or State or Federal regulation; and

WHEREAS, the Contractor has requested authorization to accept and dispose of coal combustion residuals from coal-fired power plants shipped from Puerto Rico ("Imported Coal Ash"); and

WHEREAS, due to the significant volume of Imported Coal Ash anticipated to be accepted and disposed of at the JED Facility, the Contractor has further requested a reduction in the Host Fee otherwise payable under the Amended Agreement during the term of this First Supplement; and

WHEREAS, the County has agreed to supplement the Amended Agreement for the purpose of authorizing the acceptance and disposal of Imported Coal Ash and reduce the Host Fee payable in respect thereof;

NOW THEREFORE, in consideration of the mutual covenants contained herein, the sufficiency of which is hereby acknowledged, the parties hereto agree as follows:

SECTION 1. RECITALS. The parties acknowledge and agree that the foregoing recitals are true and correct, are hereby incorporated herein by reference, and form a material part of this First Supplement.

SECTION 2. TERM. The term of this First Supplement shall commence on April 1, 2019 and expire on December 31, 2019.

SECTION 3. IMPORTED COAL ASH.

(A) The Contractor is hereby authorized to accept and dispose of Imported Coal Ash at the JED Disposal Facility, subject to compliance with all State and Federal permits, laws and regulations.

(B) The Contractor shall pay the \$2.00 Host Fee described in clause (1) of subsection 8(A) of the Amended Agreement to the County for each ton of Imported Coal Ash accepted and disposed of at the JED Disposal Facility. The County waives payment of Host Fees described in clauses (2) and (3) of subsection 8(A) for Imported Coal Ash accepted and disposed of at the JED Disposal Facility.

(C) The Contractor shall maintain scale house records of the Imported Coal Ash separate from the records of other Acceptable Waste accepted and disposed of at the JED Disposal Facility.

(D) Nothing in this First Supplement shall be deemed to constitute the creation of a joint venture or partnership relationship between the County and the Contractor.

SECTION 4. PUBLIC RECORDS.

(A) IF THE CONTRACTOR HAS QUESTIONS REGARDING THE APPLICATION OF CHAPTER 119, FLORIDA STATUTES, TO THE CONTRACTOR'S DUTY TO PROVIDE PUBLIC RECORDS RELATING TO THIS FIRST SUPPLEMENT, CONTACT THE CUSTODIAN OF PUBLIC RECORDS AT

Public Information Office
1 Courthouse Square, Suite 4400
Kissimmee, FL 34741
407-742-0100
BCCPIO@osceola.org

(B) The Contractor understands that by virtue of this First Supplement all of its documents, records and materials of any kind, relating to the relationship created hereby, shall be open to the public for inspection in accordance with Florida law. If the Contractor will act on behalf of the County, as provided under section 119.011(2), Florida Statutes, the Contractor, subject to the terms of section 287.058(1)(c), Florida Statutes, and any other applicable legal and equitable remedies, shall:

(1) Keep and maintain public records required by the County to perform the service.

(2) Upon request from the County's custodian of public records, provide the County with a copy of the requested records or allow the records to be inspected or copied within a reasonable time at a cost that does not exceed the cost provided by Florida law.

(3) Ensure that public records that are exempt or confidential and exempt from public records disclosure requirements are not disclosed except as authorized by law for the duration of the term of this First Supplement and following completion of this First Supplement if the Contractor does not transfer the records to the County.

(4) Upon completion of this First Supplement, transfer, at no cost, to the County all public records in possession of the Contractor or keep and maintain public records required by the County to perform the service. If the Contractor transfers all public records to the County upon completion of this First Supplement, the Contractor shall destroy any duplicate public records that are exempt or confidential and exempt from public records disclosure requirements. If the Contractor keeps and maintains public records upon completion of this First Supplement, the Contractor shall meet all applicable requirements for retaining public records. All records stored electronically must be provided to the County, upon request from the County's custodian of public records, in a format that is compatible with the information technology systems of the County.

(5) If the Contractor does not comply with a public records request, the County shall enforce this Section in accordance with the Amended Agreement.

SECTION 5. SEVERABILITY. If any term, condition, covenant or obligation of this First Supplement is declared illegal, void or unenforceable, the remaining terms will not be affected but will remain in full force and effect, and this First Supplement shall be construed as if such illegal, void, or unenforceable provision had never been contained herein.

SECTION 6. SURVIVABILITY. Any term, condition, covenant, or obligation which requires performance by a party subsequent to termination of this First Supplement shall remain enforceable against such party subsequent to such termination.

SECTION 7. COMPLETE AGREEMENT. This First Supplement embodies all of the agreements of the parties relating to its subject matter, supersedes all prior understandings and agreements regarding such subject matter, and may be amended, modified, or supplemented only by an instrument or instruments in writing executed by all of the parties.

SECTION 8. COUNTERPARTS. This First Supplement may be executed in multiple counterparts. Each such counterpart shall be deemed an original of this Amended Agreement, so that in making proof of this First Supplement, it shall only be necessary to produce or account for one such counterpart.

SECTION 9. STATUS OF AMENDED AGREEMENT. During their respective terms, this First Supplement shall become an integral part of the Amended Agreement. Except as expressly modified by this First Supplement, the Amended Agreement shall be and remain in full force and effect.

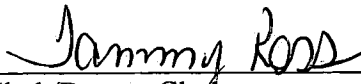
IN WITNESS WHEREOF, the County and the Contractor have caused this First Supplement to be duly executed and delivered as of the day and year first above written.

OSCEOLA COUNTY, FLORIDA

By: 
Chair/Vice Chair
Board of County Commissioners

(SEAL)

ATTEST:


Clerk/Deputy Clerk

As authorized for execution at the Board of County Commissioners meeting held on April 1, 2019



WASTE CONNECTIONS OF OSCEOLA COUNTY, LLC

By: 
Robert Nielsen, Regional Vice President

WITNESSES:

