RESOLUTION R16-133

A RESOLUTION AUTHORIZING THE ENTERING INTO A CONTRACT WITH LAMAR COUNTY WITH RESPECT TO THE WASTE TRANSFER STATION; AUTHORIZING THE CITY CLERK TO ATTEST SIGNATURES AND AFFIX THE OFFICIAL SEAL OF THE CITY, AS NECESSARY; REPEALING INCONSISTENT RESOLUTIONS; PROVIDING FOR AN EFFECTIVE DATE; AND FOR OTHER PURPOSES.

WHEREAS, the City of Stockbridge ("City") is a municipal corporation located within Henry County, Georgia duly organized and existing under the laws of the State of Georgia and is charged with providing public services to residents located within the corporate limits of the City; and

WHEREAS, the City finds it necessary and desirable to enter into a contract with Lamar County with respect to the City's waste transfer station;

THEREFORE, IT IS NOW RESOLVED BY THE CITY COUNCIL OF THE CITY OF STOCKBRIDGE, GEORGIA, AS FOLLOWS:

1. **Approval of Execution.** The City Council hereby approves the contract with Lamar County, attached hereto as Exhibit A and the Mayor or Mayor Pro Tem is hereby authorized to execute said contract with such changes as are recommended by the City Attorney.

2. **Documents.** The City Clerk is authorized to execute, attest to, and seal any documents which may be necessary to effectuate the amendment, subject to approval as to form by the City Attorney.

3. **Severability.** To the extent any portion of this Resolution is declared to be invalid, unenforceable or non-binding, that shall not affect the remaining portions of this Resolution.

4. **Repeal of Conflicting Provisions.** All City resolutions are hereby repealed to the extent they are inconsistent with this Resolution.

5. **Effective Date.** This Resolution shall be effective on the date of its approval by the City Council and Mayor as provided in the City Charter.

SO RESOLVED this 13th day of June, 2016.

ANTHONY S. FORD MAYOR PRO TEM

ATTEST:

VANESSA HOLIDAY, CITY CLERK (SEAL)

APPROVED AS TO FORM:

MICHAEL WILLIAMS, CITY ATTORNEY

A. Construction and Demolition Waste (hereinafter referred to as "CDW") means and includes all waste materials generated from the construction and demolition of residential, commercial and industrial buildings and improvements located thereon.

B. Municipal Solid Waste (hereinafter referred to as "MSW") means and includes any waste material generated by a residential household, a commercial business or industrial plant.

C. Inert Waste (hereinafter referred to as "IW") means and includes leaves, sticks, limbs, roots and trees.

D. Hazardous Waste (hereinafter referred to as "HW") means and includes any material defined as such by applicable Environmental Laws, including without limitation, Section 101(14) of the Comprehensive Environmental Response, Compensation and Liability Act (CERCLA), and in quantities or concentrations that violate any such Environmental Laws.

SECTION TWO – DESCRIPTION OF LEASED PREMISES

Subject to the conditions, stipulations, restrictions and reservations hereinafter more fully set forth, Lessor, by these presents, does lease, let and demise unto Lessee the following described property (hereinafter the "Premises"):

ALL THAT TRACT OR PARCEL OF LAND LYING IN LAND
LOT 36 OF THE 12TH DISTRICT OF HENRY COUNTY BEING
MORE PARTICULARLY DESCRIBED IN DRAWINGS SHOWN
IN EXHIBIT "A" HERETO ATTACHED AND MADE A PART HEREOF

Provided, however, the parties agree to extend the boundary of the Southwestern corner of the leased Premises for the purpose of improving the turning radius of trucks entering the site. The exact relocation of such boundary shall be subject to Lessor's approval.

SECTION THREE – TERM AND RENEWAL OF LEASE

The term of this Lease is from the date hereof until April 30, 2026.

SECTION FOUR – USE OF PREMISES

The demised Premises may be used by Lessee to conduct a Waste ("CDW", "MSW" and "IW") Transfer Station. Lessee shall at all times fully and properly comply with all laws, ordinances and regulations of every lawful authority having jurisdiction of said Premises.

SECTION FIVE – SUBLEASING

Lessee shall not sublease or assign all or part of its rights and duties hereunder.

SECTION SIX – RENTAL

The monthly rental shall be determined as set forth in Exhibit "B" hereto attached and made a part hereof and shall be paid on or before the 30th day of each month commencing the month after the date of execution of this Lease, and each month thereafter during the term of this Lease.

SECTION SEVEN – FORFEITURE FOR FAILURE TO PAY RENT

The Lessor hereby agrees that Lessee, upon paying the rents as stipulated in Exhibit "B", and performing all of the stipulations, agreements and covenants herein contained, shall and may peaceably and quietly have, hold and enjoy said Premises during the term hereof, free from the adverse claims of any person, firm or corporation.

If the rent above referred to, or any part thereof, shall not be paid on the date of payment by the terms hereof, or any other covenant or agreement shall not be performed, and remain so for a period of ten (10) days after the written notice shall have been sent by certified mail to Lessee, then and in such case it

shall be lawful for Lessor, at its option, to declare the said term ended and enter into said demised Premises or any part thereof, either with or without process of law, and expel the said Lessee, or any person or persons occupying, in or upon said Premises, using such force as may be necessary to do so, and so to repossess and enjoy the said Premises as in Lessor's former estate, and Lessee agrees to hold Lessor harmless in regard to any action taken. Should the said term at any time be ended by the election of Lessor, under the terms and conditions hereof, or in any other way, Lessee hereby covenants and agrees to surrender and deliver up the same demised Premises peaceably to Lessor immediately upon the termination of the said term.

SECTION EIGHT – LESSEE TO PAY TAXES, ETC.

The Lessee shall pay all taxes, assessments and other charges which may be levied, assessed or charged against the demised Premises and all improvements located therein, on or before the due date and furnish Lessor with a copy of the paid receipt within ten (10) days of said due date. Failure to make such payments shall constitute default under this Lease.

SECTION NINE – INSURANCE

The Lessee shall maintain comprehensive casualty insurance on the subject Premises in an amount equal to the replacement value of all improvements, specifically naming Lessor and Lessee as loss payees. Should the building constructed on the Premises herein be partially or totally destroyed by fire or other casualty, Lessee will, with all due diligence, and to the extent covered by its insurance, repair or restore the same so that thereafter the property shall be substantially the same as prior to such damage or injury.

The Lessor shall not be liable for any damage to property or person by reason of Lessee's occupancy of the leased Premises, and Lessee agrees to save Lessor harmless from all claims for damages to property or person occurring in or on the leased Premises. The Lessee further specifically agrees that it will procure and keep in force public liability insurance in an amount of not less than one million dollars ($1,000,000.00) specifically naming Lessor as a named insured.

SECTION TEN – IMPROVEMENTS TO PREMISES

The Lessor and Lessee agree that Lessor shall not be required to make improvements to the demised Premises, but that Lessor will deliver the Premises to Lessee in its existing "as is" condition as of the date of execution of this Lease. Lessee shall have the right to enter upon the property described in Exhibit "A" and to occupy, operate and maintain all structures and improvements currently present on such property. Further, Lessee shall have the right to expand and improve such facilities as Lessee deems necessary to more efficiently operate the subject transfer station; provided, however, that any and all such improvements shall comply with all local and state construction requirements including, but not limited to, applicable building codes, set backs and buffers, if any. Lessee shall also have the right to construct roads so that its trucks and equipment can have reasonable ingress and egress to the facilities constructed upon the property described in Exhibit "A". The construction of all future facilities shall be at locations agreed upon by Lessor.

SECTION ELEVEN – MAINTENANCE AND REPAIRS

The Lessee shall maintain, keep and repair, at its expense, all exterior portions of the buildings, including the roof, exterior walls, canopy, gutters, downspouts, and also all structural portions of the buildings whether the same are on the interior or exterior. In addition, Lessee agrees that during the term hereof, or any extension or renewal hereof, it will keep the road, parking and receiving areas in good working condition. The Lessee shall keep, maintain and repair, at its expense, all interior portions of the buildings, as well.

SECTION TWELVE – UTILITIES AND HEAT

The Lessor shall ensure all necessary utilities are provided to the Premises at Railroad Street. Lessee shall pay all charges and expenses for gas, water, fuel and electricity to the buildings and at said Premises during the term of this Lease.

SECTION THIRTEEN – HAZARDOUS WASTE

No hazardous waste (HW) shall be brought upon, stored or processed upon the property described in Exhibit "A".

SECTION FOURTEEN- TERMINATION OF LEASE

Lessee shall have the right to terminate this Lease by giving Lessor written notice thereof at least one hundred and eighty days (180) prior to the date Lessee intends to terminate. Service of Notice of Termination shall be deemed to be effective when the Notice is deposited in the U.S. Mail addressed to the appropriate party at the addresses hereinafter described, by Certified Mail, Return Receipt Requested, with sufficient postage affixed to the envelope. In the event Lessee elects to terminate this Lease prior to the term provided in Section Three hereof, then and in that event, Lessee agrees to sell to Lessor all of its right, title and interest in and to the Premises and Waste Transfer Station, including any improvements thereon, for the sum of One ($1.00) Dollar, and Lessor agrees in such event to release Lessee from all future rental obligations and service feels hereunder.

AS TO LESSOR:

City of Stockbridge
4545 North Henry Boulevard
Stockbridge, GA 30281

AS TO LESSEE:

Lamar County Solid Waste Management Authority
172 Roger Brown Drive
Barnesville, GA 30204

Either of the parties hereto may change the address to which notices are sent by giving notice to the other party of such change of address as provided in this section.

SECTION FIFTEEN- TERMINATION

Lessor may terminate this Lease if Lessee, or any assignee of Lessee, shall materially breach any term or condition of this Lease and Service Agreement (hereinafter "alleged default"), Lessor shall give Lessee written notice of its intent to terminate for cause as provided in Section Seven hereof, and except as otherwise provided in Section Seven hereof, provide thirty (30) days prior notice to any termination for cause, and Lessee, or any assignee of Lessee, shall have thirty (30) days in which to cure or correct any such alleged default to the reasonable satisfaction of Lessor, in which event any such notice of termination shall be null and void.

SECTION SIXTEEN – SURRENDER OF POSSESSION

Upon the termination of this Lease or any renewal thereof, Lessee shall surrender the Premises in the same condition or repair as at the beginning of the term, ordinary wear, tear and damages excepted; provided, further, any improvements constructed by Lessee hereunder and remaining on the Premises need not be demolished or removed.

SECTION SEVENTEEN – HOLDING OVER

In the event Lessee remains in possession after expiration of this Lease and any renewal terms without the execution of a new lease, Lessee shall not acquire any right, title or interest in or to the Premises, and in such event, Lessee shall occupy the leased Premises as a Lessee from month-to-month, but both Lessor and Lessee shall otherwise be subject to all of the conditions, provisions and obligations of this Lease insofar as the same shall be applicable.

SECTION EIGHTEEN – ACCOUNTING

The Lessee shall maintain accurate accounting records of all waste that is delivered to the Premises. The books of the Lessee, relating to the amount of waste received and schedule of tipping fees at the Premises, shall be made available to Lessor or its designated agent for inspection, review and audit. Lessee, at its expense, shall provide a report certified by Lessee on or before March 1st of each year hereafter certifying the types of waste, i.e., CDW, MSW, and IW and the weight thereof for the previous year.

SECTION NINETEEN – INSPECTION OF THE PREMISES

The property described in Exhibit "A" is being leased in its "as is" condition. No representation or warranties are made by Lessor to Lessee concerning the condition of the property or its suitability for the use intended by Lessee. The Lessee may make its own independent assessment to determine whether or not the Premises is in full compliance with all Federal and State environmental laws, rules and regulations. Upon the termination of this lease, Lessee, at its expense, shall provide an environmental site assessment of the Premises, including testing as may be recommended by environmental professionals retained by Lessee and approved by Lessor. If any material, chemical or waste product is located on the property in violation of any Federal or State environmental laws, rule or regulation, Lessee at its expense shall clean up and/or remedy such violations(s); provided, however, this duty shall not apply to any clean up and/or remedies relating to any waste buried by Lessor as part of a former landfill or disposal area owned or operated by Lessor.

SECTION TWENTY – TIRE CAGES AND DISPOSAL OF LESSOR'S TIRES

Lessee at its expense shall maintain tire cage(s) on the Premises. All tires owned by Lessor from City of Stockbridge vehicles shall be disposed of by Lessee at no cost to Lessor.

SECTION TWENTY-ONE – RECYCLED PRODUCTS

Lessor's recycling products shall be collected and recycled by Lessor's contracted hauler.

SECTION TWENTY-TWO – PRIORITY SERVICE AFFORDED TO LESSOR

Lessee agrees to provide priority service to Lessor's dumping trucks at said waste transfer station with no delays and/or waiting in order to facilitate Lessor's operating schedules.

SECTION TWENTY-THREE – STORAGE OF WASTE ON PREMISES

The Lessee shall not store any type of waste on said Premises, and all waste delivered to said Premises must be removed within twenty-four (24) hours of the delivery time. Lessee at its own expense shall maintain all odor-control devices and keep same in full compliance with all Federal, State, County and City laws, rules, regulation and ordinances.

SECTION TWENTY-FOUR – SALE AND PURCHASE OF BUILDING

Upon the expiration of the term of this Lease, Lessor shall have the right of first refusal to purchase the buildings located on the Premises, including all improvements thereon, such as any scales and scale house, for the fair market value of such property as provided herein. The fair market value shall be determined by taking the average of two appraisals performed by two independent appraisers (having CRS certification), selected by agreement of the parties. Provided, however, in the event of a difference between the appraised values of greater than 15%, then the appraisers so selected shall select a third appraiser who shall perform an appraisal at the expense of both parties. The fair market value established by the third appraisal shall be averaged with the fair market value determined by the appraisal that is closest in value to the third appraisal. Said amount shall be binding on both parties. If Lessor elects to purchase the buildings on the Premises upon the expiration of the term of this

Lease, or match any bona fide offer for such buildings at such time, Lessor shall give written notice to Lessee of its intent to do so. The purchase price for such buildings shall be paid within thirty (30) days after Lessee has removed itself and its property from the Premises and has come into full compliance with all other provisions of this Lease. The buildings and all improvements shall be conveyed free and clear of any indebtedness. At no time hereunder shall Lessee encumber the Premises, its buildings or improvements without advance written approval from Lessor. In the event the Lessor elects not to purchase said building and improvements, Lessee shall pay all sums due Lessor prior to removing any improvements from the Premises. If said building is not removed from the Premises within said time, Lessee shall forfeit to Lessor all of its right, title and interest to said buildings and improvements and shall reimburse Lessor for reasonable expenses it incurs in demolishing and removing such improvements.

SECTION TWENTY-FIVE – SERVICE AGREEMENT AND FEES

Lessee shall accept from Lessor the same type of waste Lessee accepts from other persons and such waste is currently limited to residential MSW and CDW. Lessee shall accept MSW generated by Lessor, as well as CDW delivered by Lessor's employees to the Waste Transfer Station from Lessor's construction and demolition projects. Lessor shall pay to Lessee the fees disclosed on Exhibit "C" for the removal of this waste as described in said Exhibit. From said fees, the Lessee shall pay all sums due, or that become due, any Federal, State, County or City governments or private entities. All such waste shall be weighed on scales that accurately measure the weight of the waste brought to the Premises. The Lessor reserves the right to verify that said scales are in proper working order. So long as Lessee complies with the terms of this Agreement, Lessee shall be free to manage and operate the subject Waste Transfer Station as Lessee deems appropriate, including Lessee's right to contract with other persons for conducting the day to day operations of the Waste Transfer Station. Lessor shall not assign to any person, company or entity, the right to the rates and fees scheduled in Exhibit "C". The rates described in Exhibit "C' are exclusively for the City of Stockbridge's vehicles and those of its contracted hauler which are unloading waste collected under the City collection and hauling contract.

SECTION TWENTY-SIX – SECTION HEADINGS

The section headings throughout this instrument are for convenience and reference only, and words contained therein shall in no way be held to explain, modify, amplify or aid in the interpretation, construction or meaning of the provisions of this Lease.

SECTION TWENTY-SEVEN – LEASE BINDING ON HEIRS, ETC.

It is further hereby expressly agreed and understood that all covenants and agreements herein made shall extend to and be binding upon the heirs, devisees, executors, administrators, successors in interest and assigns of both Lessor and Lessee.

SECTION TWENTY-EIGHT – HOURS OF OPERATION

Lessee shall limit operation of the transfer station to 6 A.M to 5 P.M. Any changes to hours of operation must be approved by Lessor in writing.

SECTION TWENTY-NINE – ADDITIONAL DISPOSAL AT NO CHARGE

Lessee shall provide to Lessor additional disposal at no charge at the Cedar Grove Landfill for up to 350 tons annually from City of Stockbridge's waste hauled by City of Stockbridge vehicles from its municipal facilities.

SECTION THIRTY – ENTIRE AGREEMENT

This Lease constitutes the entire agreement between Lessor and Lessee and all understandings and agreements between Lessor and Lessee are merged in this document. This Lease may not be changed or modified except by an agreement in writing signed by Lessor and Lessee.

IN WITNESS WHEREOF, Lessor and Lessee have caused this indenture to be duly executed and sealed the day and year first above written.

Signed, sealed and delivered
This 10th day of August 2016.
In the presence of:

Unofficial Witness

Notary Public

RANDI RAINEY
MY COMMISSION EXPIRES
NOTARY
PUBLIC
MARCH 6, 2019
CLAYTON COUNTY, GEORGIA

LESSOR
CITY OF STOCKBRIDGE, GEORGIA

By:

By:

(City Seal)

Signed, sealed and delivered
This 22nd day of June, 2016.
In the presence of:

Unofficial Witness

Notary Public

SUSAN MILNER
NOTARY
EXPIRES
GEORGIA
MAY 26, 2018
PUBLIC
LAMAR COUNTY, GA

LESSEE
LAMAR COUNTY REGIONAL SOLID WASTE MANAGEMENT AUTHORITY

By:
JOHNNY S. POORE
Executive Director

By:
JOE C. BOSTWICK, JR.
CHAIRMAN

(Corporate Seal)

EXHIBIT A
PAGE 12 OF 15

EXHIBIT "B"

MONTHLY RENTAL FEES

FIRST SIXTY (60) MONTHS FOLLOWING DATE OF EXECUTION:

Construction and Demolition Waste	$ 1.40 Per Ton
Inert Waste	$ 1.40 Per Ton
Municipal Solid Waste	$ 1.40 Per Ton

FROM SIXTY-FIRST (61st) MONTH TO ONE HUNDRED AND TWENTIETH MONTH:

An annual WST (Water Sewer and Trash Services) CPI increase shall be added to the fees of $1.40 Per Ton as outlined above, beginning with year 6 (May 1, 2021) of the agreement and shall be added annually thru the termination of this agreement.

EXHIBIT "C"

F – E – E – S

The following rates shall apply for lessor or its contracted hauler.

MONTHLY DISPOSAL OF ALL APPROVED SOLID WASTE

First Sixty (60) Months following the effective date of this agreement:

0 to 550 Tons Per Month	From May 1, 2016 thru December 31, 2016	$21.00 Per Ton
	From January 1, 2017 thru December 31, 2017	$24.00 Per Ton
	From January 1, 2018 thru December 31, 2018	$27.00 Per Ton
	From January 1, 2019 thru December 31, 2019	$31.00 Per Ton
	From January 1, 2020 thru December 31, 2020	$35.00 Per Ton
	From January 1, 2021 thru April 30, 2021	$35.00 Per Ton

City shall be billed by Waste Management at the rate of $33 per ton for up to 550 tons per month. From May 1, 2016 thru December 31, 2019, Lessee agrees to pay the difference between the above rates and the $33 per ton billing rate. Lessor shall invoice Lessee the monthly difference until December 31, 2019.

Over 550 tons Per Month Rate $ 44.00 Per Ton

Environmental Fees at the Transfer Station shall not exceed 3.2% per ton, with the exception of any future mandatory state or local fees assessed.

From the 61ST Month Thru the 120TH Month:

Beginning May 1, 2021 and on each anniversary thereafter, an annual WST (Water Sewer Trash Services) CPI increase shall be added to the fees of $35 per ton for Lessor or its contracted hauler for up to 550 tons per month. The annual WST CPI shall also be added to the over 550 tons rate of $44 per month.

INCREASE TO MONTHLY TONNAGE ALLOWANCE OF 550 TONS PER MONTH

The City of Stockbridge's 2015 RFP for collection identified collection of 5940 annual residential and commercial tons from a total of 7432 residential and commercial customers, yielding and average of 133.20 pounds per customer per month. The monthly disposal for 2015 (per RFP) averaged 495 tons per month per RFP. In the event the monthly tonnage allowance of 550 tons per month for the Lessor's waste is exceeded due to City expansion or growth, the 550 tons per month tonnage limit shall be calculated and adjusted proportionally to the number of residential and commercial customers collected by the contracted hauler as determined by the City's billing accounts to the contracted hauler. The monthly allowance shall be determined by multiplying the number of residential and commercial customers billed by the City under its contract by 133.20 pounds per customer. The current allowance of 550 tons per month allows for servicing up to 8,258 customers at the current rate of 133.20 pounds per customer per month.

This tonnage shall be computed on a monthly basis.