AQUIFER/WELLHEAD PROTECTION PROGRAM INTERLOCAL AGREEMENT

THIS INTERLOCAL AGREEMENT entered and made into this _____ day of _____, 2005, pursuant to the authority of Section 163.01, Florida Statutes, by and between LEON COUNTY, FLORIDA, a charter county and political subdivision of the State of Florida, hereinafter referred to as the "County" and the CITY OF TALLAHASSEE, hereinafter referred to as the "City", a Florida municipal corporation.

WHEREAS, the City of Tallahassee Water Quality Division employees are currently engaging in the enforcement of City and County ordinances by monitoring, inspecting and, if necessary, disciplining regulated businesses for the proper use, protection and storage of groundwater in the County; and

WHEREAS, the parties hereto desire to make the most efficient use of their resources and powers to cooperate for their mutual advantages and the County wishes to formally delegate its enforcement authority to the City by utilizing the services of the City of Tallahassee Water Quality Division for assistance in enforcing its Aquifer/Wellhead Protection, Chapter 10 of the Leon County Code of Laws; and

WHEREAS, Section 163.01(4), Florida Statutes, provides "a public agency of the State of Florida may exercise jointly with another public agency of the State, or any other State or of the United States Government any power, privilege or authority which such agencies share in common and which each might exercise separately;" and

WHEREAS, the County on the _____ day of _____, 2005 approved the concept of acquiring City services relating to the enforcement of its Aquifer/Wellhead Protection code; and authorized the Chairman to execute an agreement with the City.

NOW THEREFORE, in consideration of the mutual promises and covenants, benefits to accrue and agreements herein contained and set forth, and obligations herein contained, and subject to the terms and conditions herein contained, and subject to the terms and conditions hereinafter stated, the parties hereto agree as follows:

1. Purpose. The purpose of this Interlocal Agreement is to protect and maintain the quality and quantity of groundwater in the County by delegating its authority to the City to enforce the provisions of Chapter 10, Article XIV, Division 1, Leon County Code of Laws for regulating the use, handling, production, storage and disposal of regulated hazardous substances.

2. Statement of Work. The City shall perform in accordance with reasonable professional standards and carry out in a satisfactory and proper manner as reasonably determined by

the County and subject to City appropriation of funds for such purposes, certain technical and professional services and obligations in accordance with the work plan set forth in Exhibit A attached hereto. This exhibit is hereby adopted by reference and made a part of this agreement.

3. Employee Designation. The County and the City agree that all employees of the City involved in carrying out the obligations of the City under this Interlocal Agreement shall remain employees of the City and be subject to the City's personnel rules and regulations therein.

4. City Responsible for Operating Costs, Salary and benefits: The County and the City agree that the City shall be responsible for payment of all operating costs, including, but not limited to: salaries, pension plan, health and dental benefits, and insurance, associated with City employees.

(a) Should the County charge any fees or assess any fines or penalties in respect to the inspection or enforcement program carried out by the City under this Interlocal Agreement, such fees, fines, and penalties shall be paid directly to the City to be used in payment of the operating costs described in paragraph 4.

5. Termination. This Interlocal Agreement shall be effective for an initial term of (1) year from execution of the agreement by both parties, and shall continue thereafter for a four (4) year term, without the necessity of a formal renewal by any party hereto, unless terminated as hereinafter provided.

(a) Termination for Cause:

If, through any cause, any party to this Interlocal Agreement shall fail to fulfill in timely and proper manner its obligation under this Interlocal Agreement, or if any party shall violate any of the covenants, agreements, or stipulations of this Interlocal Agreement, the party not in violation, shall thereupon have the right to terminate this Agreement in whole or part by giving written notice to the party in such violation of such termination and specifying the effective date thereof, at least thirty (30) days before the effective date of such termination.

(b) Termination for Convenience:

Either the City or the County may terminate this Interlocal Agreement at any time by giving at least thirty (30) days notice in writing to the other party.

6. Equal Opportunity. During the performance of this Interlocal Agreement, the City agrees not discriminate against any employee or applicant for employment because of race, color, religion, sex or national origin. The City will take affirmative action to ensure that applicants are employed, and that employees are treated during employment

without regard to their race, color, religion, sex, or national origin. Such action shall include, but not be limited to the following: employment, upgrading, demotion, or transfer, recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. The City agrees to post in conspicuous places available to employees and applicants for employment, notices to be provided by the contracting officer setting forth the provisions of this nondiscrimination clause.

7. Examination of Records: The City agrees that the County or any of its duly authorized representatives shall have access to and the right to examine, audit, excerpt and transcribe any directly pertinent books, documents, papers and records of the City, involving transactions relating to this Interlocal Agreement.

8. Contract Administrator The County Administrator or his designee shall be designated as the contract administrator for the purpose of acting as the County's representative with respect to questions regarding this Interlocal Agreement. The County Administrator or his designee shall have authority to transmit instructions, receive information and communicate the County's policies to the City. He shall also examine all reports and other documents presented by the City and render in writing any decision pertaining thereto within a reasonable time so as not to delay the City. The County Administrator or his designee shall provide the City ready access to all data, files, reports or other information in possession of the County or readily available to it in order to fulfill the purpose of this agreement.

9. Changes. The County may, from time to time require changes in the scope of the services of the City to be performed hereunder. Such changes, which are mutually agreed upon by and between the County and the City shall be incorporated by written amendments to this Interlocal Agreement.

10. Liability Limitation. Each party hereto agrees that it shall be responsible for the negligent or wrongful acts or omissions of its employees in accordance with Florida law. However, nothing contained herein shall constitute a waiver by either party of its sovereign immunity or the limitations set forth Florida law, including Section 768.28, Florida Statutes.

11. Dispute Resolution. Any disputes between the City and the County in respect to this Interlocal Agreement shall be resolved in accordance with the process set forth in Exhibit B of this Interlocal Agreement.

IN WITNESS WHEREOF, the foregoing parties have executed this Interlocal Agreement as of the date written above.

LEON COUNTY FLORIDA

By:_____
CLIFF THAELL, CHAIRMAN
BOARD OF COUNTY COMMISSIONERS

ATTESTED BY:
BOB INZER, CLERK OF THE COURT

By:_____

CITY OF TALLAHASSEE
MAYOR JOHN MARKS

By:_____

APPROVED AS TO FORM:
COUNTY ATTORNEY'S OFFICE
LEON COUNTY, FLORIDA

By:_____
HERBERT W.A. THIELE, ESQ.

APPROVED AS TO FORM:
CITY ATTORNEY'S OFFICE
LEON COUNTY, FLORIDA

By:_____
JAMES ENGLISH, ESQ.

EXHIBIT A

SCOPE OF WORK FOR INTERLOCAL AGREEMENT BETWEEN LEON COUNTY AND THE CITY OF TALLAHASSEE AQUIFER WELLHEAD PROTECTION PROGRAM

Leon County hereby delegates to the City of Tallahassee its authority to administer and enforce compliance with Chapter 10, Article XIV, Division 1, Leon County Code of Laws. In carrying out such authority, the City and specifically its Aquifer Protection Coordinator or designee, shall perform the following functions in furtherance of the City's and the County's effort to protect the aquifer and groundwater in Leon County:

1. Supervise city environmental inspectors who conduct on-site inspections at regulated entities for compliance with Chapter 10, Leon County Code of Laws.
2. Oversee the scheduling of on-site inspections of regulated entities by utilizing the current aquifer protection program database.
3. Provide an annual report to the Board of County Commissioners and the City Commission of the City of Tallahassee describing, in detail, the status of activities, including enforcement mechanisms carried out under the Aquifer Protection Program during the previous fiscal year.
4. Coordinate with other state, city and/or county employees, as needed, to implement the Aquifer Protection Program.

Exhibit B

DISPUTE RESOLUTION PROCEDURE

1.0 The parties shall attempt to resolve any disputes that arise under this Interlocal Agreement in good faith and in accordance with this Section. The provisions of the "Florida Governmental Conflict Resolution Act" shall not apply to disputes under this Interlocal Agreement, as an alternative dispute resolution process, is hereby encompassed within Section 11.0. The aggrieved Party shall give written notice to the other Party setting forth the nature of the dispute, date of occurrence (if known), and proposed resolution, hereinafter referred to as the "Dispute Notice".

2.0 The appropriate City and County department heads shall meet at the earliest opportunity, but in any event within 10 days from the date the Dispute Notice is received, to discuss and resolve the dispute. If the dispute is resolved to the mutual satisfaction of both, the department heads shall report their decision, in writing, to the City Manager and the County Administrator.

3.0 If the department heads are unable to reconcile the dispute, they shall report their impasse to the City Manager and the County Administrator who shall then convene a meeting at their earliest opportunity, but in any event within 20 days following receipt of the Dispute Notice, to attempt to reconcile the dispute.

4.0 If a dispute is not resolved by the foregoing steps within thirty (30) days after receipt of the Dispute Notice, unless such time is extended by mutual agreement of the parties, then either Party may require the dispute to be submitted to mediation by delivering written notice thereof (the "Mediation Notice") to the other Party. The mediator shall meet the qualifications set forth in Rule 10.010(c), Florida Rules for Mediators, and shall be selected by the parties within 10 days following receipt of the Mediation Notice. If agreement on a mediator cannot be reached in that 10-day period, then either Party can request that a mediator be selected by an independent conflict resolution organization, and such selection shall be binding on the parties. The costs of the mediator shall be borne equally by the

parties.

5.0 If an amicable resolution of a dispute has not been reached within 60 calendar days following selection of the mediator, or by such later date as may be mutually agreed upon by the parties, then such dispute may be referred to binding arbitration by either party. Such arbitration shall be conducted in accordance with the Florida Arbitration Code (Chapter 682, Florida Statutes).

5.1 Such arbitration shall be initiated by delivery, from one party (the "Claimant") to the other (the "Respondent"), of a written demand therefore containing a statement of the nature of the dispute and the amount, if any, involved. The Respondent, within ten (10) days following its receipt of such demand, shall deliver an answering statement to the Claimant. After the delivery of such statements, either party may make new or different claims by providing the other with written notice thereof specifying the nature of such claims and the amount, if any, involved.

5.2 Within ten (10) days following the delivery of such demand, each party shall select an arbitrator and shall deliver written notice of that selection to the other. If either party fails to select an arbitrator within such time, the other party may make application to the court for such appointment in accordance with the Florida Arbitration Code. Within ten (10) days following delivery of the last of such written notices, the two arbitrators so selected shall confer and shall select a third arbitrator. Each of the arbitrators so appointed shall have experience in local government solid waste issues.

5.3 The arbitration hearing shall be commenced in Leon County, Florida within sixty (60) days following selection of the third arbitrator. Except as may be specifically provided herein, the arbitration shall be conducted in accordance with Rules R-23 – R-48, of the Commercial Arbitration Rules of the American Arbitration Association.