

STATE OF GEORGIA

COUNTY OF CLARKE

CONTRACT FOR USE OF LANDFILL

THIS CONTRACT, made and entered into this 5<sup>th</sup> day of August, 1992 between THE UNIFIED GOVERNMENT OF ATHENS-CLARKE COUNTY, GEORGIA, a body corporate and politic and a political subdivision of the State of Georgia, hereafter called "Athens-Clarke County", and THE BOARD OF COMMISSIONERS OF OGLETHORPE COUNTY, GEORGIA, a political subdivision of the State of Georgia, hereafter referred to as "Oglethorpe County",

W I T N E S S E T H :

WHEREAS, Athens-Clarke County is the owner of land in Oglethorpe County which is adjacent to the existing Athens-Clarke County Landfill, and

WHEREAS, Oglethorpe County is approaching full capacity at its current landfill, and

WHEREAS, Athens-Clarke County and Oglethorpe County agree to develop the land in Oglethorpe County presently owned by Athens-Clarke County for landfill purposes, as shown on Exhibit "B" and designated as Parcel C of the Potentiometric Map (revised dated 4/3/92) of the EPD approved Site Suitability Study, and

WHEREAS, Oglethorpe County is attempting to obtain approval for its current landfill to be used for inert materials and construction/demolition debris for the joint use of Athens-Clarke County and Oglethorpe County, and

WHEREAS, Athens-Clarke County and Oglethorpe County desire to develop a strategy that addresses the short term, interim and long term landfill, recycling, and all other waste management needs of both counties; and

WHEREAS, both counties realize that the first step in addressing this strategy is to enter into a contract regarding the use of the present Athens-Clarke County Landfill for solid wastes and the possible use of the Oglethorpe County landfill for inert material and construction/demolition debris,

NOW THEREFORE, for and in consideration of the mutual promises and benefits set out below, it is agreed between the parties as follows:

#### 1. TIPPING FEES

a. Athens-Clarke County and Oglethorpe County shall pay the published tipping fee for use of the Athens-Clarke County Landfill as recorded at the Athens-Clarke County Landfill, and as approved by the Athens-Clarke County Commission.

b. Athens-Clarke County and Oglethorpe County shall pay the published tipping fee for use of the Oglethorpe County Landfill for inert wastes and construction/demolition wastes, as recorded at the Oglethorpe County Landfill, and as approved by the Oglethorpe County Board of Commissioners.

c. Fees are to be reviewed annually and, as appropriate, updated. The annual review of fees should consider cost elements similar to those evaluated in the "Landfill Tipping Fee Analysis" attached hereto as "Exhibit A".

d. Athens-Clarke County agrees to defer all fees, with no interest, incurred by Oglethorpe County for a period of six (6) months from the date Oglethorpe County begins to dispose solid wastes in the Athens-Clarke County Landfill. This deferment is based on the recognition that Oglethorpe County shall have significant start-up expenses in connection with this contract. The first payment on this deferred amount shall be due at the end of the twelfth (12th) month after solid waste is placed in land located in Oglethorpe County and owned by Athens-Clarke County or on January 1, 1995, whichever date is later. Payment of this deferment shall be made on a monthly basis, in an amount equal to five percent (5%) of the total deferred fees, until the deferred amount is paid in full.

e. Each party shall be billed at the end of every month with the fees being due and payable by the last day of the following month. If said fees are not received by the Athens-Clarke County Finance Department, or the Oglethorpe County Commission, by the due date, a 10% penalty on any balance due shall be assessed. If all past due amounts are not received within ninety (90) days of the date of billing, the government responsible for the operation of the respective landfill shall not accept any solid wastes or inert and/or construction/demolition wastes for disposal until the amounts are paid in full by the owing party, and/or shall take appropriate action to collect amounts owed.

f. Changes in Tipping Fees shall be reviewed by the Joint Solid Waste Coordinating Committee, as outlined in Section 14 of this document, prior to implementation by either government.

## 2. HOST FEES

a. The "host county" shall be that County in which the landfill property, currently receiving solid wastes for disposal, is located. The "non-host county" shall be that County which is depositing wastes within the boundaries of the host county.

b. The host county shall receive a one dollar (\$1.00) per ton host fee, from the approved and published tipping fee, on the total waste weight/volume entering the Athens-Clarke County Landfill. The weight/volume totals are to be accumulated monthly with a copy being available to either county upon request. Said host fee shall increase at the rate of five (5) cents for every one (1) dollar, or part thereof, increase in the tipping fee (exclusive of host fee). For the purpose of future calculations, the initial tipping fee for the Athens-Clarke County Landfill is established at \$11.00 per ton. Any host fee charged by Oglethorpe County for the inert and/or construction/demolition landfill shall not exceed, on a percentage basis (host fee divided by tipping fee), that charged at the landfill operated by Athens-Clarke County for municipal solid waste.

c. The host fee for the preceding month shall be due and payable by the last business day of the following month. If said fees are not received by the Athens-Clarke County Finance Department, or the Oglethorpe County Commission, by the due date, a 10% penalty on any balance due shall be assessed. If all past due amounts are not received within ninety (90) days of the date of billing, the government responsible for the operation of the respective landfill shall not accept any solid wastes or inert

and/or construction/demolition wastes for disposal until the amounts are paid in full by the owing party, and/or shall take appropriate action to collect amounts owed.

### **3. TERM OF CONTRACT**

a. This contract shall begin on the date of execution of this contract by both parties and shall remain in effect until such time as the existing Athens-Clarke County Landfill is no longer in operation, unless terminated by the action of either Athens-Clarke County or Oglethorpe County, as specified in Section 16.

b. The non-host county shall give thirty (30) days' written notice to the host county of its intent to begin disposing wastes in their respective landfills.

### **4. WASTE TRANSPORTATION**

Each party shall be responsible for providing its own waste transportation to the Athens-Clarke County Landfill or the Oglethorpe County Landfill.

### **5. COMPLIANCE WITH ORDINANCES**

Both parties agree that they will comply with all present and future Athens-Clarke County Ordinances, policies and regulations regarding the use and operation of the Athens-Clarke County Landfill and all present and future Oglethorpe County Ordinances, policies and regulations regarding the use and operation of the Oglethorpe County Landfill. Both parties shall have prior notification and opportunity for input on any proposed changes or

revisions to these ordinances and/or policies before said changes or revisions are implemented as provided in Section 14. Athens-Clarke County agrees to amend its present Landfill Ordinance to prohibit the disposal of inert wastes (with the exception of yard trimmings) and construction/demolition wastes in the Athens-Clarke County Landfill when the Oglethorpe County Landfill becomes permitted as an inert wastes and construction/demolition wastes landfill.

#### **6. PERMIT REQUIREMENTS**

Athens-Clarke County shall be responsible for all regulations regarding the management of the Athens-Clarke County Landfill that are required under any Georgia Department of Natural Resources - Environmental Protection Division (EPD) permit(s). Oglethorpe County shall be responsible for all regulations regarding the management of the Oglethorpe County Landfill that are required under any EPD permit(s).

#### **7. ORIGIN OF WASTE**

The host county agrees to accept solid waste generated within the boundaries of the non-host county. Anyone depositing waste in either landfill under this paragraph shall comply with all present and future ordinances, policies and regulations regarding the use and operation of said landfill.

#### **8. RESTRICTIONS ON USE OF BOTH LANDFILLS**

Both parties agree to prohibit the placement of solid waste,

inert materials, or construction/demolition debris originating outside the geographical limits of Athens-Clarke County and Oglethorpe County within either of the current landfill areas. Any and all exceptions to this restriction must be approved, in writing, by both the Athens-Clarke County and Oglethorpe County Commissions.

#### **9. USE OF LAND IN OGLETHORPE COUNTY**

It is specifically agreed by the parties that expansion of the existing Athens-Clarke County Municipal Solid Waste Landfill shall be limited to the areas designated as Parcels B & C on the Potentiometric Map (revised dated 4/3/91) of the EPD approved Site Suitability Study and attached hereto as Exhibit B.

Should Oglethorpe County decide for any reason to terminate this contract, it agrees that Athens-Clarke County shall be allowed continued use of Parcel C, as more particularly described on the Potentiometric Map referenced above, for landfill purposes without any recourse or interference from Oglethorpe County.

#### **10. DIVISION OF FEES**

a. Recycling elements of the tipping fee structure, similar to that element identified as "recycling" in Exhibit A, shall be distributed each month to the respective counties based on their pro-rata share of the monthly usage at the landfill including any such fee element in the tipping fee structure. Each county's percentage, of this element of the tipping fee, during any year will be determined by multiplying the estimated population for the

county, for the calendar year prior to the calendar year in which the fees are being paid, times the annual average per capita tons of solid waste generated by each county's population during the previous calendar year divided by the total number of tons of solid waste placed in the landfill during the previous calendar year (see Exhibit "D"). The annual, or most recent, population estimates of the U.S. Bureau of Census (Series P-26) will be used for each year's calculation, unless an alternate method is agreed to by the Joint Solid Waste Coordinating Committee. The recycling fees distribution percentages shall be recalculated each year upon the availability of the above noted census estimates, but by not later than July 1 of each year, and shall remain in effect for the next twelve (12) months or until next calculated. Further, for the purpose of calculating this fee, the annual average per capita generation of solid waste for Oglethorpe County will not be less than 0.6388 tons (3.5 pounds per capita per day).

These fees shall be paid within the month following the month in which the fees are collected.

b. Should either party desire to terminate this contract, the monies collected, from the future site development element of the landfill tipping fees, similar to that defined as "future site development cost" in Exhibit A, will be distributed to the respective counties based on their pro-rata share of the landfill usage during the life of this contract. Upon termination of this contract, as provided for in Section 16, such funds shall be distributed to each county within ninety (90) days of their written request for such funds. Each county's yearly percentage, of this

element of the landfill tipping fee, will be based on the estimated population for the county, for each of the calendar years in which fees were paid, times the annual average per capita tons of solid waste generated by each county's population during that calendar year divided by the total number of tons of solid waste placed in the landfill during that calendar year. The total payment to each county shall be the sum of the yearly contributions of each county plus accrued interest, as calculated using the above defined method, during the life of this contract.

The annual, or most recent, population estimates of the U.S. Bureau of Census (Series P-26) will be used for each year's calculation, unless an alternate method is agreed to by the Joint Solid Waste Coordinating Committee. Further, for the purpose of calculating this fee, the annual average per capita generation of solid waste for Oglethorpe County will be no less than 0.6388 tons (3.5 pounds per capita per day).

c. The future site development element of the landfill tipping fees shall be maintained separately in a manner to be determined by the Joint Solid Waste Coordinating Committee. The division of the account on termination of this agreement shall be governed by this contract.

d. All other elements of the tipping fees, unless jointly agreed at some future time, shall be retained by the operating jurisdiction.

#### **11. RECYCLING AND WASTE REDUCTION**

Both parties agree that they will engage in developing

# From Landfill Use Agreement

recycling and waste reduction strategies in their respective counties in order to achieve the solid waste reduction goal outlined in the Georgia Solid Waste Management Act of 1990.

## 12. CLOSURE

Both parties agree that each party shall be responsible for closure of their respective landfills.

## 13. POST CLOSURE USE

a. After closure of the portion of the Athens-Clarke County Landfill located in Oglethorpe County, the land will be developed in accordance with a plan that is mutually acceptable to both counties.

b. The utilization and funding for said project shall be negotiated at the time of development of the use plan.

## 14. JOINT SOLID WASTE COORDINATING COMMITTEE

a. Both parties agree that a Joint Solid Waste Coordinating Committee shall be established consisting of three (3) appointments from each county. This committee shall meet on a regularly scheduled basis as mutually agreed upon by the members, or as called by the Chairman/Chief Elected Officer of either County.

b. The members of the Committee shall elect a Chairman from its members who shall serve for a term of one (1) year. The chairmanship shall alternate yearly between the two counties. The Chairman shall be a voting member of the Committee.

c. The purpose of this Committee shall be to keep each

county informed of any developments on solid waste management at a local, state and national level, to discuss any changes in fees, policies, regulations and ordinances at both landfills, to attempt to resolve any problems or disputes that may arise between the parties, and to develop strategies for the further implementation of the intent of this agreement relative to joint long range solid waste management programs.

#### 15. MEDIATION

Should a dispute arise between the parties that cannot be resolved through the Joint Solid Waste Coordinating Committee or by the governing bodies, both parties agree that as an alternative to a court proceeding, non-binding mediation shall be utilized prior to any lawsuit being filed. This mediation shall be governed according to the rules and regulations promulgated in the Georgia Planning Act of 1989 as a part of the Growth Strategies law, a copy of which is attached hereto as "Exhibit C".

#### 16. TERMINATION OF CONTRACT

a. This contract shall be valid for the duration of the life of the Athens-Clarke County Landfill, or the Oglethorpe County Construction/Demolition Landfill, whichever date is later, unless sooner terminated. Should either party desire for any reason to terminate this contract, that party shall give the other party a minimum thirty-six (36) months' written notice of its intent to terminate.

b. All outstanding debts owed by either party to the other

shall be paid as of the date of termination.

#### 17. CHANGES TO THE CONTRACT

This contract contains the entire understanding between the parties and there shall be no changes to this contract unless agreed to in writing by both governing bodies. This Contract may be renegotiated if there is a substantial change in the status or usability of the Athens-Clarke County Landfill or the Oglethorpe County Landfill.

IN WITNESS WHEREOF, the parties have set their hands and seals to this contract on the day and year first above written.

THE UNIFIED GOVERNMENT OF  
ATHENS-CLARKE COUNTY, GEORGIA

BY: John A. Looney  
CHIEF ELECTED OFFICER

ATTEST: Jean A. Smith  
CLERK OF COMMISSION

OGLETHORPE COUNTY, GEORGIA

BY: W.A. Bryant  
CHAIRMAN

ATTEST: Judy M. Paul  
CLERK OF COMMISSION