

**CITY OF MIRAMAR  
PROPOSED CITY COMMISSION AGENDA ITEM**

**Meeting Date:** October 13, 2021

**Presenter's Name and Title:** Ralph Trapani, Solid Waste & Recycling Manager on behalf of the Public Works Department

**Prepared By:** Kristy Gilbert, Assistant Public Works Director and Ralph Trapani, Solid Waste and Recycling Manager

**Temp. Reso. Number:** 7514

**Item Description:** Temp. Reso. #R7514, Approving the Second Amendment to the Solid Waste Disposal Support Services Agreement between Broward County and the City of Miramar, for a term commencing July 3, 2023 through July 2, 2028; Authorizing the City Manager to execute the Second Amendment. *(Ralph Trapani, Solid Waste & Recycling Manager).*

Consent ☒ Resolution ☐ Ordinance ☐ Quasi-Judicial ☐ Public Hearing ☐

**Instructions for the Office of the City Clerk:** none

**Public Notice** – As required by the Sec. \_\_\_\_ of the City Code and/or Sec. \_\_\_\_, Florida Statutes, public notice for this item was provided as follows: on \_\_\_\_ in a \_\_\_\_ ad in the \_\_\_\_; by the posting the property on \_\_\_\_ and/or by sending mailed notice to property owners within \_\_\_\_ feet of the property on \_\_\_\_  
(fill in all that apply)

**Special Voting Requirement** – As required by Sec. \_\_\_\_, of the City Code and/or Sec. \_\_\_\_, Florida Statutes, approval of this item requires a \_\_\_\_ (unanimous, 4/5ths etc.) vote by the City Commission.

**Fiscal Impact:** Yes ☐ No ☒

**REMARKS:** No fiscal impact


**Content:**

- **Agenda Item Memo from the City Manager to City Commission**
- **Resolution TR7514**
  - **Exhibit A: Second Amendment to Interlocal Agreement**
  - **Exhibit B: Broward County Interlocal Agreement for Solid Waste Disposal Support Services**
- **Attachment:**
  - **Attachment 1: Broward County Letter dated September 20, 2021**
  - **Attachment 2: Letter to Participating Municipalities**



**CITY OF MIRAMAR  
INTEROFFICE MEMORANDUM**

**TO:** Mayor, Vice Mayor, & City Commissioners

**FROM:** <sup>for</sup> Vernon E. Hargray, City Manager 

**BY:** Anthony Collins, Director of Public Works

**DATE:** October 7, 2021

**RE:** Temp. Reso. No. 7514, approving Second Amendment to the Interlocal Agreement for Solid Waste Disposal Support Services between Broward County and the City of Miramar

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**RECOMMENDATION:** The City Manager recommends approval of Temp. Reso. No. 7514, approving a Second Amendment to the Interlocal Agreement (“ILA”) with Broward County for Solid Waste Disposal Support Services and authorizing the City Manager to execute the appropriate agreement.

**ISSUE:** Commission approval is required for an agreement.

**BACKGROUND:** On June 26, 2012, the Broward County Board of County Commissioners approved two agreements with Sun-Bergeron JV and Wheelabrator Environmental Services, Inc., for Solid Waste Disposal Services. The terms of these agreements require Sun-Bergeron and Wheelabrator to accept solid waste from participating municipalities, beginning July 3, 2013.

On February 27, 2018, the Broward County Board of County Commissioners approved the First Amendment to the ILA for Solid Waste Disposal Support Services which allowed municipalities to formally select Wheelabrator as their service provider. The First Amendment allowed each participating municipality to utilize Wheelabrator for disposal of various waste streams (residential and commercial waste, yard waste, bulk trash, and/or construction and demolition debris) and details pricing options. Each participating municipality was required to commit to disposing of its residential and commercial waste (contracted processable waste) and the other selected various waste streams with Wheelabrator for the entire first renewal term (July 3, 2018 through July 2, 2023).

The City of Miramar opted not to join the ILA with other participating communities when it was first offered in 2012, but instead conducted its own competitive solicitation process for solid waste disposal services. On July 3, 2012, the City Commission adopted Resolution No. 12-139, awarding an agreement to Sun-Bergeron Solid Waste Services, JV ("Sun-Bergeron") for disposal of the City's solid waste. This agreement expired on July 2, 2018.

On June 20, 2018, the City Commission adopted Resolution No. 18-129 approving an ILA and First Amendment to the ILA with Broward County for Solid Waste Disposal Support Services thereby becoming a participating community with the right to utilize the same terms and conditions of the Wheelabrator Agreement. The ILA is scheduled to expire July 2, 2023. Participating municipalities, such as Miramar, must commit to dispose of processable waste with Wheelabrator for the entire second renewal term, July 3, 2023 through July 2, 2028. The City must express its intent and commitment to Broward County to dispose of this waste by November 19, 2021. The City must also express its intent to dispose of additional waste through this agreement, by providing a commitment to the County by May 6, 2022.

This commitment to dispose of processable waste with Wheelabrator during the second renewal period of the ILA will not interfere with current goals of the Solid Waste Working Group (SWWG).

**DISCUSSION:** No additional discussion.

**ANALYSIS:** No fiscal impact.

Temp. Reso. No. 7514  
9/22/21  
10/5/21

**CITY OF MIRAMAR  
MIRAMAR, FLORIDA**

**RESOLUTION NO. \_\_\_\_\_**

**A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF MIRAMAR, FLORIDA, APPROVING THE SECOND AMENDMENT TO THE SOLID WASTE DISPOSAL SUPPORT SERVICES AGREEMENT BETWEEN BROWARD COUNTY AND THE CITY OF MIRAMAR FOR A TERM COMMENCING JULY 3, 2023 THROUGH JULY 2, 2028; AUTHORIZING THE CITY MANAGER TO EXECUTE THE SECOND AMENDMENT; AND PROVIDING FOR AN EFFECTIVE DATE.**

**WHEREAS**, on June 26, 2012, the Broward County Board of County Commissioners, approved two agreements with Sun-Bergeron JV ("Sun-Bergeron") and Wheelabrator Environmental Services, Inc., ("Wheelabrator") for Solid Waste Disposal Services; and

**WHEREAS**, the terms of these agreements required Sun-Bergeron and Wheelabrator to accept solid waste from participating municipalities beginning July 3, 2013; and

**WHEREAS**, Broward County subsequently offered to Broward municipalities the option to enter into an Interlocal Agreement ("ILA") and elect to become a participating community for solid waste disposal support services; and

**WHEREAS**, the ILA provides municipalities the discretion to select either or both providers for solid waste disposal services; and

**WHEREAS**, the original ILA was effective through July 2, 2018; and

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**WHEREAS**, in May 2015, the Broward County Board of County Commissioners entered into a Global Amendment, extending the Wheelabrator Solid Waste Disposal Agreement through July 2, 2023; and

**WHEREAS**, on February 27, 2018, the Broward County Board of County Commissioners approved the First Amendment to the ILA for Solid Waste Disposal Support Services allowing municipalities to formally select Wheelabrator as their service provider; and

**WHEREAS**, on June 20, 2018, the City Commission adopted Resolution No. 18-129 approving an Interlocal Agreement (“ILA”) and First Amendment to the ILA with Broward County for Solid Waste Disposal Support Services thereby becoming a participating community with the right to utilize the same terms and conditions of the Wheelabrator Agreement; and

**WHEREAS**, the ILA is scheduled to expire July 2, 2023; and

**WHEREAS**, Broward County must provide notice to Wheelabrator of its intent to renew by January 15, 2022; and

**WHEREAS**, each participating municipality must commit to disposing of its residential and commercial waste and the other selected various waste streams with Wheelabrator for the entire second renewal term, July 3, 2023 through July 2, 2028; and

**WHEREAS**, the City is required to execute the Second Amendment to the ILA with

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10/5/21

Broward County and commit to disposing of its residential and commercial waste and the other selected various waste streams with Wheelabrator for the entire second renewal term, July 3, 2023 through July 2, 2028; and

**WHEREAS**, the City Manager recommends approving the Second Amendment to the ILA with Broward County for Solid Waste Disposal Support Services; and

**WHEREAS**, the City Commission deems it to be in the best interest of the citizens and residents of the City of Miramar to approve the Second Amendment to the ILA with Broward County for Solid Waste Disposal Support Services.

**NOW, THEREFORE, BE IT RESOLVED BY THE CITY COMMISSION OF THE CITY OF MIRAMAR, FLORIDA AS FOLLOWS:**

**Section 1:** That the foregoing “**WHEREAS**” clauses are ratified and confirmed as being true and correct and are made a specific part of this Resolution.

**Section 2:** That the City Commission approves the Second Amendment to the Interlocal Agreement with Broward County for Solid Waste Disposal Support Services thereby committing to disposing of its residential and commercial waste and the other selected various waste streams with Wheelabrator for the entire second renewal term, July 3, 2023 through July 2, 2028.

**Section 3:** That the City Manager is authorized to execute the Second Amendment to the Interlocal Agreement with Broward County for Solid Waste Disposal

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Support Services in substantial conformity with the attached Exhibits "A", together with such non-substantial changes as are deemed necessary by the City Manager and approved as to form and legal sufficiency by the City Attorney.

**Section 4:** That the appropriate City officials are authorized to do all things necessary and expedient to carry out the aims of this Resolution.

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**Section 5:** That this Resolution shall take effect immediately upon adoption.

**PASSED AND ADOPTED** this \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_.

\_\_\_\_\_  
Mayor, Wayne M. Messam

\_\_\_\_\_  
Vice Mayor, Yvette Colbourne

ATTEST:

\_\_\_\_\_  
City Clerk, Denise A. Gibbs

I HEREBY CERTIFY that I have approved  
this RESOLUTION as to form:

\_\_\_\_\_  
City Attorney,  
Austin Pamies Norris Weeks Powell, PLLC

**Requested by Administration**

Commissioner Winston F. Barnes  
Commissioner Maxwell B. Chambers  
Vice Mayor Yvette Colbourne  
Commissioner Alexandra P. Davis  
Mayor Wayne M. Messam

**Voted**

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Reso. No. \_\_\_\_\_

**Second Amendment to September 1, 2012, Interlocal Agreement**

This Second Amendment (the "Second Amendment") to the Interlocal Agreement between Broward County and Participating Communities for Solid Waste Disposal Support Services, dated September 1, 2012, is executed by and between Broward County, a political subdivision of the state of Florida ("County"), and ( ) a municipal corporation ("Participating Community"). County and Participating Community are sometimes each individually referred to as a "Party" and collectively as the "Parties".

**RECITALS**

A. In June 2012, County entered into an agreement with Wheelabrator Environmental Systems Inc., a Delaware corporation ("Wheelabrator"), to provide for the disposal of solid waste generated within Broward County ("Original Disposal Agreement"). Subsequently, County and Wheelabrator have entered into two (2) amendments (the Original Disposal Agreement and its amendments, including the Global Amendment, are collectively referred to as the "Solid Waste Disposal Agreement").

B. County and Participating Community (and other similarly situated Broward County municipalities) entered into an interlocal agreement for solid waste disposal support services, dated September 1, 2012 ("Original Interlocal Agreement"), so that Broward County municipalities might benefit from the disposal capacity provided through the Solid Waste Disposal Agreement. The Original Interlocal Agreement was amended with a first amendment, the template for which was approved by action of the Broward County Board of County Commissioners on February 27, 2018, Agenda Item 58.B. ("First Amendment"), wherein each Participating Community selected Wheelabrator to provide waste disposal services (the Original Interlocal Agreement and First Amendment are collectively referred to as the "Interlocal Agreement").

C. The Solid Waste Disposal Agreement and the Interlocal Agreement each expire on July 2, 2023, unless extended.

D. The Solid Waste Disposal Agreement allows County to renew its term for an additional five (5) years through July 2, 2028, provided (in addition to certain other conditions) there are waste disposal commitments from municipalities within Broward County whose residents and businesses collectively generate at least 500,000 tons of residential and commercial Waste (as defined in the Solid Waste Disposal Agreement and otherwise known as "Contracted Processable Waste" in the Global Amendment and this Second Amendment) on an annual basis.

E. The Parties wish to continue working cooperatively, diligently, and in good faith with one another to find regional, cost-effective, and environmentally sustainable solutions to dispose of solid waste. The Parties desire to further that goal by entering into this Second Amendment to extend the term of the Interlocal Agreement by another five (5) years.

NOW, THEREFORE, for good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, County and Participating Community hereby agree as follows:

1. The above Recitals are true and correct and are incorporated herein as if set forth in full hereunder. All capitalized terms not expressly defined within this Second Amendment shall retain the meaning ascribed to such terms in the Solid Waste Disposal Agreement or the Interlocal Agreement, as applicable.

2. The Interlocal Agreement is hereby renewed for a five (5) year period, commencing July 3, 2023, through July 2, 2028 (the "Renewal Period").

3. During the full term of the Renewal Period, Participating Community shall collect, transport, deliver, and deposit all Contracted Processable Waste within its boundaries to/at the appropriate receiving facility of Wheelabrator in accordance with the Solid Waste Disposal Agreement.

4. In addition to committing the Contracted Processable Waste referenced in paragraph 3 above, Participating Community may communicate its non-binding intent to collect, transport, deliver, and deposit all the following waste (as indicated by checking "Yes" below) within its boundaries to/at the appropriate receiving facility of Wheelabrator in accordance with the Solid Waste Disposal Agreement, except for waste or recycling material that is transported outside of the state of Florida. If Participating Community wishes to deliver and deposit any of the following waste to/at the appropriate receiving facility of Wheelabrator, it must provide a commitment to County and Wheelabrator by May 6, 2022.

**Yard Waste**

☐ Yes

☐ No

**Bulk Trash**

☐ Yes

☐ No

**Construction and Demolition Debris**

☐ Yes

☐ No

5. Pursuant to Article 8(B) of the Solid Waste Disposal Agreement, County must provide notice to Wheelabrator not less than eighteen (18) months prior to the expiration of the Renewal Period if it intends on exercising an additional renewal term, which would commence July 3, 2028 ("Additional Renewal Period"). If Participating Community does not intend to extend the Interlocal Agreement for the Additional Renewal Period, it must give written notice to County at least twenty-one (21) months prior to the expiration of the Renewal Period. Unless such written notice is timely sent to County, Participating Community shall be deemed to have renewed this Interlocal Agreement through July 3, 2028, and Participating Community acknowledges that County will rely on Participating Community renewing the Interlocal Agreement in making its decision on whether to extend the Solid Waste Disposal Agreement for the Additional Renewal Period.

6. Participating Community hereby authorizes County to provide an executed copy hereof to Wheelabrator to evidence Participating Community's commitment for the entirety of the Renewal Period.

7. Participating Community understands that the services to which it is obligating itself by executing this Second Amendment, and that the terms and conditions under which those services will be provided, are those specified in the Solid Waste Disposal Agreement.

8. Preparation of the Second Amendment has been a joint effort of County and Participating Community, and the resulting document shall not, solely as a matter of judicial construction, be construed more severely against one of the Parties than any other.

9. In the event of any conflict or ambiguity between this Second Amendment and the Interlocal Agreement, the Parties agree that this Second Amendment shall control regarding the matters set forth herein. The Interlocal Agreement, as amended by this Second Amendment, incorporates and includes all prior negotiations, correspondence, conversations, agreements, and understandings applicable to the matters contained herein, and the Parties agree that there are no commitments, agreements, or understandings concerning the subject matter of this Second Amendment that are not contained in the Interlocal Agreement as previously amended or as amended by this Second Amendment. Accordingly, the Parties agree that no deviation from the terms hereof shall be predicated upon any prior representations or agreements, whether oral or written.

10. This Second Amendment shall become effective at such date as the Broward County Board of County Commissioners renews or extends the Solid Waste Disposal Agreement, the option for which may be exercised once County has received waste disposal commitments from municipalities whose residents and businesses collectively generate 500,000 tons of Contracted Processable Waste on an annual basis. County shall not be liable to Participating Community, or any third party, for the action, inaction, or breach of a contractual obligation by Wheelabrator, including but not limited to any refusal by Wheelabrator to renew or extend the Solid Waste Disposal Agreement.

11. This Second Amendment may be fully executed in multiple copies by the parties, which together shall have the force and effect of an original document.

[Signatures Begin on the Next Page]

IN WITNESS WHEREOF, the Parties hereto have made and executed this Second Amendment: Broward County, through its County Administrator, authorized to execute same by Board of County Commissioners action on the \_\_\_\_\_ day of \_\_, 20\_\_, and [\_\_], signing by and through its \_\_\_\_\_ duly authorized to execute same.

COUNTY

ATTEST:

BROWARD COUNTY, by and through  
its Board of County Commissioners

\_\_\_\_\_  
Broward County Administrator, as  
ex officio Clerk of the Broward County  
Board of County Commissioners

By: \_\_\_\_\_  
Bertha Henry

\_\_\_\_\_ day of \_\_\_\_\_, 2021

Approved as to form by  
Andrew J. Meyers  
Broward County Attorney  
Governmental Center, Suite 423  
115 South Andrews Avenue  
Fort Lauderdale, Florida 33301  
Telephone: (954) 357-7600  
Telecopier: (954) 357-7641

By: \_\_\_\_\_  
[Name] (Date)  
Assistant County Attorney

By: \_\_\_\_\_  
[Name] (Date)  
Deputy County Attorney

**SECOND AMENDMENT TO INTERLOCAL AGREEMENT FOR SOLID WASTE DISPOSAL SUPPORT  
SERVICES BETWEEN BROWARD COUNTY AND PARTICIPATING COMMUNITY**

PARTICIPATING COMMUNITY

PARTICIPATING COMMUNITY

WITNESS:

\_\_\_\_\_

Print or type name

By: \_\_\_\_\_

Mayor

\_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_

WITNESS:

\_\_\_\_\_

\_\_\_\_\_

By: \_\_\_\_\_

Print or type name City Manager

ATTEST:

APPROVED AS TO FORM:

, City Attorney

By: \_\_\_\_\_

City Clerk

By: \_\_\_\_\_

City Attorney



## Letter of Transmittal

Public Works Department

**SOLID WASTE AND RECYCLING SERVICES**

1 N. University Drive, Suite 400 • Plantation, Florida 33324 • 954-765-4999 • FAX 954-577-2391

August 8, 2018

VIA FedEx: 772927532903

And email: [ratrapani@miramarfl.gov](mailto:ratrapani@miramarfl.gov)

**To:**

City of Miramar  
Ralph Trapani, Solid Waste &  
Recycling Manager  
13900 Pembroke Road, Building L  
Miramar, FL 33027

**From:**

Eliner Knight  
Solid Waste and Recycling Services  
One N University Drive, Suite 400  
Plantation, FL 33324

Mr. Trapani,

Enclosed please find:

- One fully-executed **ILA for Solid Waste Disposal Support Services** and
- One fully-executed **First Amendment to the (September 1, 2012) ILA for Solid Waste Disposal Support Services**

Please contact me if I may be of further assistance.

Sincerely,

A handwritten signature in blue ink that reads "Elin".

Eliner Knight  
Administrative Specialist  
954-474-1849  
[eknight@broward.org](mailto:eknight@broward.org)

Enclosure

cc via email:

- Bernard Buxton-Tetteh ([bbuxton-tetteh@miramarfl.gov](mailto:bbuxton-tetteh@miramarfl.gov))
- Kristy Gilbert ([kmgilbert@ci.miramar.fl.us](mailto:kmgilbert@ci.miramar.fl.us))

## First Amendment to September 1, 2012 Interlocal Agreement

This is a First Amendment (the "First Amendment") to the September 1, 2012 Interlocal Agreement for Solid Waste Disposal Support Services (the "Interlocal Agreement") previously executed by and between Broward County, a political subdivision of the state of Florida ("County") and City of Miramar a municipal corporation ("Participating Community") (collectively, the "Parties").

### RECITALS

- A. In June 2012, County entered into two agreements; one with Wheelabrator Environmental Systems Inc. ("Wheelabrator") and the other with Sun-Bergeron Solid Waste, J.V. ("Sun-Bergeron") (collectively, "Contractors") to provide for the disposal of solid waste generated within Broward County (the "Solid Waste Disposal Agreements"). Each of the Solid Waste Disposal Agreements requires the Contractors to accept Participating Community's waste for a five-year term that expires on July 2, 2018.
- B. Following execution of the Solid Waste Disposal Agreements, County offered all Broward municipalities the option of entering into the Interlocal Agreement to select either or both of the Contractors to provide solid waste disposal services, with pricing and waste disposal options listed in the Solid Waste Disposal Agreements.
- C. Sixteen municipalities entered into the Interlocal Agreement with County to become Participating Communities.
- D. In May 2015, County and Wheelabrator entered into a Global Amendment ("Global Amendment"), amending the Wheelabrator solid waste disposal agreement (as amended, the "Wheelabrator Solid Waste Disposal Agreement").
- E. The price options listed for the disposal of commercial and residential waste in the Wheelabrator Solid Waste Disposal Agreement's Exhibit "A" are listed as Option 1, Option 2, and Option 3. Option 1 was identified as Option A in the Interlocal Agreement, and only applies during the initial term of the Interlocal Agreement (the same initial term as the Wheelabrator Solid Waste Disposal Agreement), which is through July 2, 2018. Therefore, Option 1 (a.k.a. Option A) is not available as an option for any renewal of the Wheelabrator Solid Waste Disposal Agreement after July 2, 2018. For purposes of this First Amendment, and as identified below, Option 2 is the same as Option B under the Wheelabrator Solid Waste Disposal Agreement, and Option 3 is the same as Option C under the Wheelabrator Solid Waste Disposal Agreement.
- F. The Wheelabrator Solid Waste Disposal Agreement allows County to unilaterally extend the term through July 2, 2023. County has exercised that option. The Sun-Bergeron solid waste disposal agreement allows an extension of its term upon mutual written consent of County and Sun-Bergeron. County and Sun-Bergeron have not agreed upon terms for an extension, and the Sun-Bergeron solid waste disposal agreement is therefore expected to expire on July 2, 2018. Although

Participating Community may not obtain future services from Sun-Bergeron through this First Amendment, it acknowledges that it retains the option of seeking to directly contract with Sun-Bergeron for those services.

- G. The Interlocal Agreement's term runs concurrently with the Solid Waste Disposal Agreements. The Interlocal Agreement does not state, however, how an extension, if any, of the Solid Waste Disposal Agreements impacts the Interlocal Agreement's term.

NOW, THEREFORE, for good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, County and Participating Community hereby agree as follows:

1. The above recitals are true and correct and are incorporated herein as if set forth in full hereunder.

2. The Interlocal Agreement is hereby renewed effective July 3, 2018 through July 2, 2023 (the "Initial Renewal Period").

3. During the full term of the Initial Renewal Period, Participating Community shall collect, transport, deliver, and deposit all Residential Waste and Commercial Waste (as defined in the Wheelabrator Solid Waste Disposal Agreement and otherwise known as Contracted Processable Waste in the Global Amendment) within its boundaries at the appropriate receiving facility of Wheelabrator in accordance with the Wheelabrator Solid Waste Disposal Agreement on one of the following price terms, except for waste or recycling material that is transported outside of the state of Florida:

☐ Price Option B

☒ Price Option C

4. In addition to the Residential Waste and Commercial Waste referenced in paragraph 3 above, during the full term of the Initial Renewal Period, Participating Community shall collect, transport, deliver, and deposit all of the following waste (as indicated by checking "Yes" below) within its boundaries at the appropriate receiving facility of Wheelabrator in accordance with the Wheelabrator Solid Waste Disposal Agreement, except for waste or recycling material that is transported outside of the state of Florida.

**Yard Waste**

☐ Yes

☒ No

**Bulk Trash**

☒ Yes

☐ No

### **Construction and Demolition Debris**

☒ Yes

☐ No

5. Participating Community hereby authorizes the County to provide an executed copy hereof to Wheelabrator to evidence Participating Community's commitment during the full term of the Initial Renewal Period.

6. Under the Global Amendment, the County has a further unilateral right to extend the Wheelabrator Solid Waste Agreement through July 2, 2028 by initially notifying Wheelabrator of its intent to do so by January 15, 2022. To exercise that right, the County must have a binding written commitment for the entire second renewal term (July 3, 2023 through July 2, 2028 (the "Second Renewal Term")) from governmental entities within the County whose residents and businesses have annually generated at least 500,000 tons of waste collectively. The Interlocal Agreement (as amended by this First Amendment) expires on July 2, 2023, unless the Parties have entered into a timely amendment on or before January 15, 2022, reflecting that the Participating Community wishes to extend its commitment through the Second Renewal Term. At that time, Participating Community may adjust or change any of the options selected in paragraph 4 above.

7. Participating Community understands that the services to which it is obligating itself by executing this First Amendment, and the terms and conditions under which those services will be provided, are those specified in the June 26, 2012 solid waste disposal agreement between County and Wheelabrator as modified by the Global Amendment.

8. Exhibit C to the Interlocal Agreement is hereby removed in its entirety.

9. Preparation of the First Amendment has been a joint effort of County and Participating Communities, and the resulting document shall not, solely as a matter of judicial construction, be construed more severely against one of the Parties than any other.

10. Except to the extent modified herein, the Interlocal Agreement shall remain in full force and effect. In the event of a conflict between the terms and conditions of this First Amendment and the terms and conditions set forth in the Interlocal Agreement, the terms and conditions of the First Amendment shall control.

11. This First Amendment shall be effective upon execution by the Parties, and may be fully executed in multiple copies by the parties, which together shall have the force and effect of an original document.

IN WITNESS WHEREOF, the Parties have made and executed this First Amendment to the Agreement: BROWARD COUNTY, through its County Administrator, authorized to execute same by Board action on the 27<sup>th</sup> day of February 2018, and each Participating Community, signing by and through officers duly authorized to execute same.

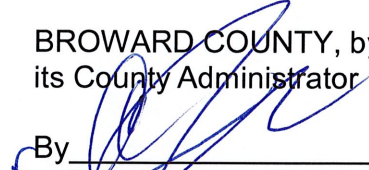
COUNTY

WITNESSES

  
Print Name: JODI GARDNER

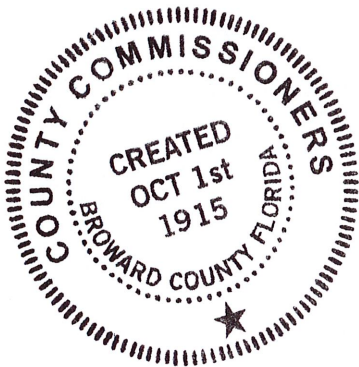
  
Print Name: SUSAN SEFERIAN

BROWARD COUNTY, by and through  
its County Administrator

By   
for Bertha Henry, County Administrator  
2nd day of July, 20 18

Approved as to form by  
Andrew J. Meyers  
Broward County Attorney  
Governmental Center, Suite 423  
115 South Andrews Avenue  
Fort Lauderdale, Florida 33301  
Telephone: (954) 357-7600  
Telecopier: (954) 357-7641

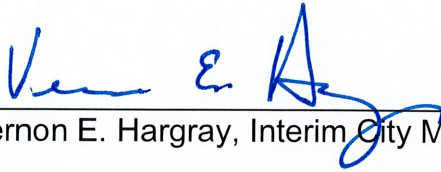
By   
Angela F. Benjamin (Date)  
Senior Assistant County Attorney



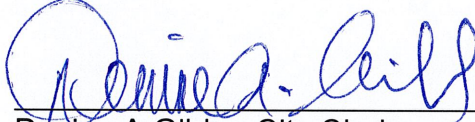
CITY OF MIRAMAR, FLORIDA

BE

By:

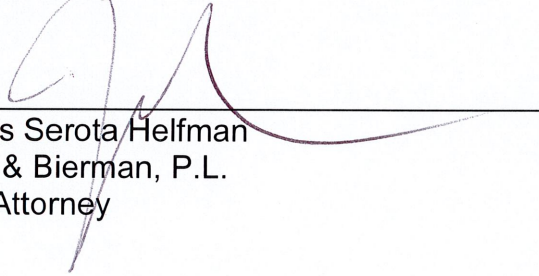
  
Vernon E. Hargray, Interim City Manager

ATTEST:

  
Denise A Gibbs, City Clerk

Approved as to form and legal sufficiency  
for the use of and reliance by the City of  
Miramar only:

By

  
Weiss Serota Helfman  
Cole & Bierman, P.L.  
City Attorney

AS

INTERLOCAL AGREEMENT

between

BROWARD COUNTY

and

PARTICIPATING COMMUNITIES

for

SOLID WASTE DISPOSAL SUPPORT SERVICES

INTERLOCAL AGREEMENT

between

BROWARD COUNTY

and

PARTICIPATING COMMUNITIES

for

SOLID WASTE DISPOSAL SUPPORT SERVICES

This Interlocal Agreement ("Agreement") dated for convenience September 1, 2012, between BROWARD COUNTY, a political subdivision of the state of Florida, its successors and assigns, by and through its Board of County Commissioners, hereinafter referred to as "COUNTY";

AND

The municipalities whose names appear in Exhibit "A" attached hereto and made a part hereof, their successors and assigns, hereinafter referred to as "PARTICIPATING COMMUNITY or COMMUNITIES." It is expected that Broward municipalities may elect to execute this Agreement and become a PARTICIPATING COMMUNITY at different times and throughout the term of this Agreement. At such time as a municipality executes this Agreement or subsequently terminates this Agreement, COUNTY is authorized to add or delete the municipality as a PARTICIPATING COMMUNITY to Exhibit "A." Upon adding or deleting a PARTICIPATING COMMUNITY to Exhibit "A," written notice containing the amended Exhibit "A" shall be sent to all parties to this Agreement.

ARTICLE 1  
BACKGROUND

- 1.1 In order to establish the background, context and frame of reference for this Agreement and to provide a general background regarding the objectives and intentions of the COUNTY and the PARTICIPATING COMMUNITIES, the following statements, representations and explanations are predicates for the undertaking and commitments included within the provisions which follow and

shall be construed as essential elements of the mutual considerations upon which this Agreement is based.

- 1.2 COUNTY and the Contract Communities (as such term is defined in the Prior Interlocal Agreement) have previously entered into a Prior Interlocal Agreement dated November 25, 1986, as amended, ("Prior Interlocal Agreement") which authorizes and requires COUNTY to provide for the disposal of solid waste delivered by or on behalf of the Contract Communities through July 2, 2013.
- 1.3 In order to provide for the continuous disposal of all Contract Community solid waste throughout the term of the Prior Interlocal Agreement, COUNTY has entered into an agreement with Wheelabrator South Broward Inc. and Wheelabrator North Broward Inc. dated June 28, 2011, pursuant to which COUNTY will deliver or cause to be delivered, solid waste generated within the Contract Communities, and the above companies will accept responsibility and dispose of such solid waste at its facilities until July 2, 2013.
- 1.4 In order to continue to make available to all Broward municipalities a regional, economic and environmentally sound method of solid waste disposal after July 2, 2013, the Broward County Board of County Commissioners approved on June 26, 2012: (i) an agreement between COUNTY and Sun-Bergeron Solid Waste, J.V. ("Sun-Bergeron" or "Contractor") dated June 26, 2012, for solid waste disposal services; and (ii) an agreement between COUNTY and Wheelabrator Environmental Systems Inc., a Delaware corporation ("Wheelabrator" or "Contractor") dated June 26, 2012, for solid waste disposal services (collectively referred to as the Solid Waste Agreement(s)). The terms of the Solid Waste Agreements require, among other things, Sun-Bergeron and Wheelabrator, for a five year initial term, to accept PARTICIPATING COMMUNITIES' waste and commence disposal operations on July 3, 2013.
- 1.5 In addition to approving the Solid Waste Agreements on June 26, 2012, the Broward County Board of County Commissioners further approved a "Side Letter" dated June 19, 2012, from Wheelabrator Technologies Inc. to Broward County, whereby COUNTY and Wheelabrator agreed to waive, for a limited period of time, COUNTY's right to preferential pricing based on certain third party agreements, in exchange for the company making payments to COUNTY for its exclusive use and benefit. COUNTY agrees to contribute Wheelabrator's payments to its solid waste programs, administration and operations.
- 1.6 It is the intent of this Agreement to offer to all Broward municipalities the option to execute this Interlocal Agreement and elect to become a PARTICIPATING COMMUNITY subject to the terms of this Agreement and the applicable Solid Waste Agreement(s). By electing to become a PARTICIPATING COMMUNITY a municipality has the discretion to select either or both Contractor(s) as its solid waste disposal company and select among the multiple price and waste options contained in the applicable Solid Waste Agreement(s). Participating Communities

have the further right, pursuant to this Agreement, to additional optional County services as provided for herein.

- 1.7 It is further recognized by PARTICIPATING COMMUNITIES and COUNTY that COUNTY is entering into this Agreement both representing the unincorporated County, a waste generation area with solid waste requiring disposal, and as the party that has the ultimate responsibility for disposal of solid waste within Broward County pursuant to Section 403.706(b)(1), Florida Statutes.
- 1.8 This Agreement is an interlocal agreement entered into pursuant to Section 163.01, Florida Statutes, and the Florida Interlocal Cooperation Act of 1969, as amended. Prior to the effectiveness of any provision of this Agreement and subsequent Amendments hereto, this Agreement and any such subsequent amendments shall be filed with the Broward County Clerk of the Circuit Court as provided by Section 163.01(11), Florida Statutes.
- 1.9 The word "shall" as used in this Agreement shall in all cases be construed to be mandatory and to require the action so modified by the word "shall" to be taken without regard to the exercise of discretion.

## ARTICLE 2 DEFINITIONS

The following contains the definitions of the terms as applied to this Agreement:

- 2.1 Administrator. The term "Administrator" or "County Administrator" shall mean the County Administrator of the Broward County government by the Charter of Broward County, Florida.
- 2.2 Agreement. The term "Agreement" shall mean this Interlocal Agreement (ILA) between COUNTY and Participating Communities.
- 2.3 Board of County Commissioners. The term "Board of County Commissioners" or "County Commissioners" or "County Commission" shall mean the Board of County Commissioners of Broward County, Florida.
- 2.4 Participating Communities. The term "PARTICIPATING COMMUNITY" OR "PARTICIPATING COMMUNITIES" shall mean the municipal corporation or corporations existing under the laws of the state of Florida, located within the COUNTY and whose names appear in Exhibit "A" to this Agreement.
- 2.5 County. The term "COUNTY" shall mean, depending upon the context, either (a) the geographical area contained within unincorporated Broward County, Florida, a political subdivision of the state of Florida, or (b) the government of Broward County, acting through the County Commission or its designee.

- 2.6 Fiscal Year. The term "fiscal year" shall mean October 1 to September 30 of the following year.
- 2.7 Haulers. The term "haulers" shall mean those persons, firms, corporations or governmental agencies which collect solid waste (either under oral or written contract, license, permit or otherwise) within the geographic boundaries of the PARTICIPATING COMMUNITY(IES) or the unincorporated County, or provide for the transportation and delivery of solid waste.
- 2.8 Residential Waste. The term "Residential Waste" shall have the same meaning as defined in the applicable Solid Waste Agreement.
- 2.9 Commercial Waste. The term "Commercial Waste" shall have the same meaning as defined in the applicable Solid Waste Agreement.
- 2.10 Unincorporated County. The term "unincorporated County" shall mean the geographical areas of COUNTY which are not within the boundaries of any municipal corporation. Unincorporated COUNTY shall be treated in all respects under the terms and conditions of this Agreement as a PARTICIPATING COMMUNITY.
- 2.11 Designated Facility. With respect to the Wheelabrator Solid Waste Agreement, the term "Designated Facility" shall mean either "Disposal Facility" as that term is defined in the Wheelabrator Solid Waste Agreement or "Alternate Disposal Facility" as that term is defined in the Wheelabrator Solid Waste Agreement when the conditions of Section 5.2 have been implemented. With respect to the Sun-Bergeron Solid Waste Agreement, the term "Designated Facility" shall mean "Waste Processing Facility" as that term is defined in that Sun-Bergeron Solid Waste Agreement; however for Additional Waste, the term "Designated Facility" shall refer to the "Material Recovery Facilities", as set forth in Exhibit B of the Sun-Bergeron Solid Waste Agreement.
- 2.12 Disposal Services Fee. The term "Disposal Services Fee" shall have the meaning as defined in the applicable Solid Waste Agreement.
- 2.13 Capitalized terms not otherwise defined in this Agreement shall have the same meaning as defined in the applicable Solid Waste Agreement.

### ARTICLE 3

#### COMMITMENT OF WASTE STREAM

- 3.1 PARTICIPATING COMMUNITY shall select a Solid Waste Agreement Contractor (Wheelabrator or Sun-Bergeron or both) by which it agrees to be bound and the applicable price option and waste option pursuant to said Solid Waste Agreement(s), and furnish COUNTY and the applicable Contractor written notice of its elections, concurrent with the execution of this Agreement in such form and with such information as is contained in Exhibits "B" and "C" attached hereto and

made a part hereof. PARTICIPATING COMMUNITY shall have a continuing obligation to immediately provide to COUNTY, in writing, any amendments it may enter into with the applicable Contractor to the selection of its price or waste options.

- 3.2 During the duration of this Agreement as defined in Article 11 hereof, the PARTICIPATING COMMUNITIES and COUNTY for the unincorporated area shall cause all of the Residential Waste, Commercial Waste and any other designated waste pursuant to Section 3.1, within each of their respective boundaries to be collected, transported, delivered and deposited at the appropriate receiving facilities of Contractor, as the case may be, in accordance with the terms of the applicable Solid Waste Agreement, except for waste or recycling material which is transported outside the state of Florida.
- 3.3 Each PARTICIPATING COMMUNITY agrees to include in any contracts or contract amendments with haulers executed after the effective date of the Solid Waste Agreement, a provision that all Residential Waste, Commercial Waste and any other designated waste shall be delivered to the appropriate receiving facilities of either Wheelabrator or Sun-Bergeron, as the case may be, in accordance with the terms of the applicable Solid Waste Agreement, with an exception for any waste generated in the County which is shown to be destined for recycling or disposal outside the state of Florida.
- 3.4 PARTICIPATING COMMUNITY shall elect to participate in the following optional COUNTY services by marking and initializing the box(es) below as appropriate:
- ☐ Centralized Billing Services, as described in Article 6.
  - ☐ Flow Control Enforcement Services, as described in Article 7.

#### ARTICLE 4 PARTICIPATING COMMUNITY'S OBLIGATIONS

- 4.1 Each PARTICIPATING COMMUNITY agrees to include in any hauler agreement for the collection of Residential Waste, including any renewal of an existing hauler agreement, entered into by a PARTICIPATING COMMUNITY and a licensed residential waste hauler after the effective date of the Solid Waste Agreement, the following: (a) the definition of Residential Waste as set forth in the Solid Waste Agreement; (b) the Licensed Residential Waste Hauler's obligation to be responsible for Unacceptable Waste as defined in the applicable Solid Waste Agreement, which is brought to a Designated Facility; (c) the Licensed Residential Waste Hauler's obligation to indemnify Contractor and add Contractor as additional insured for all losses for death, personal injury, and property damage caused by the negligence or intentional misconduct of Licensed Residential Waste Hauler delivering waste on behalf of the PARTICIPATING COMMUNITY; (d) a requirement for the Licensed Residential Waste Hauler(s) to

deliver all collected Residential Waste to the Designated Facilities, and (e) hours of operation for the Designated Facilities during which the Licensed Residential Waste Hauler shall be authorized to deliver waste to the Designated Facilities.

- 4.2 The PARTICIPATING COMMUNITY and the Licensed Commercial Waste Haulers shall execute a license agreement that sets forth the payment procedure in the Solid Waste Agreement for Commercial Waste Disposal Services, and which requires the Licensed Commercial Waste Hauler(s) to deliver all collected Commercial Waste to the Designated Facilities.
- 4.3 If the PARTICIPATING COMMUNITY does not select centralized billing services pursuant to Article 6, it shall require the Licensed Commercial Waste Hauler(s) to provide a performance bond (in a form and from an issuer reasonably acceptable to Contractor) in favor of Contractor in an amount that covers a ninety (90) day Disposal Services Fee payment period for Commercial Waste Disposal Services for the PARTICIPATING COMMUNITY, calculated pursuant to terms of the Solid Waste Agreement and based on the 60 day average tonnage of Commercial Waste delivered by the Licensed Commercial Waste Hauler(s) to Contractor during the twelve (12) month period immediately preceding the execution of the license agreement between the PARTICIPATING COMMUNITY and the Licensed Commercial Waste Hauler(s) entered into after the Effective Date of the Solid Waste Agreement. The sufficiency of the value of the performance bond shall be reviewed on an annual basis and the required bond value may be increased or decreased based on an increase or decrease in a Licensed Commercial Waste Haulers' Commercial Waste delivery obligations. A Licensed Commercial Waste Hauler providing services for multiple Municipalities which do not select centralized billing services may provide one aggregate bond meeting the requirements set forth herein.
- 4.4 If a PARTICIPATING COMMUNITY does not select centralized billing services pursuant to Article 6, it shall pay the Contractor within thirty (30) days of receipt of a monthly invoice issued by Contractor for Residential Waste Disposal Services. If the PARTICIPATING COMMUNITY disagrees with the amount stated in the invoice, the PARTICIPATING COMMUNITY shall notify the Contractor of such dispute. The PARTICIPATING COMMUNITY shall make payment to Contractor of undisputed invoiced amounts within thirty days after receipt of the invoice. In the event of a disputed amount, the parties shall reasonably attempt to discover the cause of any discrepancy between the parties, and if a resolution is not reached within forty-five (45) days of receipt of the invoice, the parties agree to work in good faith to settle the dispute (for amounts greater than \$25,000) by mediation by a mutually acceptable mediator. In the event the parties are not able to resolve the dispute through mediation within forty-five (45) days, then the parties may resolve the dispute by availing themselves to litigation. The existence of a dispute shall not delay payment of undisputed amounts to the Contractor, or relieve Contractor of its obligations under this Agreement.

- 4.5 If the PARTICIPATING COMMUNITY selects centralized billing services pursuant to Article 6, the PARTICIPATING COMMUNITY agrees to include in any contracts or contract amendments with haulers for residential waste a provision that the hauler shall comply with the following: (1) [insurance and credit requirements as may be required by COUNTY]; (2) Pay COUNTY the full amount of each invoice within thirty days of receipt; (3) Agree to pay interest at the rate consistent with the Florida Prompt Payment Act, Sections 218.70-218.80, Florida Statutes, for late payments; (4) Failure to timely pay is an event of default which if not timely cured within 15 days is an event of termination; (5) In the event the hauler disputes an invoice from COUNTY, the hauler shall first pay the full amount of the disputes charges when due, and shall, within thirty (30) days from the date of the receipt of the disputed invoice, give written notice of the dispute to COUNTY. The notice of dispute shall identify the disputed invoice, state the amount in dispute and set forth a full statement of grounds on which such dispute is based. The parties agree to work in good faith to settle the dispute. In the event the parties cannot settle the dispute within sixty (60) days from the date of the receipt of the disputed invoice, the hauler may pursue any remedy available at law except withholding payment.
- 4.6 If a Participating Community collects its Residential Waste and hauls the Residential Waste to the Contractor, the PARTICIPATING COMMUNITY shall be responsible for all costs, including removal, transportation and disposal of the Unacceptable Waste brought to a Designated Facility.

#### ARTICLE 5 OUT OF STATE DISPOSAL AND REPORTING REQUIREMENTS

- 5.1 Any Solid Waste or recyclables generated in Broward County which are shown to be destined for transportation to any destination outside of the State of Florida based on a sworn affidavit of a hauler delivered to the COUNTY and PARTICIPATING COMMUNITY generating the waste and reciting facts which evidence the transportation and disposal of waste outside the state of Florida, are excluded from the flow control restrictions contained in Section 3.2 of this Agreement.
- 5.2 In addition to the affidavit required in Section 5.1, any hauler who elects to transport and dispose of any Broward County waste outside the state of Florida shall provide to COUNTY and PARTICIPATING COMMUNITY generating the waste, a monthly report containing the information listed below so as to enable the County and affected PARTICIPATING COMMUNITY to accurately monitor the collection, flow and disposal of waste.
- 5.3 A monthly report shall be due no later than 30 days after the end of the preceding month, delivered to the Director of Solid Waste and Recycling Services as to the COUNTY, and to the Public Works Director or equivalent position as to any

PARTICIPATING COMMUNITY, certified by the hauler, containing at a minimum the following information and documentation regarding any waste which is collected, transported and disposed of out of the state:

- 5.3.1 The tonnage, origin and type of waste which has been disposed of by the hauler outside the state;
- 5.3.2 The date(s) on which the hauler collected the waste and the location or route of the collected waste;
- 5.3.3 The location of the final disposal facility for the waste, including the location of any other facilities, such as transfer stations where waste is temporarily transported en-route to its final destination out of state;
- 5.3.4 Copies of all receipts, weigh tickets, reports and other written material verifying the collection, transportation and disposal of waste outside the state by the hauler;
- 5.3.5 Such other documentation and information on forms which may be prescribed by, and as the COUNTY or PARTICIPATING COMMUNITY generating the waste may reasonably require to confirm compliance with this section.

#### ARTICLE 6 OPTIONAL COUNTY CENTRALIZED BILLING SERVICES

- 6.1 Each PARTICIPATING COMMUNITY shall have the right, at its sole option, to participate in a COUNTY centralized billing services program as more particularly described in this article. If PARTICIPATING COMMUNITY elects to participate in the COUNTY centralized billing services program by so indicating in Section 3.4 of this Agreement, said election shall remain in force unless PARTICIPATING COMMUNITY furnishes to COUNTY a written letter, not less than one hundred eighty (180) days prior to the beginning of any Fiscal Year, notifying COUNTY that it elects to discontinue its participation in this program. If PARTICIPATING COMMUNITY elects not to participate in the COUNTY centralized billing services by so indicating in Section 3.4 of this Agreement, PARTICIPATING COMMUNITY may request to participate in a future fiscal year, by furnishing to COUNTY a written letter, not less than one hundred eighty (180) days prior to the beginning of that fiscal year.
- 6.2 If PARTICIPATING COMMUNITY timely notifies COUNTY of its election for centralized billing services, COUNTY shall provide the following services:
  - 6.2.1 Review invoices from and timely pay Contractors.
  - 6.2.2 Process billing statements to the haulers and PARTICIPATING COMMUNITIES, as applicable.
  - 6.2.3 Collect data from load tickets received from disposal and transfer facilities.

- 6.2.4 Provide financial and tonnage reporting for each PARTICIPATING COMMUNITY.
  - 6.2.5 Collect required security deposits from haulers.
  - 6.2.6 Suspend haulers for non-payment.
  - 6.2.7 Institute appropriate collections for delinquent accounts.
  - 6.2.8 Research tonnage discrepancies as appropriate.
  - 6.2.9 Maintain copies of haulers' certificates of insurance.
  - 6.2.10 Issue truck decals and maintain vehicle information.
  - 6.2.11 Disburse Contractor rebates received by County as appropriate in accordance with the Solid Waste Agreements.
  - 6.2.12 Reconcile tonnages to the Contractor's monthly invoices.
- 6.3 All costs and expenses for COUNTY's centralized billing services shall be paid for by PARTICIPATING COMMUNITY at an initial rate of \$0.15 (fifteen cents) per ton of waste generated from the PARTICIPATING COMMUNITY which is received by a Contractor at a Designated Facility. Beginning on October 1, 2014, and on each October 1 thereafter for the initial term of the Solid Waste Agreement, the rate shall be subject to adjustment with a cap not to exceed 5% for any year and a floor of not less than 1%, by multiplying the existing rate by the Service Fee Adjustment Factor, as calculated according to the Solid Waste Agreements. The rate shall be subject to negotiation for any subsequent term.
- 6.4 COUNTY reserves the right, in its sole discretion, to cease providing centralized billing services prior to the commencement of any Fiscal Year, with a minimum of six (6) months written notice to PARTICIPATING COMMUNITY; except for the period beginning on July 3, 2013 and ending September 30, 2013, for which said notice by COUNTY shall be given to the PARTICIPATING COMMUNITIES no later than February 28, 2013.
- 6.5 COUNTY shall invoice PARTICIPATING COMMUNITY for centralized billing services within thirty (30) days of the end of each month. PARTICIPATING COMMUNITY agrees that it shall be required to pay COUNTY within thirty (30) days of receipt of the invoice in order to remain entitled to continuing to receive the service.

## ARTICLE 7

### OPTIONAL COUNTY FLOW CONTROL ENFORCEMENT SERVICES

- 7.1 Each PARTICIPATING COMMUNITY shall have the right, at its sole option, to participate in a COUNTY flow control enforcement program as more particularly described in this article. If PARTICIPATING COMMUNITY elects to participate in the COUNTY flow control enforcement program by so indicating in Section 3.4 of this Agreement, said election shall remain in force unless PARTICIPATING COMMUNITY furnishes to COUNTY a written letter, not less than one hundred eighty (180) days prior to the beginning of any Fiscal Year, notifying COUNTY

that it elects to discontinue its participation in this program. If PARTICIPATING COMMUNITY elects not to participate in the COUNTY flow control enforcement program by so indicating in Section 3.4 of this Agreement, PARTICIPATING COMMUNITY may request to participate in a future fiscal year, by furnishing to COUNTY a written letter, not less than one hundred eighty (180) days prior to the beginning of that fiscal year.

- 7.2 Each PARTICIPATING COMMUNITY electing to participate in flow control enforcement agrees to include a requirement that haulers consent to inspection of loads by COUNTY in any agreements, licenses, permits, franchises or other arrangements with haulers entered into after this Agreement.
- 7.3 COUNTY agrees to provide the following services as part of its flow control enforcement:
  - 7.3.1 Monitor the delivery of waste to the designated Disposal Facilities.
  - 7.3.2 Assist PARTICIPATING COMMUNITY staff in identifying violations of applicable solid waste ordinances, including efforts to avoid payment of franchise fees.
  - 7.3.3 Assist the PARTICIPATING COMMUNITIES with identifying unauthorized haulers providing service within a PARTICIPATING COMMUNITY.
  - 7.3.4. Assist the PARTICIPATING COMMUNITIES WITH identifying commercial businesses with inadequate solid waste services.
  - 7.3.5 Such other services as COUNTY and PARTICIPATING COMMUNITES agree are necessary to monitor adherence to this Agreement.
- 7.4 COUNTY reserves the right, in its sole discretion, to cease providing flow control enforcement services prior to the commencement of any Fiscal Year, with a minimum of six (6) months written notice to PARTICIPATING COMMUNITY; except for the period beginning on July 3, 2013 and ending September 30, 2013, for which said notice by COUNTY shall be given to the PARTICIPATING COMMUNITIES no later than February 28, 2013.
- 7.5 COUNTY shall invoice PARTICIPATING COMMUNITY for flow control enforcement services within thirty (30) days of the end of each month. PARTICIPATING COMMUNITY agrees that it shall be required to pay COUNTY within thirty (30) days of receipt of the invoice in order to remain entitled to continuing to receive the service.
- 7.6 All costs and expenses for COUNTY's flow control enforcement services shall be paid for by PARTICIPATING COMMUNITY at an initial rate of \$0.37 (thirty seven cents) per ton of waste generated from the PARTICIPATING COMMUNITY which is received by a Contractor at a Designated Facility. Beginning on October 1, 2014, and on each October 1 thereafter for the initial term of the Solid Waste Agreement, the rate shall be subject to adjustment with a cap not to exceed 5% for any year and a floor of not less than 1%, by multiplying the existing rate by

the Service Fee Adjustment Factor, as calculated according to the Solid Waste Agreements. The rate shall be subject to negotiation for any subsequent term.

## ARTICLE 8 RELATIONSHIPS OF THE PARTIES

Except as set forth herein, no party to this Agreement shall have any responsibility whatsoever with respect to services provided or contractual obligations assumed by any other party and nothing in this Agreement shall be deemed to constitute any party a partner, agent, or local representative of any other party or to create any type of fiduciary responsibility or relationship of any kind whatsoever between the parties. The obligations created and imposed by this Agreement are not joint; rather, such obligations are separate and several between each of the PARTICIPATING COMMUNITIES and COUNTY.

## ARTICLE 9 INDEMNIFICATION

To the maximum extent permitted by law, COUNTY and each PARTICIPATING COMMUNITY shall indemnify, defend and hold harmless the other, their officers, employees and agents from and against any liability, claims, demands, actions, costs, expenses, losses or damages whatsoever, including the intentional or negligent acts of each arising out of the performance of the obligations under this Agreement of COUNTY and each PARTICIPATING COMMUNITY, except the same shall not include punitive damages or prejudgment interest.

## ARTICLE 10 DEFAULT AND TERMINATION

In the event there should occur any material breach in the performance of any covenant or obligation of a party hereunder that has not been remedied within thirty (30) days, except for a monetary breach which shall be remedied within fifteen (15) days, after receipt of notice from the non-breaching party specifying such breach, the non-breaching party may, if such breach is continuing, terminate this Agreement upon thirty (30) days' notice to the party in breach.

## ARTICLE 11 DURATION

This Agreement shall be effective upon execution by COUNTY and a PARTICIPATING COMMUNITY. This Agreement shall remain in effect concurrently with the term of the Solid Waste Agreements and shall remain in effect so long as COUNTY and any PARTICIPATING COMMUNITY are subject to the Solid Waste Agreement(s). If, for any reason, the Solid Waste Agreements are terminated, this Agreement shall be deemed terminated as of the date of termination of the Solid Waste Agreement(s).

ARTICLE 12  
THIRD PARTY BENEFICIARY

Wheelabrator and Sun-Bergeron shall be deemed to be third party beneficiaries to this Agreement entitled to assert any rights which otherwise would be available to COUNTY relating to a PARTICIPATING COMMUNITY'S performance of its obligations pursuant to this Agreement.

ARTICLE 13  
MISCELLANEOUS

- 13.1 ASSIGNMENT. This Agreement, or any interest herein, may not be assigned, transferred or otherwise encumbered, under any circumstances by any party without the prior written consent of the other parties to this Agreement.
- 13.2 STATE AND FEDERAL LAWS. The provisions of solid waste disposal services under this Agreement shall comply with all applicable state and federal laws. This Agreement shall be construed in accordance with the laws of the state of Florida.
- 13.3 NOTICES. All notices, consents and other communications required, permitted or otherwise delivered under this Agreement shall be in writing and shall be delivered either by hand with proof of delivery or mailed by first class registered or certified mail, return receipt required, postage prepaid, and in any case shall be addressed as provided in Exhibit "B," which is attached hereto and made a part hereof. Changes in the respective addresses of PARTICIPATING COMMUNITIES provided in Exhibit "B" and of COUNTY provided on the signature page may be made by either party by giving notice to the other party. Notices and consents given by mail in accordance with this section shall be deemed to have been given five (5) business days after the day of dispatch; notices and consents given by any other means shall be deemed to have been given when received.
- 13.4 INCORPORATION OF AGREEMENTS. This document supersedes all prior negotiations, correspondence, conversations, agreements, or understandings, applicable to the matters contained therein. Accordingly, it is agreed that no deviation from the terms hereof shall be predicated upon any prior representations or agreements, whether oral or written. It is further agreed that no modification, amendment or alteration in the terms or conditions contained herein shall be effective unless contained in a written document executed by the PARTICIPATING COMMUNITY.
- 13.5 ADDITIONAL PARTICIPATING COMMUNITIES. Any time throughout the term(s) of this Agreement, any municipal corporation existing under the laws of the state and located in COUNTY which is not already a PARTICIPATING COMMUNITY may become a PARTICIPATING COMMUNITY by agreeing to all of the terms and conditions of this Agreement.

13.6 SEVERABILITY. In the event that any provision of this Agreement shall, for any reason, be determined to be invalid, illegal or unenforceable in any respect, the parties hereto shall negotiate in good faith and agree as to such amendments, modifications or supplements of or to this Agreement or such other appropriate actions as shall, to the maximum extent practicable in light of such determination, implement and give effect to the intentions of the parties as reflected herein, and the other provisions of this Agreement shall, as so amended, modified or supplemented, or otherwise affected by such action, remain in full force and effect.

13.7 REPRESENTATIONS AND WARRANTIES. Each of the PARTICIPATING COMMUNITIES and COUNTY hereby represents and warrants as to itself as follows:

- (a) It is duly organized and validly existing under the constitution and laws of the state of Florida, with full legal right, power and authority to enter into and perform its obligations hereunder;
- (b) This Agreement has been duly authorized, executed and delivered by it and constitutes its legal, valid and binding obligation, enforceable against it in accordance with its terms (except as such enforceability may be limited by Article X, Section 13 of the Florida Constitution or bankruptcy, moratorium, reorganization or similar laws affecting the right of creditors generally).

13.8 JOINT PREPARATION

Each party and its counsel have participated fully in the review and revision of this Agreement and acknowledge that the preparation of this Agreement has been their joint effort. The language agreed to expresses their mutual intent and the resulting document shall not, solely as a matter of judicial construction, be construed more severely against one of the parties than the other. The language in this Agreement shall be interpreted as to its fair meaning and not strictly for or against any party.

13.9 JURISDICTION, VENUE, WAIVER OF JURY TRIAL

This Agreement shall be interpreted and construed in accordance with and governed by the laws of the State of Florida. All parties agree and accept that jurisdiction of any controversies or legal problems arising out of this Agreement, and any action involving the enforcement or interpretation of any rights hereunder, shall be exclusively in the state courts of the Seventeenth Judicial Circuit in Broward County, Florida, and venue for litigation arising out of this Agreement shall be exclusively in such state courts, forsaking any other jurisdiction which either party may claim by virtue of its residency or other jurisdictional device. **BY ENTERING INTO THIS AGREEMENT, PARTICIPATING COMMUNITIES AND COUNTY HEREBY EXPRESSLY**

**WAIVE ANY RIGHTS EITHER PARTY MAY HAVE TO A TRIAL BY JURY OF ANY CIVIL LITIGATION RELATED TO THIS AGREEMENT.**

13.10 MULTIPLE ORIGINALS

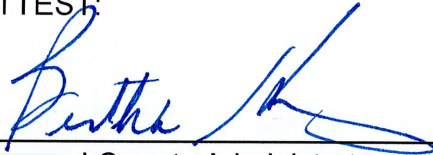
Multiple copies of this Agreement may be executed by all parties, each of which, bearing original signatures, shall have the force and effect of an original document.

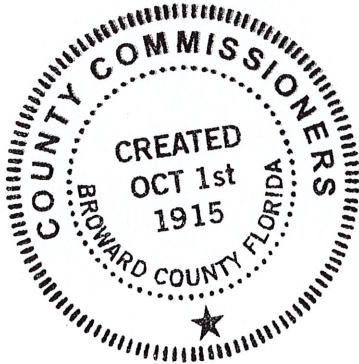
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IN WITNESS WHEREOF, the parties hereto have made and executed this Agreement on the respective dates under each signature: BROWARD COUNTY through its BOARD OF COUNTY COMMISSIONERS, signing by and through its Mayor or Vice-Mayor, authorized to execute same by Board action on the 8th day of January, 20 13, and each PARTICIPATING COMMUNITY, signing by and through officers duly authorized to execute same.


COUNTY

ATTEST:

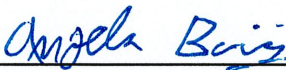
  
Broward County Administrator, as  
Ex-officio Clerk of the Broward County  
Board of County Commissioners



BROWARD COUNTY, by and through its  
Board of County Commissioners

By   
Mayor  
2<sup>nd</sup> day of August, 20 18

Approved as to form by  
Andrew J. Meyers  
Broward County Attorney  
Governmental Center, Suite 423  
115 South Andrews Avenue  
Fort Lauderdale, Florida 33301  
Telephone: (954) 357-7600  
Telecopier: (954) 357-7641

By  7/2/18  
Angela F. Benjamin (Date)  
Senior Assistant County Attorney

PARTICIPATING COMMUNITY

\_\_\_\_\_  
Name of Participating Community

WITNESS:

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

ATTEST:

By: \_\_\_\_\_  
City Manager

\_\_\_\_\_  
City Clerk

\_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

(CORPORATE SEAL)

APPROVED AS TO FORM:

\_\_\_\_\_  
City Attorney

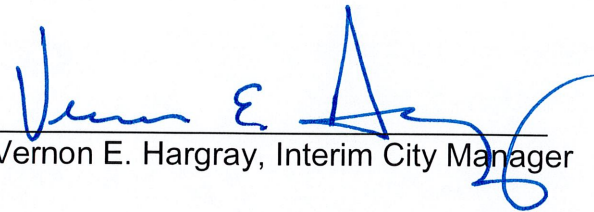
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Rev. signature pages 05-24-18)

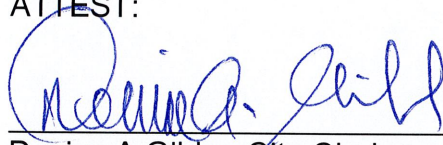
CITY OF MIRAMAR, FLORIDA

BS

By:

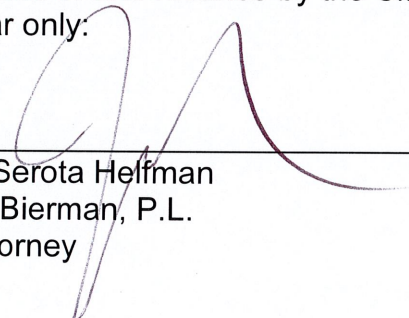
  
Vernon E. Hargray, Interim City Manager

ATTEST:

  
Denise A Gibbs, City Clerk

Approved as to form and legal sufficiency  
for the use of and reliance by the City of  
Miramar only:

By

  
Weiss Serota Helfman  
Cole & Bierman, P.L.  
City Attorney

AB

**EXHIBIT A**  
**NAMES OF PARTICIPATING COMMUNITIES**

**EXHIBIT B**  
**NOTICES FOR PARTICIPATING COMMUNITIES**

EXHIBIT C

NOTICE OF MUNICIPAL SELECTIONS FOR SOLID WASTE DISPOSAL

Municipality: CITY OF MIRAMAR

Residential Waste and Commercial Waste:

☒ Wheelabrator

☐ Price Option A

☐ Price Option B

☒ Price Option C

☐ Sun-Bergeron

☐ Neither

☐ Both

Describe: \_\_\_\_\_

\_\_\_\_\_

Yard Waste

☐ Wheelabrator

☐ Sun-Bergeron

☒ Neither

Bulk Trash

☒ Wheelabrator

☐ Sun-Bergeron

☐ Neither

Construction & Demolition Debris

☒ Wheelabrator

☐ Sun-Bergeron

☐ Neither

Signature of Authorized Official



Date

6/25/18



**BERTHA W. HENRY**, County Administrator

115 S. Andrews Avenue, Room 409 • Fort Lauderdale, Florida 33301 • 954-357-7362 • FAX 954-357-7360

September 20, 2021

To: Broward County Municipal Managers

**RE: Second Amendment to Interlocal Agreement for Solid Waste Disposal Support Services**

Dear Municipal Managers:

The purpose of this letter is to seek your municipality's interest in extending the term for solid waste disposal services currently provided to your municipality.

On August 24, 2021, the Broward County Board of County Commissioners approved the attached Second Amendment to the Interlocal Agreement (ILA) for Solid Waste Disposal Support Services. The Second Amendment allows each participating municipality to utilize Wheelabrator (currently known as "Waste Innovations") for disposal of various waste streams - residential and commercial waste, yard waste, bulk trash, and/or construction and demolition debris - and details pricing options. Each participating municipality must commit to disposing of its residential and commercial waste (defined as "Contracted Processable Waste") and the other selected various waste streams mentioned above with Wheelabrator for the entire second renewal term (July 3, 2023, through July 2, 2028).

Pursuant to the terms of the County's agreement with Wheelabrator, the Disposal Services Fee commencing upon the July 2023 renewal will equal the Disposal Services Fee in effect on July 1, 2023, plus \$1.50 per ton. Further, only Option 3 on Exhibit A of the current Disposal Agreement will be available. Finally, it should also be noted that the current provision wherein Wheelabrator covers any additional transportation and tipping costs at the Alternate Disposal Facility for processable waste above 725,000 tons will end on June 30, 2023, and it will not be responsible for the cost of transporting waste to the Alternate Disposal Facility. The County will engage in discussions with Waste Innovations to see if any of these elements can be further negotiated, but there is no guarantee that any of the provisions as outlined above will change.

Please be assured that a continued commitment to dispose of waste with Wheelabrator during this period will not interfere with the current goals of the Solid Waste Working Group (SWWG). While waste-to-energy is recognized as a viable option to managing waste, the SWWG continues to advocate for a regional approach to solid waste disposal and recycling.

Broward County Board of County Commissioners

Mark D. Bogen • Lamar P. Fisher • Beam Furr • Steve Geller • Dale V.C. Holness • Nan H. Rich • Tim Ryan • Barbara Sharief • Michael Udine  
[www.broward.org](http://www.broward.org)

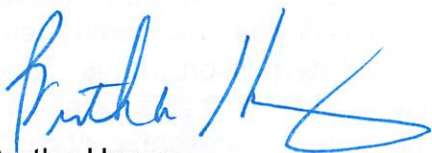
If your municipality would like to participate, please print three one-sided copies of the attached agreement, complete and execute Page 5 of the Second Amendment, and send three original copies to:

Broward County Solid Waste and Recycling Services  
Attn: Notosha Austin, Assistant Director  
1 N. University Drive, Suite 400  
Plantation, FL 33324

Please provide the executed Second Amendment **by Friday, November 5, 2021**, so we can better understand our total commitment in advance of discussions with Wheelabrator.

If you have any questions, please contact Notosha Austin at 954-474-1880.

Sincerely,



Bertha Henry  
County Administrator

Attachment

cc: Monica Cepero, Deputy County Administrator  
Kevin Kelleher, Assistant County Administrator  
Trevor M.A. Fisher, Acting Director, Public Works Department  
Notosha Austin, Assistant Director, Solid Waste and Recycling Services



115 S. Andrews Avenue, Room 409 • Fort Lauderdale, Florida 33301 • 954-357-7320 • FAX 954-357-7360

October 5, 2021

To: Broward County Municipal Managers (Participating Cities)

**RE: REVISED Second Amendment to Interlocal Agreement for Solid Waste Disposal Support Services**

Dear Municipal Managers:

In a letter dated September 20, 2021, County Administrator Bertha Henry requested your municipality's interest in extending the term for solid waste disposal services currently provided to your municipality (see attached). If your municipality was interested in continuing to participate, you were asked to complete and execute the Second Amendment to the Interlocal Agreement (ILA) for Solid Waste Disposal Support Services (which was attached to the September 20, 2021 letter) indicating your commitment and return by Friday, November 5, 2021.

Subsequently, several municipalities have raised concerns regarding Wheelabrator's rates for Additional Waste (i.e., bulk waste, yard trash, and construction and demolition debris) which Wheelabrator has taken the position will be at the same rate as Contracted Processable Waste (also known as municipal solid waste). While the County intends to engage in discussions with Wheelabrator to see if the fees for Additional Waste, among other items, can be further negotiated, there is no guarantee that any of the fees or terms will change.

To address these municipal concerns and facilitate municipal approval of the Proposed Second Amendment, the County has modified the Proposed Second Amendment to enable municipalities to merely indicate their intent to dispose of Additional Waste with Wheelabrator rather than commit to such disposal at this time. To that end, attached please find the Proposed Second Amendment with a revision to paragraph 4 to address this change. Please note that municipalities, electing to do so, will still be committing to dispose of the Contracted Processable Waste (or municipal solid waste) for their municipality for the entire 5-year period (from July 3, 2023 to July 2, 2028), but the Additional Waste will only be an intent. If the municipality wishes to dispose of Additional Waste through this agreement, it must provide a commitment to the County by May 6, 2022.

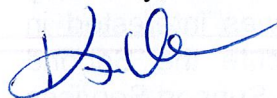
In light of this revision, the County is extending the deadline to submit your municipality's commitment to dispose of its Contracted Processable Waste and intent to dispose of Additional Waste with Wheelabrator **by Friday, November 19, 2021**. To do so, please

print three one-sided copies of the attached amendment, complete and execute Page 5 of the Second Amendment, and send three original copies to:

Broward County Solid Waste and Recycling Services  
Attn: Notosha Austin, Assistant Director  
1 N. University Drive, Suite 400  
Plantation, FL 33324

We trust this addresses the concerns raised and facilitates approval. If you have any questions, please do not hesitate to contact me or Solid Waste and Recycling Services Assistant Director Notosha Austin at 954-474-1880.

Sincerely,



Kevin Kelleher  
Assistant County Administrator

#### Attachments

cc: Bertha Henry, County Administrator  
Monica Cepero, Deputy County Administrator  
Trevor M.A. Fisher, Acting Director, Public Works Department  
Notosha Austin, Assistant Director, Solid Waste and Recycling Services