VILLAGE OF ESTERO, FLORIDA

RESOLUTION NO. 2015 - 80

A RESOLUTION OF THE VILLAGE COUNCIL OF THE VILLAGE OF ESTERO, FLORIDA, APPROVING THE INTERLOCAL AGREEMENT FOR A DISPOSAL FACILITIES ASSESSMENT BETWEEN THE VILLAGE OF ESTERO AND LEE COUNTY; AUTHORIZING THE VILLAGE MAYOR TO EXECUTE THE AGREEMENT; AND PROVIDING AN EFFECTIVE DATE.

NOW, THEREFORE, be it resolved by the Village Council of the Village of Estero, Florida:

Section 1. The Interlocal Agreement for a Disposal Facilities Assessment between the Village of Estero and Lee County, attached and incorporated herein as Exhibit A, is hereby approved; and

Section 2. The Village Council authorizes the Village Mayor to execute the Interlocal Agreement for a Disposal Facilities Assessment between the Village of Estero and Lee County.

Section 3. This Resolution shall take effect immediately upon adoption.

ADOPTED BY THE VILLAGE COUNCIL of the Village of Estero, Florida this 2nd day of December, 2015.

Attest: **VILLAGE OF ESTERO, FLORIDA**

By: _____ By: _____

Kathy Hall, MMC, Village Clerk Nicholas Batos, Mayor

Reviewed for legal sufficiency:

By: _____

Burt Saunders, Esq., Village Attorney

EXHIBIT A

INTERLOCAL AGREEMENT FOR A
DISPOSAL FACILITIES ASSESSMENT

THIS INTERLOCAL AGREEMENT for a Disposal Facilities Assessment is made and entered into this ____day of _____2015, by and between LEE COUNTY, a political subdivision of the State of Florida, acting by and through its Board of County Commissioners, the governing body thereof, hereinafter "County", and the VILLAGE OF ESTERO, a municipal corporation of the State of Florida, acting by and through its Village Council, the governing body thereof, hereinafter "Village ", collectively, "the Parties", hereto.

WHEREAS, the Board of County Commissioners is the governing body in and for Lee County, and the Village Council is the governing body in and for the Village; and,

WHEREAS, the County and the Village desire to cooperate with each other in the management of Municipal Solid Waste (MSW) within Lee County and in the continuation of (a) Disposal Facilities Assessment within Lee County, to include the Village's incorporated areas, and wish to enter into an Agreement for such purpose; and,

WHEREAS, pursuant to Chapters 125, 163 and 166, Florida Statues, the County and the Village are duly empowered to enter into an Agreement for such an assessment program;

NOW THEREFORE, in consideration of the foregoing, and of the mutual covenants and conditions hereinafter set forth, the Village and the County, intending to be legally bound, hereby agree as follows:

SECTION I PURPOSE

It is the purpose and intent of this Agreement to define the terms and conditions for the Parties' administration of a County Disposal Facilities Assessment within the Village's incorporated

areas and the other terms and conditions under which the Village shall participate in said Program. This Agreement is intended to provide the County a cooperative mechanism with the Village for the levy of a Disposal Facilities Assessment within the incorporated areas of the Village for payment of certain costs for the disposal of MSW through the County's Integrated Solid Waste and Resource Recovery System ("System"), for the term of this Agreement. If any provision of this Agreement is deemed ambiguous, those applicable terms and conditions shall be interpreted in a manner consistent with, and in furtherance of the purpose as set forth in this Section.

SECTION II AUTHORITY FOR AGREEMENT

The Village represents to the County that the execution and delivery of this Agreement has been duly authorized by all appropriate actions of the Governing Body of the Village, has been executed and delivered by an authorized officer of the Village, and constitutes a legal, valid and binding obligation of the Village. The County represents to the Village that the execution and delivery of this Agreement has been duly authorized by all appropriate actions of the Governing Body of the County, has been executed and delivered by an authorized officer of the County, and constitutes a legal, valid and binding obligation of the County.

SECTION III DEFINITIONS

Words or phrases used herein and not otherwise defined, shall have the meanings given thereto in Section 403.703, Florida Statutes. In addition, the following terms shall mean:

A "Village" shall mean the Village of Estero, a municipal corporation of the State of Florida, located within Lee County.

B. "County" shall mean Lee County, Florida a political subdivision of the State of Florida.

C. "Governing Body of the Village" shall mean the Village Council of the Village of Estero.

D. "Governing Body of the County" shall mean the Board of County Commissioners of Lee County.

E. Municipal Solid Waste" shall consists of everyday items used and then throw away, such as product packaging, grass clippings, furniture, clothing, bottles, food scraps, newspapers, appliances, paint, and batteries. This comes from homes, schools, hospitals, and businesses.

F. "Disposal Facilities Assessment" shall mean a Municipal Service Benefit Unit (M.S.B.U) created by the County, pursuant to Chapter 125.01, Florida Statutes, with the express cooperation and consent of the Village as specifically outlined at Section 125.01(1)(q), Florida Statutes.

SECTION IV DEVELOPMENT OF A DISPOSAL FACILITIES ASSESSMENT

Pursuant to the requirements of Section 125.01(1)(q), Florida Statutes, the Parties have developed the Disposal Facilities M.S.B.U (Special Assessment Program) as follows.

A. County Responsibilities

The County shall develop and establish an assessment methodology for a M.S.B.U. based upon an Equivalent Residential Unit ("ERU") concept, generation rate (weight per unit or unit area) based on total solid waste generation and total valuation, for all improved properties within the Village. The special assessment methodology for an M.S.B.U. includes separating improved property into the following categories, based upon the Department of

Revenue (D.O.R.) property improvement codes from the Lee County Property Appraiser, and the average solid was generation for the particular type of property.

A. Single Family Residential

B. Multi-family Residential (mobile homes, apartments, condominium with five (5+) units)

C. Recreational Vehicle (RV) Parks and or communities

D. Commercial Businesses with Low Generation Amounts

E. Commercial Businesses with Low-Medium Generation amounts

F. Commercial Businesses with Medium Generation Amounts

G. Commercial Businesses with Medium-High Generation Amounts

H. Commercial Businesses with High Generation Amounts

2. An average annual solid waste generation amount will be established for each category by the County's Solid Waste Department, or its contracted engineering or rate consultant, based on solid waste generation data from representative improved properties in Lee County including, residential, multifamily, and commercial/business properties.

The average generation amount will be established per dwelling unit for single-family and multi-family residential properties.

The average generation amount will be established per occupiable lot for recreational vehicle park properties.

The average generation amount will be established per square foot of building area for commercial -improved property, which is not residential.

All generation estimates will be compared to the average annual generation for a single-family resident to obtain the ERU values for each category and will be expressed in pounds or tons.

3. The total number of pounds or tons for each improved property will be established by multiplying the weight value (pounds) for the appropriate category, times the number of units, or total building area (depending on the category), for a specific property. The number of units or building area will be obtained from the Property Appraiser.

4. The annual Disposal Facility Assessment for each improved property will be established by multiplying the total number of tons for that property by the annual assessment amount per ton, as established by the County.

5. Based on the above methodology, the County shall establish the annual assessment per developed property in accordance with County Ordinances 96-09, as amended.

6. The County, following the development of the solid waste assessment program, shall transmit the proposed Disposal Facilities Assessment to the Village Manager prior to the Board of County Commission action. Upon request by the Village, County Staff will present the Disposal Facilities Assessment to the Village at a regular Village Council meeting for Council consideration.

7. The Disposal Facilities Assessment for solid waste disposal shall be the same as those fees and charges provided for similar users within the unincorporated areas of the County.

B. Village Responsibilities

1. The Village shall enact Village Ordinances granting the Village's express consent to the County to levy the special assessments under the Disposal Facilities Assessment Program pursuant to this Agreement, and pursuant to Section 125.01(1)(q) FS, for the term of the Agreement, as outlined further herein.

2. The Village shall assist the County with the identification of those properties to be assessed under the Disposal Facilities Assessment Program and the development of the Program Assessment Roll, as it relates to the Village.

3. Each month, the Village shall report all newly constructed residential dwelling units and commercial units, including mobile homes that received a certificate of occupancy or certificate of completion in the previous month.

4. The Village must collect, on behalf of the County, a prorated Solid Waste Assessment from each residential dwelling unit or commercial unit prior to issuing a certificate of occupancy or certificate of completion.

SECTION V ADDITIONAL REVENUES

All revenues obtained by the County as a result of the operation of the County's System will be retained by the County and may be used to reduce expenses of the System operations.

SECTION VI TERM OF AGREEMENT

This Agreement shall terminate on September 30, 2020. The County has the option to renew this Agreement for two additional fifteen (15) year terms. Notice of the County's decision to exercise its Option must be made no later than 90 days prior to the termination date.

SECTION VIII ASSIGNMENT

No assignment, delegation, transfer, or novation of this Agreement or part hereof, shall be made, unless approved by the Parties.

SECTION IX ATTORNEY'S FEES AND COSTS

If either Party brings or commences legal action or proceeding to enforce the terms of this Agreement, the prevailing party shall be entitled to recover the costs and expenses of litigation, including attorneys' fees.

SECTION IX NOTICES

Any notices or other documents permitted or required to be delivered pursuant to this Agreement shall be delivered to the County, at the Office of the County Manager and to the Village, at the Office of the Mayor or Village Manager.

SECTION X AMENDMENT

This agreement may only be amended in writing, duly executed by the Village and the County.

SECTION XI CONSTRUCTION AND EFFECT

This Agreement shall be governed by and construed in accordance with the laws of the State of Florida, and shall take effect only upon the approval of, and execution by all Parties hereto.

SECTION XII BOOKS AND RECORDS

It is understood and agreed to by the Parties, that any party shall have reasonable access to the books, records and accounts of the agents, designees or contractors duly contracting with any party of the purpose of fulfilling any of the obligations under this Agreement.

SECTION XIII FILING

This Agreement and any subsequent amendments hereto shall be filed with the Lee County Clerk of the Circuit Court, Minutes Department, and the Clerk of the Village of Estero, as provided for by Section 163.01(11), Florida Statutes.

SECTION XIV RESERVATION OF RIGHTS

Nothing in this Agreement shall be deemed or interpreted to prohibit, preclude or otherwise pre-empt the County's rights or ability to take any other lawfully available actions to provide funding for the System.

IN WITNESS WHEREOF, the Village and the County have executed this Agreement on the day, month, and year first above written.

ATTEST:

LINDA DOGGETT, CLERK

By:_____
Deputy Clerk

BOARD OF COUNTY COMMISSIONERS OF LEE COUNTY, FLORIDA

By:_____
Chairman

APPROVED AS TO FORM FOR THE RELIANCE OF LEE COUNTY ONLY:

By:_____
Office of County Attorney

ATTEST:

By:_____
Village Clerk

VILLAGE OF ESTERO

By:_____
Mayor

APPROVED AS TO FORM:

By:_____
Village Attorney