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**Solid Waste Authority of Palm Beach County
Waste to Energy Facility Expansion
North County Facility
April 14, 2008**

Kilday & Associates, Inc., at the direction of Malcolm Pirnie, Inc., has been retained to provide a fatal flaw analysis of the potential expansion of the Waste to Energy Facility, currently located at the Solid Waste Authority's (Authority) North County Facility. The overall Authority North County Facilities are located within the municipal boundaries of the City of West Palm Beach and are approximately 1,267 acres in size, pursuant to records obtained from the Palm Beach County Property Appraiser's office. The Authority also owns approximately 74 acres located on the south side of 45th Street, east of Florida's Turnpike, which is not included within this analysis.

One Waste to Energy facility exists and is operational on site. It is understood, for purposes of this analysis, that the 'expansion' of the Waste to Energy Facility is actually the creation and proposed construction of a second, completely separate Waste to Energy Facility.

Executive Summary:

Based on a review of past land use and zoning approvals, current Comprehensive Plan Objectives and Policies, and Zoning Code property development regulations for the Community Services zoning district, it is our conclusion that the expansion of the Waste to Energy Facility is not in conflict with any of these items. Also, while the potential exists for the City to perform an administrative zoning review of the revisions to the Site Plan, the potential also exists for the project to utilize Chapter 403 of the State Statutes to avoid this review, and instead move directly to the building permitting process.

Overview

The current land use on the North County Facility is SIZ/CS – Special Impact Zone/Community Service. The current zoning for the site is CS – Community Service with a Class A Special Use Permit approval to allow a Heavy Utility Use and the Construction of a Central Resource Recovery and Landfill Facility. A more detail zoning and land use history follows. As mentioned, this analysis will provide a review of the land use, zoning, and property development regulations which may affect the expansion of the existing Waste to Energy Facility. Plans provided to this office from Malcolm Pirnie depict the expansion of the facility, to include an additional Received/Tipping

Building, Refuse Storage Pit, Boiler Building, Stack, Air Pollution Control Area, and Ancillary Facilities to be located north of the existing Waste to Energy Plant, and south of an existing lake and Scale House.

Land Use/Zoning History

The Solid Waste Authority's North County Facility was originally approved while within the jurisdiction of unincorporated Palm Beach County. Petition No. 84-134 was approved by the Palm Beach County Board of County Commissioners on October 1, 1984, via Resolution No. R-85-51, which granted a Special Exception to allow a Public and Private Utility Service and Accessory Buildings and Structures, including an On-Site Sewage Treatment Facility, on approximately 1,300 acres. The County's Site Plan Review Committee subsequently approved a Site Plan for the facility included in the adopting Resolution (see attached). Conditions of approval contained in the adopting Resolution included a required 200' foot setback from the west end of the landfill and the borrow lake edge; roadway dedications for Jog Road, 45th Street and a proposed Turnpike interchange at 45th Street; off-site roadway improvements on Jog Road; dedication of a six (6) acre parcel to Palm Beach County to be located in the northern portion of the site adjacent to the Jog Road/Bee Line Highway intersection; and additional landscape buffering along the north and east boundaries of the site.

Subsequent to the County approval, a majority of the property, with the exception of approximately 160 acres located in the northeast portion of the site, was annexed into the City of West Palm Beach on May 31, 1988, via Ordinance No. 2184-88. The property retained its Palm Beach County Land Use and Zoning designations as the City did not simultaneously amend them concurrent with the annexation. At this time, the Authority provided the City with copies of application materials for the Power Plant Certification required by the State. This documentation included Final Orders for both the Land Use Hearing and the Certification Hearing approved by the Governor and Cabinet sitting as the Florida Power Plant Board on June 9, 1986 and August 6, 1986, respectively.

Ordinance No. 2281-89, which was approved by the City of West Palm Beach on January 22, 1990, changed the land use designation from the County designation of Conservation/Very Low – Low Residential to DZ/CS – Dotted Zone/Community Service, for the property approximately 160 acres in size located generally at the southwest intersection of Bee Line Highway and Florida's Turnpike, which was not included in the original annexation. The Dotted Zone designation was later reclassified as Special Impact Zone (SIZ) and will be discussed in greater detail later in this analysis. The annexation and zoning change from the County designation of AR – Agricultural Residential to CS – Community Service for this property were done concurrently with the land use change. The existing use on this portion of property at the time was for a dredge lake.

On May 30, 1989, the City of West Palm Beach approved a Class A Special Use Permit to allow a Heavy Utility Use and the construction of a Central Resource Recovery and Landfill Facility on the entire property being approximately 1,340 acres in size. At this time, the majority of the property still retained the County Land Use designation of Conservation/Very Low to Low Residential and the zoning district of Agricultural Residential. The approving Resolution 94-89 specifically referenced that the land use would be changed to Dotted Zone/Community Service and the zoning to Community Service at a later date (see attached resolution).

Rezoning of the balance of land area included in the use approval for the North County Facility was granted by the City on April 16, 1990. The property currently retains the Community Service (CS) zoning district granted via Ordinance 2378-90.

Conditions of Approval

The terms of the Class A Special Use Permit approval included that the Authority was to remain subject to any conditions of approval contained in the Palm Beach County approving Resolution R-85-51. Conditions of approval contained in the City's Use approving Resolution included the installation of fire hydrants; a requirement to submit an application to rezone the property to Community Service by August 31, 1988; that the Authority execute and record a Unity of Title for the entire property prior to the issuance of a certificate of occupancy; that the Authority complete the public road improvements prior to the issuance of a certificate of occupancy; that the Authority deed a minimum of three acres of land on the subject property to the City for a fire station in a location acceptable to the City of West Palm Beach Fire Chief; and that the Authority received full impact fee credit from the City for any costs associated off-site roadway improvements. Due to the lack of documentation in the City files, it is assumed that all of these conditions of approval were met, via the evidence of the issuance of the Certificate of Occupancy for the facilities and the construction of same.

Please be advised that this office did not receive any title information regarding a search of the public records for instruments that may affect the property. The review of the City files did indicate that a proposed deed for the City Fire Station land, proposing that land located at the southeast corner of the intersection of 45th Street and the future extension of Jog Road be dedicated to the City. The deed also stipulated that, if the City failed to use the subject property for construction of a fire station within five years or discontinues public use of the property, it was to revert back to the Authority. However, a deed transfer was made by the Authority to Palm Beach County, as recorded in Official Records Book 8228, Page 867, for a parcel located at the southeast corner of the intersection of Jog Road and the Bee Line Highway. The deed states that the use of the property be restricted to governmental purposes and that any revenue from the sale, lease or exchange of the property be used for the benefit of the Palm Beach County Fire Rescue. Direction was provided to this office to not meet with City staff to discuss the specifics of this project, until the initial preparation and review of the

analysis was completed. Without verifying with City staff, it is assumed that this transfer and location satisfied the City's condition of approval, via the evidence of the issuance of the Certificate of Occupancy for the facilities and the construction of same.

Water/Sewer:

An agreement for the provision of potable water to the site was approved by the City of West Palm Beach during the annexation process, via Resolution 78-88, approved on May 2, 1988. At the time of the annexation, the site plan included an on-site sewage treatment facility. However, Resolution 86-91 approved the extension of sewer facilities to the site on June 17, 1991. This was a four-party agreement between the Authority, a Developer (Ironhorse Limited, the residential project to the north), the Northern Palm Beach County Water Control District and the City. Sewer line facilities have since been constructed to serve the site.

Zoning and Land Use Limitations

As previously mentioned, the zoning district affiliated with the North County Facility is Community Service (CS), with a Class A Special Use Permit approval to allow a Heavy Utility Use and the construction of a Central Resource Recovery and Landfill Facility on the property. Pursuant to today's current City Code, these types of uses would still require a Class A Special Use Permit and, therefore, the existing use approval remains consistent with the City Code and Comprehensive Plan. Therefore, they are not "non-conforming uses" and are not subject to any limitations on expansion that are typically applied to "non-conforming uses". It should be noted that the approval is for a Central Resource Recovery and Landfill Facility. Central Resource Recovery Facilities typically include various waste reduction alternatives, including recycling, mulching operations, and Waste to Energy Plants. The "Facility" moniker would infer that there are numerous waste reduction operations in place. Additionally, the Solid Waste Disposal section of the Comprehensive Plan's Infrastructure Solid Waste Sub-Element references the North County Regional Resource Recovery Facility. While the expansion of the Waste to Energy Facility is technically the addition of a new Waste to Energy Plant, the use approval for the Central Resource Recovery and Landfill Facility should remain valid for the expansion and appears to be consistent with both the City's Comprehensive Plan and Zoning Code.

Objectives and Policies contained within the City's Solid Waste Sub-Element supports this conclusion. Objective 1.2 states that the City shall continue to coordinate with the Palm Beach County Solid Waste Authority regarding the management of existing landfill sites. Objective 1.3 states, in order to discourage urban sprawl, the City shall concentrate new development within the service area of existing or planned infrastructure, including solid waste facilities. The expansion of the facility with the addition of an additional Waste to Energy Plant would aid in meeting these objectives.

A review of the Zoning Code indicates that the City would typically require a Level II Formal Site Plan Review in order to amend the site plan to depict the additional buildings and square footage being proposed with the expansion. This is based on Section 94-35 of the City's Zoning Code, which requires all applications for building permits in the Special Impact Zone (SIZ) category be processed as a Level II Formal Site Plan review. The thresholds which determine a project must obtain a Level II Formal Site Plan approval include that project was originally granted as a Class A Special Permit, the plans affects publicly owned lands and the site has a SIZ land use designation (formerly known as dotted zone). Therefore, it is anticipated that staff would prefer a more detail review of the request as part of the site plan review process. This is however, only an administrative review, and does not require that the application be presented to any boards in any formal public hearing.

This process requires submittal of a detailed Development application to staff. The application would be reviewed by the Plans and Plats Review Committee. This committee is made up of various department representatives. Comments regarding the plan would be provided at the meeting and the plans would be required to be revised and resubmitted for staff review for compliance with the comments, and approved. The submittal deadline is the third Wednesday of the month and the application is then scheduled for the Committee meeting approximately one month later. Once the site plan is approved, it can then be utilized to pull building permits for the expansion.

However, based on limited conversations with staff while conducting file research, it appears that the City has previously accepted the Authority's position, based on Chapter 403 of the State Statutes, that a zoning review is not required for the Authority's site plan. Instead, the proposed expansion would be allowed to proceed directly to the Building Department for review and permit issuance for the new expanded facilities. However, please be advised that formal discussions regarding this position have not taken place with the City, based on direction to not schedule any meetings until the draft report has been provided.

In regard to property development regulations that the City would require that the project adhere to, please see the following requirements for the Community Service Zoning District from Section 94-202 of the City Zoning Code.

Minimum Lot Dimensions

Lot Area – Two Acres

Lot Width – 100 Feet

Minimum Setbacks

Front – 25 Feet

Side – 15 Feet

Rear – 15 Feet

Minimum Building Separation - 15 Feet

Maximum lot coverage by buildings – 60%

Maximum coverage by impervious surfaces – 85%

Maximum building height – 60 Feet

Maximum floor area ratio – 75%

Minimum required open space – 40% of total lot area, inclusive of setbacks, landscape and buffer areas, and parking lot areas.

Minimum required landscape area – 15% of total lot area.

State Standards – Mandatory standards or regulations affecting any use permitted in the Community Service (CS) district, enacted or adopted by the state legislature or a state regulatory agency, shall prevail if there exists a conflict with the provisions of this section.

It appears that the State Standards portion of their zoning regulation, in conjunction with the Power Siting Statutes, may afford the project with the ability to avoid any zoning review and potentially circumvent some property development regulations, if necessary to comply with regulatory permitting agency's requirements.

Opinion

A review of the past and current land use and zoning approvals associated with this project indicates that approval has been granted for a Central Resource Recovery and Landfill facility, which appears to allow for a multitude of individual uses, as there were no limitations on the number of facilities that comprise a Central Resource Recovery Facility identified in the Comprehensive Plan or Zoning approvals. This is supported by the fact that Central Resource Recovery operations typically include various waste reduction implementation tools, including a variety of recycling and waste reuse, such as Waste to Energy Plants. Specifically, there were no limitations as to only one Waste to Energy Plant identified. Therefore, based on past improvements and expansions, it is our opinion that the proposed expansion to the Waste to Energy facility would not require a change to the Comprehensive Plan or the Zoning /Class A Special Permit approval. There is the potential that an administrative Level II Site Plan approve may be required.

Recommendation

It is recommended that a meeting be set up with staff to formally request reconfirmation of the City's past interpretation of the Statutes, which would allow the project to proceed to building permits, and completely avoid any formal site plan review process. The position that the construction of the additional Waste to Energy Plant is actually an expansion to the existing Central Resource Recovery Facility, and that the expansion is consistent with the existing use approval for the project should be utilized to gain staff's

confirmation that the expansion is consistent with both the Comprehensive Plan and the current Zoning approvals in place for the project.

H:/Clients/1655/1655.02/correspondence/report

RESOLUTION NO. R-85-51

RESOLUTION APPROVING ZONING PETITION 84-134, Special Exception

WHEREAS, the Board of County Commissioners, as the governing body, pursuant to the authority vested in Chapter 163 and Chapter 125, Florida Statutes, is authorized and empowered to consider petitions relating to zoning; and

WHEREAS, the notice and hearing requirements as provided for in Chapter 402.5 of the Palm Beach County Zoning Code Ordinance No. 73-2 have been satisfied; and

WHEREAS, Petition No. 84-134 was presented to the Board of County Commissioners of Palm Beach County at its public hearing conducted on the 1st of October, 1984; and

WHEREAS, the Board of County Commissioners has considered the evidence and testimony presented by the applicant and other interested parties and the recommendations of the various county review agencies and the recommendations of the Planning Commission; and

WHEREAS, the Board of County Commissioners made the following findings of fact:

1. The proposal is consistent with the requirements of the Comprehensive Plan.
2. The proposal, with minor modification to the site plan, will be consistent with the requirements of the Zoning Code.

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF COUNTY COMMISSIONERS OF PALM BEACH COUNTY, FLORIDA, assembled in regular session this the 1st of October, 1984, that Petition No. 84-134 the petition of JOHN E. CORBALLY, JAMES M. FURMAN AND JAMES M. MURDOCH TRUSTEES UNDER THE MACARTHUR LIQUIDATING TRUST AGREEMENT DATED DECEMBER 28, 1983 By Herbert C. Gibson, Esquire, for a SPECIAL EXCEPTION TO ALLOW A PUBLIC AND PRIVATE UTILITY SERVICE AND ACCESSORY BUILDINGS AND STRUCTURES, INCLUDING AN ON-SITE SEWAGE TREATMENT FACILITY on the Southwest 1/4 of the Southwest 1/4 of Section 34, Township 42 South, Range 42 East, the Northwest 1/4 of the Southwest 1/4 of Section 34, Township 42 South, Range 42 East, the West 2632 feet of the North 1/2 of Section 3, lying North of State Road 702,

less the Northwest 1/4 of the Northwest 1/4 of the Northwest 1/4 thereof, all in Township 43 South, Range 42 East.

The South 1/2 of Section 26; the South 1/2 of Section 27; all of Sections 34 and 35, the South 1/4 of the North 1/2 of the Northwest 1/4, and the South 1/2 of the South 1/2 of the Northwest 1/4, of Section 36; all in Township 42 South, Range 42 East, subject, however, to the following:

Road right-of-way and easement over the East 50 feet of the aforesaid Section 36 granted to Palm Beach County by deed dated December 9, 1949, recorded in Deed Book 893, Page 349, and quitclaimed by Palm Beach County to the State of Florida by deed dated June 12, 1950, recorded in Deed Book 914, Page 321.

Oil, Gas, and Mineral Lease dated December 15, 1953, given by Dudley V. Kirkton and Sue B. Kirkton, his wife, to Gulf Oil Corporation, recorded in Deed Book 1044, Page 447, with respect to all of Section 35, the South 1/2 of Section 27 and the Northwest 1/4 of the Southeast 1/4 of the Southwest 1/4 and the Southeast 1/4 of the Southeast 1/4 of the Southwest 1/4 of Section 34, Township 42 South, Range 42 East.

Oil, Gas and Mineral Lease dated December 15, 1953, given by Dudley V. Kirkton and Sue B. Kirkton, his wife, to Gulf Oil Corporation, recorded in Deed Book 1044, Page 451, with respect to the South 1/2 of Section 26, those portions of Section 36 described above and Section 34, less the Northwest 1/4 of the Southeast 1/4 of the Southwest 1/4 of the Southeast 1/4 of the Southeast 1/4 of said Section 34, all in Township 42 South, Range 42 East.

The right-of-way of the Seaboard Airline Railway through the South 1/2 of Section 26 aforesaid, the right-of-way of the Bee-Line Highway, being a right-of-way and easement over and across a strip of land 200 feet in width, lying Northeasterly of, adjacent to and parallel to, the Northeasterly right-of-way of the Seaboard Airline Railway, across the South 1/2 of Section 26, Township 42 South, Range

42 East,

Eminent domain proceedings filed by Florida State Turnpike Authority, being Common Law Case No. 15, 440, which proceedings are pending as of the delivery of this deed,

That certain mortgage by Henry I. Cole, as Trustee, to Dudley V. Kirkton and Sue B. Kirkton, his wife, dated October 11, 1955, recorded in Mortgage Book 680, Page 661,

That certain mortgage given by Arthur Murray, as Trustee, to Henry I. Cole, Trustee, dated May 16, 1956, recorded in Mortgage Book 706, Page 206,

A purchase money mortgage delivered by the Grantee to Arthur Murray simultaneously with the delivery of this deed by the grantors to the grantee, together with the North 1/2 of the Northeast 1/4 of the Northwest 1/4 of the Northeast 1/4, Section 27, Township 42 South, Range 42 East, and

A tract of land lying in Sections 22 and 27, Township 42 South, Range 42 East, and more particularly described as:

All that part of Section 22 and the North 1/2 of Section 27, Township 42 South, Range 42 East, lying East of a line running North and South which line commences at a point located in the North Section line of Section 22, 2,000 feet West of the point at which said North section line is intersected by the Westerly right-of-way of the Sunshine State Parkway, as recorded in Deed Book 1110, Page 583, and which line terminates at a point situated on the East-West 1/2 section line of Section 27, 2,000 feet West of a point at which the West right-of-wayline of the Sunshine State Parkway intersects said half section line, less that part described in Official Record Book 2399, Page 713, also described as; the Easternmost 2,000 feet of Section 22 and of the North 1/2 of Section 27 lying immediately West of the West right-of-way of Sunshine State Parkway, less that part described in Official Record 2399, Page 713,

subject to: the right-of-way of Lake Park West Road (S.R.809A) and the right-of-way of the Beeline Highway (S.R.710) and the right-of-way of the Seaboard Coastline Railroad, and

the North 1/2 of Section 3, Township 43 South, Range 42 East, lying

North of the North right-of-way line of 45th Street (State Road 702) and West of the West right-of-way line of the Sunshine State Parkway, less therefrom the West 2779.41 feet; measured at right angles thereto,

The North 1/2 of Section 3, Township 43 South, Range 42 East, lying South of the South right-of-way of 45th Street (S.R. 702) and West of the West right-of-way line of the Sunshine State Parkway,

Subject to existing first mortgage of record; agreements, resolutions, easements, reservations and restrictions of record; agreement from Goldcoast Builders, Inc., to Consolidated Utility Company as shown in Official Record Book 660, Page 412, roads, streets, ways, streams, waterways or easements, if any, not shown of record; real estate taxes for 1980; zoning and/or restrictions and prohibitions imposed by governmental authority. Said property located on the north and south side of 45th Street (S.R. 702) being bounded on the east by Florida's Turnpike and being bounded on the north by Seaboard Airline Railroad in an AR-Agricultural Residential District was approved as advertised subject to the following conditions:

1. Prior to Site Plan Certification, a revised site plan shall be submitted reflecting the following:

- a) a 200 foot setback between the west end of the landfill and the borrow lake edge.
- b) security gates and signage at the facility entrance carrying official notice for admittance of authorized personnel only.
- c) construction and operation of the facility shall be in compliance with all provisions of Section 500.5 of the zoning code and the land development regulations of the **AR-Agricultural Residential District.**

2. The property owner shall convey for the ultimate right of way of:

- (A) Jog Road, 120 feet through the project limits,
- (B) 45th Street, 60 feet from the centerline,
- (C) Turnpike interchange at 45th Street and the Florida Turnpike

All within 90 days **after (real estate) closing** on the subject property; conveyances must be accepted by Palm Beach County prior to issuance of first Building Permit.

3. The developer shall construct concurrent with the waste recovery facility becoming operational, onsite paving and drainage improvements pursuant to a paving and drainage permit issued from the office of the County Engineer:

- (A) Turn lanes at the project entrances, and
- (B) Jog Road as a two lane facility from 45th Street to Beeline Highway.

Funds for the acquisition and construction of 45th Street shall be required within ninety (90) days after obtaining all necessary construction permits for the Resource Recovery Plant.

4. a) Any fuel or chemical storage tanks shall be installed to provide maximum protection against leakage or spillage due to corrosion, breakage, structural failure or other means. Acceptable designs for tank construction include cathodically protected steel, glass fiber reinforced plastic, double-walled steel or plastic, or other equivalent design. The design and installation plans shall be submitted to the Health Department for approval prior to installation.

b) Any toxic or hazardous waste generated at this site shall be properly handled and disposed of in accordance with Chapter 17-30, Florida Administrative Code.

5. The development shall retain onsite 85% of the stormwater runoff generated by a three (3) year storm per requirements of the Permit Section, Land Development Division.

6. Reasonable precautions shall be exercised during site development to insure that unconfined particulates (dust particles) from this property do not become a nuisance to neighboring properties.

7. Reasonable measures shall be employed during site development to insure that no pollutants from this property shall enter adjacent or nearby surface waters.

8. The Solid Waste Authority shall install a double liner system for all Class I landfill cells at this site. Each liner shall conform to the FDER criteria for permeability and leachate collection.

9. The Solid Waste Authority shall install a single liner system for Class III landfill cells at this site. Each liner shall conform to the FDER criteria for permeability and leachate collection.

10. The Solid Waste Authority shall fund the acquisition of the additional right-of-way for 45th Street from 1-95 to a point 200 feet west of Haverhill Road per the County Engineer's approval plus the appropriate tapers. This additional right-of-way acquisition shall be per Palm Beach County's approved construction plans.

11. The Solid Waste Authority shall fund the construction of 45th Street from 1-95 to a point 200 feet west of Haverhill Road as a four-lane median divided section per the County Engineer's approval plus the appropriate tapers. Additional landscaping for visual and noise mitigation shall be installed in the area of Gramercy Park Subdivision in accordance with a plan to be designed by the County Engineer in cooperation with the staff of the Solid Waste Authority and area property owners. Funds for the acquisition and construction of 45th Street shall be made available within 90 days after all necessary construction permits required for the Resource Recovery Plant have been obtained.

12. Exact copies of all graphic materials presented at the final zoning hearing shall be submitted to the zoning division and made a part of the official record for Petition No. 84-134, as the Board of County Commissioners' approved site plan.

13. Petitioner shall grant a permanent 20' wide ingress/egress easement to Lenora Ombres, her heirs, successors or assigns, now or hereafter, to that certain ten acre parcel in the northwest quarter of Section 3, Township 43 South, Range 42 East.

✓ 14. The Solid Waste Authority shall dedicate and deed not less than six (6) acres of land to the Palm Beach County Fire Rescue Department. Said acreage shall be located in the northern part of the property adjacent to the Jog Road/Beeline Highway intersection. Said dedication shall occur upon the closing of the subject property.

15. Additional landscape buffering shall be provided along the north and east boundaries of the site in accordance with a detailed landscape plan to be designed by the Palm Beach County Parks Department with the cooperation of the staff of the Solid Waste Authority. This landscape plan must be submitted for the approval of the Site Plan Review Committee.

16. The Solid Waste Authority shall make any improvements per the County Engineer's approval on the existing 45th Street overpass and for 45th Street from Haverhill Road to the Florida Turnpike necessary to accommodate the proposed truck traffic, as may be deemed necessary by the County Engineer's Office.

Commissioner Bailey moved for approval of the petition. The motion was seconded by Commissioner Koehler and, upon being put to a vote, the vote was as follows:

Ken Spillias, Chairman	---	AYE
Dorothy H. Wilken, Vice Chairman	---	NAY
Peggy Evatt	---	NAY
Dennis P. Koehler	---	AYE
Bill Bailey	---	AYE

The foregoing resolution was declared duly passed and adopted this day of January 8, 1985 confirming action of the 1st of October, 1984.

PALM BEACH COUNTY, FLORIDA, BY ITS
BOARD OF COUNTY COMMISSIONERS

APPROVED AS TO FORM
AND LEGAL SUFFICIENCY

JOHN B. DUNKLE, Clerk

By:

Stanley Spayne
County Attorney

By:

Marlene Harris
Deputy Clerk



RECEIVED

JUN 02 1989

A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF WEST PALM BEACH, FLORIDA, GRANTING WITH CONDITIONS AN APPLICATION FOR A CLASS A SPECIAL USE PERMIT SUBMITTED BY THE SOLID WASTE AUTHORITY OF PALM BEACH COUNTY PURSUANT TO SECTION 33-16 AND SECTION 33-92 OF CHAPTER 33 (ZONING CODE) OF THE CODE OF THE CITY OF WEST PALM BEACH, FLORIDA, 1979, AS AMENDED, AND THE CONDITIONS AND PROVISIONS OF SECTION 401.2 AND SECTION 602 (D) OF CHAPTER 47-B (ZONING CODE) OF THE CODE OF LAWS AND ORDINANCES OF PALM BEACH COUNTY, FLORIDA, TO ALLOW A HEAVY UTILITY USE, AND THE CONSTRUCTION OF A CENTRAL RESOURCE RECOVERY AND LANDFILL FACILITY ON PROPERTY GENERALLY LOCATED NORTH OF 45TH STREET, EAST OF THE WEST PALM BEACH WATER CATCHMENT AREA AND WEST OF INTERSTATE 95; PROVIDING AN EFFECTIVE DATE; AND FOR OTHER PURPOSES.

* * * * *

WHEREAS, a proper application for A Class A Special Use Permit has been submitted to the City of West Palm Beach by the Solid Waste Authority of Palm Beach County, pursuant to Section 33-16 and Section 33-92 of Chapter 33 (ZONING CODE) of the Code of the City of West Palm Beach, 1979, as amended, and the conditions and provisions of Section 401.2 and Section 602 (D) of Chapter 47-B (ZONING CODE) of the Code of Laws and Ordinances of Palm Beach County, Florida, for the construction of a central resource and recovery and landfill facility on a site generally located north of 45th Street, east of the West Palm Beach Water Catchment Area, and west of Interstate 95, the legal description being attached hereto as "Exhibit A"; and

WHEREAS, on May 31, 1988, pursuant to Ordinance No. 2184-88, the City of West Palm Beach annexed the property described in "Exhibit A" in accordance with Chapter 171, Florida Statutes; and

WHEREAS, the City Commission held a properly noticed hearing on the application on May 30, 1989, at which hearing the City Commission applied the standards and criteria for review of the special use permits in Chapter 33 (ZONING CODE) of the Code of the City of West Palm Beach, Florida, and Sections 401.2 and 602 (D) of the Zoning Code of Palm Beach County, Florida; and

WHEREAS, the property described in "Exhibit A" currently possesses a "Conservation/Very Low to Low Residential" land use assignment and a "Agricultural Residential" zoning category by Palm Beach County, and such land use and zoning designations shall remain in effect in accordance with Chapter 171, Florida Statutes, until redesignation to "Dotted Zone/Community Service" land use assignment and "Community Service" zoning category by the City of West Palm Beach pursuant to its land use plan and zoning code; and

WHEREAS, the land use and zoning designations applied by the City of West Palm Beach do permit a central resource recovery and landfill facility as a special use; and

WHEREAS, the City Commission has found the special use to be consistent with the general and specific standards for a special use in Section 33-16 of Chapter 33 (ZONING CODE) of the Code of the City of West Palm Beach, Florida, and Section 401.2 of the Zoning Code of Palm Beach County, Florida; and

WHEREAS, the City Commission has found the special use to be consistent with the additional standards for special uses in Section 33-92 of Chapter 33 (ZONING CODE) of the Code of the City of West Palm Beach, Florida, and Section 602 (D) of the Zoning Code of Palm Beach County, Florida; and

WHEREAS, the City Commission has decided to grant said application for a special use permit in accordance with the

conditions set forth below.

* * * * *

NOW, THEREFORE BE IT RESOLVED BY THE CITY COMMISSION OF THE CITY OF WEST PALM BEACH, FLORIDA, that:

SECTION 1: The application submitted on behalf of the Solid Waste Authority of Palm Beach County for a Class A Special Use permit affecting property described in "Exhibit A" attached hereto is granted to be constructed in accordance with the following plans and documents on file in the Community Development and Planning Department of the City of West Palm Beach, Florida:

1. The approved survey prepared by Heller, Weaver and Cato, Inc., Margate, Florida, dated May 27, 1988, and received by the Community Development and Planning Department on May 31, 1988.
2. The approved survey prepared by Heller, Weaver and Cato, Inc., Margate, Florida, dated November 28, 1988, and received by the Community Development and Planning Department on January 12, 1989.
3. The approved Site Development Plan prepared by GBS Architects, Landscape Architects and Planners, Inc., Jupiter, Florida, dated April 28, 1987, and received by the City of West Palm Beach Community Development and Planning Department on April 13, 1988.
4. The approved End Use Plan prepared by GBS Architects, Landscape Architects and Planners, Inc., Jupiter, Florida, dated February 9, 1987, and received by the City of West Palm Beach Community Development and Planning Department on April 13, 1988.

SECTION 2: The following conditions of development shall be met by the applicant as part of the special use approval by the City of West Palm Beach, Florida:

1. A Class A Special Use Permit shall be approved for a central resource recovery and landfill facility subject to the following conditions:
 - a. The Solid Waste Authority of Palm Beach County shall be subject to the conditions and requirements of County Resolution R-85-51, adopted by the Palm Beach County Board of County Commissioners on January 8, 1985 (Exhibit B).
 - b. The Solid Waste Authority of Palm Beach County shall bear the cost of all infrastructure improvements to the subject site and to the proposed facility.
 - c. The Solid Waste Authority of Palm Beach County shall receive complete services from the City in a manner acceptable to the appropriate City Departments.
 - d. The Solid Waste Authority of Palm Beach County shall install fire hydrants which are compatible with the City's fire fighting equipment.
 - e. The Solid Waste Authority of Palm Beach County shall submit to the Community Development and Planning Department a development application for a zoning assignment to "CS" (Community Service) for the subject property no later than August 31, 1988.
 - f. The Solid Waste Authority of Palm Beach County shall execute and record a Unity of Title for the entire subject property prior to the issuance of a certificate of occupancy.
 - g. The Solid Waste Authority of Palm Beach County shall install all public road improvements according to County Engineering Department standards prior to the issuance of a certificate of occupancy.

h. The Solid Waste Authority of Palm Beach County shall deed a minimum of three (3) acres of land on the subject property to the City for a fire station in a location acceptable to the City of West Palm Beach Fire Chief. In the event the fire station is not constructed within ten (10) years from the date of special use approval, or the property ceases to be used as a fire station or related training facility for a period of five (5) consecutive years, the property shall revert back to the Solid Waste Authority of Palm Beach County. The Solid Waste Authority of Palm Beach County and the City shall sign an agreement to implement this condition prior to the issuance of a certificate of occupancy by the City.

i. The Solid Waste Authority of Palm Beach County shall receive from the City full credit toward the City-required impact fee for the construction of the public right-of-way improvements conditioned in County Resolution R-85-51 in accordance with the City of West Palm Beach Fair Share Transportation Improvements Ordinance (City Ordinance No. 2122-87).

j. In the event the Solid Waste Authority of Palm Beach County initiates building activity subsequent to the annexation but prior to City assigning land use and zoning designations, the conditions contained herein shall apply and any other requirements not included herein for such activities as required by Section 602 (D) of the Zoning Code of Palm Beach County, Florida.

k. In the event building activity commences following the assignment of land use and zoning designations by the City of West Palm Beach, the Solid Waste Authority of Palm Beach County shall be required to meet the conditions required pursuant to Chapter 33 (ZONING CODE) of the Code of the City of West Palm Beach, Florida, and all other conditions contained herein.

SECTION 3: This resolution shall take effect immediately upon its passage.

PASSED AND ADOPTED THIS 30th DAY May, 1989.

(CORPORATE SEAL

CITY OF WEST PALM BEACH
BY ITS CITY COMMISSION

James O. Poole
MAYOR

ATTEST

Agnes E. Layhurst
CITY CLERK

Carl V.M. Coffin