THIS AGREEMENT, made and entered into this the 16th day of May, 2016, by and between **BAY DISPOSAL, INC.** , a Virginia corporation, (hereinafter Bay) of the first part; and the **TOWN OF SOUTHERN SHORES**, a North Carolina municipal corporation, (hereinafter "the Town"), of the second part:

WITNESSETH:

WHEREAS the Town and Bay will enter into a contract dated July, 1, 2016 for refuse collection services ("the Contract"); and,

WHEREAS, the Town and Bay have entered into negotiations and the parties hereto desire to enter a contract for a term of five (5) years.

NOW THEREFORE, in consideration of these premises the parties agree as follows:

1. Bay shall collect, haul, transport, remove and dispose (hereinafter collectively referred to as "disposal") of all trash, garbage, debris, refuse and other waste matter and materials (hereinafter collectively referred to as "trash") from all residential, commercial, business, municipal and governmental premises within the corporate limits of the Town of Southern Shores, North Carolina, subject to the terms and conditions set forth herein below. Bay shall acquire title to the Waste Material when it is loaded into a Bay truck. Title to and liability for any Excluded Waste shall remain with the Town and the Town expressly agrees to defend, indemnify and hold harmless Bay from and against any and all damages, penalties, fines and liabilities resulting from or arising out of the deposit of Excluded Waste in Bay trucks, containers or other equipment. Excluded Waste includes hazardous materials, batteries, propane, paint, oil, charcoal and other flammable chemicals. The parties hereto acknowledge the solid waste disposal fees ("tipping fees") are to be paid by the Town of Southern Shores to another entity separately from this contract and are not to be paid by Bay. Any additional fees, costs or taxes imposed on the disposal of solid waste shall be the responsibility of the Town. The parties acknowledge that the consideration paid by the Town to Bay pursuant to the provisions of this contract is for the collection and disposal of solid waste.

Contractor shall furnish all personnel, labor, equipment and supervision necessary to fulfill satisfactory performance of this agreement. Contractor shall use only personnel qualified to perform the work assigned and shall see that all work is performed in an efficient and workmanlike manner.

2. The term of the contract for the disposal of such trash, shall be for a period of 60 months, commencing on **July 1, 2016** and ending at midnight on **June 30, 2021.** During such period, collection and disposal of residential trash shall be made between the hours of **3:00 A.M. and 6:00 P.M.** on the following schedule: Collection and disposal of residential trash shall be made once per week on Monday for the period of Labor Day to Memorial Day, and two days per week on Monday and Friday for the period of Memorial Day to Labor Day. Collection and disposal of commercial trash shall be made two days per week on Monday and Wednesday for the period of Labor Day to Memorial Day, and three days per week on Monday, Wednesday and Friday for the period of Memorial Day to Labor Day. If any collection day falls on a legal holiday, then such collection shall be made the next business working day. Legal holidays for the purpose of this agreement are New Year's Day, Thanksgiving Day, and Christmas Day. Other legal holidays which cause the transfer stations to be closed shall also be observed, and no collection will occur on those days; such collection will be made the next business working day. Bay will advise the Town at least four weeks in advance that collection will not occur on a day observed as a legal holiday and on which date the transfer stations will not be open to receive trash. The Town Manager and Public Works Director shall be notified immediately in the event that scheduled collection cannot be met due to mechanical or other unforeseen delays. Bay agrees that in the event of equipment breakdown, strike or any other occurrence which would delay or prevent timely performance of its obligations that it shall take all actions reasonably necessary, including but not limited to, replacement of equipment and personnel in order to assure restoration of normal service within six (6) hours from the time of occurrence.

3. The annual consideration for the initial term of this contract shall be $5.48 per residential unit collection stop per month, and $3,657.50 per month for the collection of all commercial customer-owned containers. Payment shall be made by the Town in equal monthly payments by the 20th day of each month, commencing July 1, 2016. The number of residential units for which the contractor shall be paid during the first year of service of this contract is 2,600. On the first anniversary date of this contact and on each subsequent anniversary date thereafter during the term of this contract, the annual consideration paid to Bay shall be increased by an amount necessary to compensate the Bay for any additional residential units.

Further, on the first anniversary date of this contract and on each subsequent anniversary date thereafter during the term of this contract, the annual consideration paid to Bay shall be increased by a percentage at least equal to the percentage change in the CPI-U "All Items"

category of the Consumer Price Index published for the most recent period prior to the date of the proposed change.

4. a) All trash will be placed in containers or receptacles owned by the property owners with lids securely closed and placed in the right-of-way adjacent to the premises of the owner or occupant, at the edge or curb of the street at a reasonably accessible location for collection.

b) Bay will not be required to dispose of trash resulting from construction of buildings and structures, land clearing debris or building demolition.

c) No trash shall be collected from steel drum containers.

d) The Town shall publish rules and regulations governing the manner in which owners or occupants of residences and businesses within the town shall store and place trash for disposal pursuant to this agreement.

5. Residential, heavy duty, two-wheeled 96 gallon lidded trash receptacles shall be provided by Bay to residents upon request for a flat fee of $90.00 per receptacle, including delivery to the residence.

6. Where containers are rusted or otherwise so badly damaged as to be unsanitary or unsafe for handling, or not placed properly for pickup, a warning notice shall be given to the owner or occupant of the premises by the attaching of an appropriate notice to the container, and that if correction of the said condition is not made within seven (7) days by the owner or occupant, then the container and the contents will not be picked up.

7. Trash containers shall not be thrown or handled in a rough or careless manner during pickup, but shall be used and handled with care, usual wear and tear excepted, and Bay shall be liable for negligent and unnecessary damages caused to such containers and receptacles.

8. Bay shall make the trash collection in enclosed trucks or vehicles. The vehicles shall be in good working order, shall be cleaned regularly in accordance with any applicable Health Department regulations (at sites suitable, appropriate and approved for cleaning said trucks or vehicles), and shall have presentable appearance.

9. Bay shall dispose of all trash under the contract only in such manner as is permitted and authorized by law, and shall comply with all rules, regulations, and laws applicable to the disposal of trash.

10. Bay recognizes that the Town is contractually obligated, during the initial term of this contract, to commit its Waste through the Albemarle Regional Solid Waste Management Authority (of which Dare County, NC is a member) to the East Carolina Environmental Landfill

in Bertie County, North Carolina, owned and operated by Republic Services of North Carolina, LLC. Accordingly, Bay shall dispose of the Town's Waste only in such transfer or landfill facilities through which it will be committed for final disposal at the East Carolina Environmental Landfill in Bertie County, North Carolina and in compliance with the Town's aforementioned contractual obligation.

11. Bay shall maintain an office within thirty miles of the Town of Southern Shores at which a responsible person can be reached by telephone during regular working hours of 8:00 A.M. to 4:30 P.M. to answer questions about pick-up service with personnel sufficient to receive and handle complaints and to receive communication from the Town Manager or his representative. Contractor shall supply an emergency telephone number for use in the event of after hour emergencies.

Bay will maintain a complaint log form and a copy of this completed form and corrective actions taken will be submitted to the Town Manager upon request. The Bay office personnel answering the phone will take the call and receive appropriate information from each resident (name, date, phone number, address, time, comment section). The person taking the message will immediately contact the driver and receive the driver's input. The Operations Manager will also be notified by the office, and he or she will either return the phone call or go to the site of the complaint and address the complaint the same service day. Supervisors and/or the Operations Manager will be present in the service area each service day.

12. This contract is for the collection of all trash within the Town of Southern Shores from residential, commercial, business and municipal places or locations, subject to the conditions specified herein. Should the current boundaries of the Town of Southern Shores change during the term of this contract and should the number of stops increase then this contract shall be adjusted accordingly to reflect any increase in the residential, commercial, business premises receiving trash collection.

13. Bay shall be deemed an independent contractor and shall assume all liability and responsibility for any and all damages to persons and/or property resulting from the disposal of such trash, and the Town of Southern Shores shall not be liable and responsible for any such damages, from all of which Bay shall save, protect, and hold the Town harmless.

14. Changes to the type, size, and amount of equipment, the type of frequency of service, and corresponding adjustments to the rates, may be made by agreement of the parties, evidenced either in writing or by the practices and actions of the parties, without affecting the validity of this Agreement and this Agreement shall be deemed amended accordingly. This Agreement

shall continue in effect for the term provided herein and shall apply to changes of and new service address location of the Town within the area in which Bay provides collection service.

15. Town recognizes the difficulty of ensuring that the Town's pavement or driving surface is adequate to bear the weight of Bay vehicles. Therefore, Town agrees that Town will be responsible for any damage to Town's pavement, curbing or other driving surfaces resulting from the weight of Bay vehicles providing service at the Town location. Bay shall not be responsible for damage to any pavement surfaces within the Town's rights-of-way caused by the weight of Bay vehicles.

16. Bay shall carry the following insurance which shall be with a reputable company duly licensed to do business in North Carolina:

a) Workmen's Compensation of all employees who may be involved in any way in the performance of this contract or in services in connection therewith.

b) Commercial general liability insurance in the amount of $1,000,000.00 combined single limit.

c) Vehicle fleet liability (business automobile coverage) in the amount of $1,000,000.00 combined single limit.

17. If, during the term of this Agreement, either party shall be in breach of any provision of this Agreement, the other party may suspend or terminate its performance hereunder until such breach has been corrected; provided, however, that no termination shall be effective unless and until the complaining party has given written notice of such breach to the other party and the other party has failed to cure such breach within at least ten (10) days thereafter. In the event any such breach remains uncured for a period of ten (10) days, the complaining party may terminate this Agreement by giving the other party written notice of such termination; which shall become effective upon receipt of such notice.

18. As of midnight, June 30, 2021, this contract shall automatically terminate unless the Town elects to renew under negotiated terms and conditions.

19. This contract shall be binding upon the parties hereto, their successors and assigns. This contract may not be assigned by Bay without prior written approval of the Town.

20. Bay values the opportunity to meet all of Town's non-hazardous waste collection and disposal needs. Town will provide Bay the opportunity to meet those needs and to provide, on a competitive basis, any additional non-hazardous waste collection and disposal services during the term of this Agreement.

21. Neither party hereto shall be liable for its failure to perform or delay in performance hereunder due to contingencies beyond its reasonable control including, but not limited to, strikes, riots, compliance with laws or governmental orders, fires and acts of God and such failure shall not constitute a Default under this Agreement.

SIGNATURE PAGE TO FOLLOW

WITNESS the following signatures and seals, the Town of Southern Shores having caused these presents to be executed by its Town Manager pursuant to a motion of the Town Council of the Town of Southern Shores duly adopted on April 19, 2016..

BAY DISPOSAL, INC., a Virginia corporation,

By: _____
Emmett Moore, President

TOWN OF SOUTHERN SHORES

By: _____
Peter Rascoe, Town Manager

This instrument has been preaudited in the manner required by The Local Government Budget and Fiscal Control Act.

By: Bonnie Swain
Finance Officer

Date: 5/25/16