

ITEM #37

**ADDITIONAL MATERIAL
REGULAR MEETING
FEBRUARY 25, 2025**

SUBMITTED AT THE REQUEST OF

COUNTY ADMINISTRATION




KEVIN KELLEHER, Assistant County Administrator

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

MEMORANDUM

DATE: February 20, 2025

TO: Mayor, Vice-Mayor, and Board of County Commissioners

FROM: Kevin Kelleher, Assistant County Administrator 

SUBJECT: **Additional Material – February 25, 2025 Commission Meeting (Item No. 37) - Motion to Approve Third Amendment to the Agreement between Wheelabrator and Broward County for Solid Waste Disposal Services**

The attached Third Amendment to the Disposal Agreement is in substantially final form. County Administration and County Attorney staff believe all issues within this document have been resolved except for one subparagraph in Section 6 regarding the transmittal of updated transportation rates. As we expect only that paragraph may change, we are distributing this version and expect to distribute the updated draft (which will hopefully be the final, mutually agreed version) as soon as we are able to do so.

cc: Monica Cepero, County Administrator
Dr. Kimm Campbell, Deputy County Administrator
Trevor M.A. Fisher, P.E. Director, Public Works Department
Notosha Austin, Director, Solid Waste and Recycling Services
Andrew Meyers, County Attorney
Bob Melton, County Auditor



**THIRD AMENDMENT TO AGREEMENT BETWEEN
BROWARD COUNTY AND WHEELABRATOR SOUTH BROWARD INC.
(AS ASSIGNEE OF WHEELABRATOR ENVIRONMENTAL SYSTEMS INC.)
FOR
SOLID WASTE DISPOSAL SERVICES**

This Third Amendment (“Third Amendment”) is between Broward County, a political subdivision of the State of Florida (“County”), and Wheelabrator South Broward Inc., a Delaware corporation registered to transact business in the State of Florida (“Wheelabrator” and collectively with the County referred to as the “Parties”).

RECITALS

A. On June 26, 2012, the County and Wheelabrator Environmental Systems Inc. (“WESI”) entered into an Agreement for Solid Waste Disposal Services to provide for the disposal of the County’s solid waste (the “Original Agreement”).

B. In connection with the Original Agreement, certain municipalities (each referred to as a “Participating Community” and collectively as the “Participating Communities”) entered into interlocal agreements with the County, dated on or about September 1, 2012, whereby each Participating Community would also be able to dispose of their solid waste at a disposal facility owned by Wheelabrator and located at 4400 South State Road 7, Fort Lauderdale, Florida 33314 (“Wheelabrator Disposal Facility” also referred to as the “South Disposal Facility” in the Original Agreement).

C. On May 19, 2015, the County, Wheelabrator, WESI, and several other entities entered into the Global Amendment. The Global Amendment amended the Original Agreement and other contracts related to solid waste. Among other matters, the Global Amendment obligated WESI to provide the County (and the Participating Communities) with 725,000 tons of disposal capacity each year at the Wheelabrator Disposal Facility.

D. On July 2, 2018, the County and WESI entered into a Second Amendment to the Original Agreement, which provided for the recycling of Additional Waste (as defined below) at alternate facilities. The Original Agreement, as amended by the Global Amendment and the Second Amendment, is referred to herein as the “Agreement.”

E. Pursuant to Article 8 of the Global Amendment, the Agreement has been renewed for an additional five-year period commencing on July 3, 2023, and continuing through July 2, 2028 (“July 2023 Renewal”).

F. Wheelabrator and WESI are wholly owned subsidiaries of WIN Waste Innovations Holdings Inc., formerly known as Granite Acquisition, Inc.

G. WESI assigned its rights and obligations under the Agreement to Wheelabrator pursuant to Section 9.4 of the Original Agreement and its current parent companies have executed a Parental Guaranty for the benefit of Broward County, effective May 19, 2015, as required by such agreement. The Parental Guaranty is attached hereto as Exhibit A and incorporated herein.

H. The Parties now desire to further amend the Agreement to: (i) set or revise the rates for transportation costs and tipping fees for Contracted Processable Waste, yard waste, bulk trash, and construction and demolition debris to be charged during the July 2023 Renewal; (ii) provide for additional disposal capacity and transfer stations; (iii) specify the procedure to renew the Agreement for another 5-year period from July 3, 2028, through July 2, 2033, and (iv) specify the procedure for assignment of the Agreement by the County as well as other matters described more fully below.

I. On or about February 25, 2025, Wheelabrator and Waste Management Inc. of Florida (“WMIF”) entered into an Agreement for Solid Waste Transfer Stations and Alternate Disposal Facilities (the “WMIF Agreement”) pursuant to which WMIF will make available the WM Transfer Stations (defined herein) for the delivery and disposal of Contracted Processable Waste (defined herein) and accept Additional Waste (defined herein) for processing and disposal.

J. On February 25, 2025, the County accepted WMIF’s proposal to address the impacts of the Monarch Hill Landfill’s further development (the “WMIF Voluntary Commitments”) through which WMIF, among other matters, committed directly to the County to make the WM Transfer Stations available for delivery and disposal of Contracted Processable Waste and to accept Additional Waste for processing and disposal.

Now, therefore, for good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties agree as follows:

1. The above Recitals are true and correct and are incorporated herein by reference. All capitalized terms not expressly defined within this Third Amendment shall retain the meaning ascribed to such terms in the Agreement. Except as expressly modified in this Third Amendment, all remaining terms and conditions of the Agreement shall remain in full force and effect.
2. The Parties intend and agree that this Third Amendment, upon execution by the Parties, shall be retroactively effective as of July 3, 2023, and at all times thereafter, with the same force and effect as if this Third Amendment had been executed on or before that date (“Third Amendment Effective Date”).

3. **Definitions.** Various terms used throughout this Third Amendment are defined in the Original Agreement and Global Amendment. For convenience of review of this Third Amendment, the definitions of certain frequently used terms, several of which may overlap in meaning, are amended and restated below and certain new definitions are added:

3.1. **Additional Waste** means any construction and demolition debris, tropical storm or hurricane related debris, yard-waste, recyclable materials, any large household appliances (commonly referred to as “white goods”) including, without limitation, refrigerators, stoves, washing machines, drying machines, water heaters and the like, or other items of bulky waste, but in each case excluding any Unacceptable Waste.

3.2. **Alternate Disposal Facility** means: (i) the Monarch Hill Landfill, 2700 Wiles Road Pompano Beach, Florida 33073, (ii) the Okeechobee Landfill Facility, 10800 N.E. 128th Avenue, Okeechobee, Florida 33972, or (iii) such other disposal facility as may be approved in writing by the County.

3.3. **Broward Waste** means Additional Waste, Commercial Waste, and Residential Waste.

3.4. **Commercial Waste** means waste, refuse, garbage, trash and rubbish generated within unincorporated Broward County and within the Participating Communities, excepting therefrom Residential Waste as defined herein and that is capable of being processed at the South Disposal Facility, but shall not include Additional Waste, recyclable material that is source separated (removed from the waste stream at the point of generation) and recycled, or Unacceptable Waste.

3.5. **Contracted Processable Waste** means the total amount of New ILA Processable Waste currently delivered by the County and the Participating Communities together with the waste currently delivered by Sunrise for processing.

3.6. **Disposal Services Fee Adjustment Factor** means the adjustment that may be applied to the Disposal Services Charge on an annual basis, as calculated using the Bureau of Labor Statistics Consumer Price Index, All Urban Consumers, U.S. City Average, All Items, Not Seasonally Adjusted, Index Series ID: CUUR0000SA0.

3.7. **Fiscal Year** means the period from October 1 in one year through September 30 in the subsequent year.

3.8. **Monarch Hill Landfill** means the landfill located at 2700 Wiles Road, Deerfield Beach, Florida 33073.

3.9. **Okeechobee Landfill** means the landfill located at 10800 N.E. 128th Avenue, Okeechobee, Florida 33972.

3.10. **New ILA Processable Waste**¹, as defined in the Global Amendment, means the types of Residential Waste and Commercial Waste, as defined in the Current Disposal Agreement, that, under the Current Disposal Agreement and the New ILAs, have been provided by the County and Participating Communities for processing at the South WTE Plant.

3.11. **Residential Waste** means waste, refuse, garbage, trash and rubbish generated within the unincorporated County or within the Participating Communities from "residential property" (as such term or equivalent term is defined by the County with respect to the unincorporated County and by each Participating Community with respect to waste generated within such Participating Community) and that is capable of being processed at the South Disposal Facility, but shall not include Additional Waste, recyclable material that is source separated (removed from the waste stream at the point of generation) and recycled, or Unacceptable Waste.

3.12. **Transportation CPI** means the applicable consumer price index in the then-existing contracts for the transportation of Contracted Processable Waste from each of the WM Transfer Stations (defined below) to the Okeechobee Landfill between WMIF and its hauler(s) (currently Bulk Express Transport Inc.), and in any successor contract(s) for such transportation entered into pursuant to the "Transfer Station Commitment" provision of the WMIF Voluntary Commitments.

3.13. **Transfer Stations** means the WM Transfer Stations (defined below) and any County Transfer Stations (defined below).

4. **Renewal of the Agreement through July 2, 2028.** Wheelabrator and the County hereby acknowledge and agree that the Agreement was renewed for a five-year period commencing on July 3, 2023, and continuing through July 2, 2028, in accordance with the terms of this Third Amendment.

5. **Delivery of Contracted Processable Waste to Transfer Stations; Destination Priority and Reconciliation.** The County may direct Wheelabrator to utilize specific Transfer Stations from which Contracted Processable Waste shall be transported to Alternate Disposal Facilities as follows:

5.1. **WM Transfer Stations.** Subject to the limits of the permitted capacity for each Transfer Station, Wheelabrator shall notify the County and the Participating Communities regarding to which Transfer Station(s) they are to deliver their Contracted Processable Waste. Pursuant to the WMIF Voluntary Commitments, such Transfer Stations will be made available to the County and the Participating Communities to deliver Contracted Processable Waste at no cost to the County or the Participating Communities, and from

¹ The term "New ILA" as used here refers to the 2012 Interlocal Agreement for Solid Waste Disposal Support Services between Broward County and the Participating Communities.

which Contracted Processable Waste shall be transported to the Okeechobee Landfill on the terms set forth herein (collectively the “WM Transfer Stations”):

(i) Reuter transfer station, located at 20701 Pembroke Road, Pembroke Pines, Florida 33029 (the “Reuter Transfer Station”);

(ii) Davie transfer station, located at 2380 College Avenue, Davie, Florida 33317 (the “Davie Transfer Station”); and

(iii) Deerfield West transfer station, located at 1750 SW 43rd Terrace, Deerfield Beach, Florida 33442 (the “Deerfield West Transfer Station”).

Wheelabrator shall route Contracted Processable Waste to the WM Transfer Stations in compliance with Sections 5.3.1 and 5.5 below.

5.2. County Transfer Stations. Notwithstanding Section 5.1, the County shall have the right to utilize or develop transfer stations other than the WM Transfer Stations and/or to direct Wheelabrator to make use of such other transfer stations (“County Transfer Stations”). Wheelabrator shall direct Participating Communities to deliver their Contracted Processable Waste to County Transfer Stations in lieu of, or in addition to, any WM Transfer Station following notification by the County to Wheelabrator in writing and provided that the County and Wheelabrator have addressed additional transportation and disposal costs, if any, resulting from the use of the County Transfer Stations instead of the WM Transfer Stations. In addition, the Disposal Services Fee for any Contracted Processable Waste directed to any County Transfer Stations shall be reduced as provided in the “Out-of-Network Transfer Station Credit Commitment” provision of the WMIF Voluntary Commitments.

5.3. Route Selection. Although the County may determine the Transfer Stations that will be utilized for the delivery of Contracted Processable Waste, Wheelabrator will be responsible for selecting among the Transfer Stations approved by the County, Monarch Hill Landfill as provided below, and the Wheelabrator Disposal Facility where each Participating Community (including, for the County, the unincorporated areas of Broward County) will deliver the Contracted Processable Waste generated within its boundaries. Wheelabrator will further be responsible for communicating such destination to each relevant Participating Community (including, for the County, the unincorporated areas of Broward County).

5.3.1. Destination Priority. In selecting from among the Wheelabrator Disposal Facility and the WM Transfer Stations for the delivery of Contracted Processable Waste by the County and Participating Communities, Wheelabrator shall limit the transportation costs incurred by the County and the Participating Communities to the extent practical. Nothing herein shall be construed to limit the County’s right to designate or approve additional Alternate Disposal Facilities (in addition to or

instead of the Okeechobee Landfill) or additional Transfer Stations for the delivery and disposal of Contracted Processable Waste, provided that the County and Wheelabrator address additional transportation and disposal costs, if any, resulting from the use of the Alternate Disposal Facilities or additional Transfer Stations in addition to or instead of the Okeechobee Landfill and the WM Transfer Stations. Wheelabrator will not unreasonably withhold its agreement regarding such additional transportation and disposal costs, if any, and shall not include in any negotiated transportation or disposal costs charged to the County and Participating Communities any mark-up, discretionary adjustments, or profit margins for the use of Alternate Disposal Facilities or additional Transfer Stations beyond those charges set forth in this Agreement. Subject to the foregoing, Wheelabrator will prioritize the delivery obligations among the Wheelabrator Disposal Facility, the Monarch Hill Landfill, and the WM Transfer Stations as follows:

5.3.1.1. Wheelabrator Disposal Facility. Wheelabrator will first use reasonable efforts to maximize the disposal capacity available to the County and the Participating Communities at the Wheelabrator Disposal Facility for Contracted Processable Waste as set forth in Section 9 hereof.

5.3.1.2. Monarch Hill Landfill. After first directing Contracted Processable Waste to the Wheelabrator Disposal Facility, Wheelabrator will next prioritize the Monarch Hill Landfill as the direct destination of Contracted Processable Waste, which shall include the obligation to direct a minimum of 35,000 tons per Contract Year of Contracted Processable Waste to the Monarch Hill Landfill: (i) during the period from July 3, 2023, through July 1, 2025; and (ii) for any period when WMIF has made such capacity available for Contracted Processable Waste at the Monarch Hill Landfill after July 1, 2025. Wheelabrator will not charge any transportation costs to the County or to any Participating Community for such 35,000 tons of annual Contracted Processable Waste if it is disposed of at the Monarch Hill Landfill or if WMIF pays or assumes direct responsibility for any such transportation costs as provided in the “Transportation Costs Commitment” provision of the WMIF Voluntary Commitments.

5.3.1.3. Deerfield West Transfer Station. After routing Contracted Processable Waste to the Wheelabrator Disposal Facility (and, subject to Section 5.3.1.2, the Monarch Hill Landfill), Wheelabrator shall next prioritize the Deerfield West Transfer Station as the destination for a minimum of 70,000 tons of Contracted Processable Waste per Contract Year (“Deerfield West Commitment”). If the Deerfield West Transfer Station is closed or has reduced capacity due to a Force Majeure event or is otherwise unable to accept the Deerfield West Commitment as provided in Section 5.5.2(iii), then Wheelabrator may route such Contracted

Processable Waste to other Transfer Stations. However, if WMIF does not accept the entire Deerfield West Commitment at the Deerfield West Transfer Station in a Contract Year for any reason other than a Force Majeure event limiting capacity below the Deerfield West Commitment, the County will receive, on its own behalf or on behalf of the Participating Communities, a payment or an offset against the next immediate billings as stated below. The amount below 70,000 annual tons per Contract Year accepted at the Deerfield West Transfer Station is defined as the “Deerfield Differential Tonnage.” The amount of payment or offset received by County will equal the difference between (i) the cost of transporting the Deerfield Differential Tonnage from the WM Transfer Station at which they were accepted to the Okeechobee Landfill and (ii) what the transportation cost to the Okeechobee Landfill would have been if the Deerfield West Commitment had been accepted at the Deerfield West Transfer Station. Wheelabrator shall provide the applicable payment or offset to the County as part of the Destination Reconciliation (defined below).

5.3.2. Additional Capacity at Existing Alternate Disposal Facilities. If WMIF provides additional disposal capacity to the County and the Participating Communities at the Monarch Hill Landfill and/or the Okeechobee Landfill, Wheelabrator agrees to direct the delivery of Contracted Processable Waste to make use of such capacity on the terms set forth in Section 5.3.1.

5.4. Monthly Reports. Wheelabrator shall provide monthly reports to the County regarding the destination of all Broward Waste in a format to be agreed to between the County and Wheelabrator (“Monthly Reports”).

5.4.1. To facilitate the Destination Reconciliation (defined below), Wheelabrator will submit the Monthly Reports to the County within 60 days after the end of the subject month. In each Monthly Report, Wheelabrator will detail the deliveries of Contracted Processable Waste to the Wheelabrator Disposal Facility, the Monarch Hill Landfill, and each Transfer Station and detail the deliveries of Additional Waste for each location where it is delivered.

5.4.2. Each Monthly Report must include, at a minimum, the following information: name of Participating Community, name of delivering party (e.g., waste hauler), location where the Contracted Processable Waste (and, where applicable, the Broward Waste) was delivered, number of transactions for each delivering party, number of tons of Contracted Processable Waste (and, where applicable, number of tons of Broward Waste) delivered, and listing of each type of waste delivered.

5.4.3. The County may request, and Wheelabrator is obligated to maintain and promptly provide, to the extent available to it, additional information regarding deliveries of Contracted Processable Waste and Additional Waste, including without limitation, digital copies of tickets, automatic submitted monthly reports, and adjustments made by any Participating Community or Licensed Waste Hauler.

5.5. Destination Reconciliation. In addition to the Rate Reconciliation described in Section 6 below, the County may reconcile transportation costs, routes, and direct destinations for disposal of Contracted Processable Waste each Contract Year using the Monthly Reports and any other information available (“Destination Reconciliation”).

5.5.1. The purpose of the Destination Reconciliation is to determine whether the route(s) and direct destination(s) selected by Wheelabrator (e.g., the Wheelabrator Disposal Facility, the Monarch Hill Landfill, any Transfer Station, Alternate Disposal Facility, etc.) for Contracted Processable Waste delivered by the County and Participating Communities limited transportation costs to the extent practical.

5.5.2. The Destination Reconciliation shall include instances of Inappropriate or Excessive Transportation Costs (as defined below). The County shall provide the Destination Reconciliation to Wheelabrator within 10 business days after completion for Wheelabrator’s review and approval, which approval shall not be unreasonably withheld. Wheelabrator shall have no more than 10 business days after receipt of the Destination Reconciliation to respond to the Destination Reconciliation. Wheelabrator’s failure to respond shall constitute acceptance. Unless Wheelabrator presents a valid objection within 10 business days of Wheelabrator’s receipt of the Destination Reconciliation, the County may, on its own behalf and on behalf of the Participating Communities, either demand reimbursement for Inappropriate or Excessive Transportation Costs to be paid by Wheelabrator within 30 days after such demand or an offset on the next immediate billings from Wheelabrator for any Inappropriate or Excessive Transportation Costs. Except as otherwise provided in this Section 5.5.2, Wheelabrator’s payment of such demand or offset shall not be tolled or delayed by Wheelabrator’s review of the Destination Reconciliation. Inappropriate or Excessive Transportation Costs are those additional transportation costs caused by Wheelabrator selecting route(s) or direct destination(s) (e.g., the Wheelabrator Disposal Facility, Monarch Hill Landfill, or any Transfer Station) other than the nearest open destination with available capacity and that fail to limit transportation costs to the extent practical, with the only following exceptions:

(i) Force Majeure events causing a temporary or permanent closure of the Wheelabrator Disposal Facility, a Transfer Station, the Monarch Hill Landfill, or a portion thereof;

(ii) Wheelabrator's commercially reasonable transportation of Contracted Processable Waste to the Wheelabrator Disposal Facility to ensure full utilization of its commitment to accept Contracted Processable Waste in Section 5.3.1.1 hereof or its prioritization of the Monarch Hill Landfill or the Deerfield West Transfer Station as provided in Sections 5.3.1.2 and 5.3.1.3, respectively;

(iii) Temporary closure of the Deerfield West Transfer Station for unforeseen operational constraints, maintenance, or repair, subject to the following conditions:

(a) Wheelabrator uses commercially reasonable and diligent efforts to route as much Contracted Processable Waste to the Deerfield West Transfer Station as possible and in compliance with Section 5.3.1.3 hereof;

(b) WMIF either accepts at least the full tonnage of the Deerfield West Commitment in the applicable Contract Year at the Deerfield West Transfer Station, or the County is paid or receives an offset pursuant to the Destination Reconciliation for the Deerfield Differential Tonnage, pursuant to the terms of Section 5.3.1.3 hereof;

(c) WMIF uses commercially reasonable and diligent efforts to overcome the unforeseen operational constraints that have limited the capacity, and complete any required maintenance or repair, of the Deerfield West Transfer Station; and

(d) Wheelabrator has notified the County pursuant to Section 5.6; or

(iv) Temporary closure of all or a portion of the Wheelabrator Disposal Facility for unforeseen operational constraints, maintenance, or repair necessitated by circumstances beyond the reasonable control, and not the result of failure to conform to industry best practices, of Wheelabrator, subject to the following conditions:

(a) Wheelabrator provides to the County and the Participating Communities at least 725,000 tons of disposal capacity for Contracted Processable Waste per Contract Year (which are not subject to the Annual Transportation Rate described in Section 6) at the Wheelabrator Disposal

Facility;

(b) Wheelabrator uses commercially reasonable and diligent efforts to overcome the unforeseen operational constraints and complete repairs or maintenance to restore the necessary processing capacity of the Wheelabrator Disposal Facility;

(c) Wheelabrator prioritizes the disposal and processing of the County's and the Participating Communities' Contracted Processable Waste at the Wheelabrator Disposal Facility before disposing of or processing any municipal solid waste delivered by a third party; and

(d) Wheelabrator has notified the County pursuant to Section 5.6.

5.6. Notice of Closure. Wheelabrator shall provide the County prompt written notice of any closures (or suspension of service) affecting: (i) any Transfer Station or Alternate Disposal Facility after it becomes aware of such closure(s) or suspension(s) of service, or (ii) the Wheelabrator Disposal Facility. If the closure (or suspension of service) is planned, Wheelabrator shall provide notice to the County as follows: (i) in the case of the Wheelabrator Disposal Facility, as much notice as may reasonably be provided but in all events at least 24 hours prior to any planned closure or suspension; and (ii) in the case of any Transfer Station or Alternate Disposal Facility, as promptly as possible after Wheelabrator becomes aware of any planned closure or suspension.

5.7. Source Separation of Broward Waste. Nothing in this Agreement shall prevent the County or any Participating Community at any time during any Renewal Term from source separating any Broward Waste (including, without limitation, Contracted Processable Waste) for recycling, composting, or recovered materials processing and removing such source separated waste from the obligation to provide Wheelabrator all Commercial Waste and Residential Waste.

6. Transportation Costs. The Parties will calculate transportation costs at a flat rate across the WM Transfer Stations using a two-step process: a cost forecast to assist the County and Participating Communities with budgeting and to avoid advance payments by Wheelabrator, followed by a retrospective review and adjustment to ensure accuracy and prevent overpayment, underpayment, or profit by either Party resulting from the transportation costs.

This process, defined in this Section 6, is designed to ensure accountability and prevent misuse. It relies on current contracts governing the transportation of Contracted Processable Waste from the WM Transfer Stations to the Okeechobee Landfill, specifically between WMIF and its hauler(s) (currently Bulk Express Transport Inc.), as well as any future agreements entered into in compliance with the "Transfer Station Commitment" provision of the WMIF Voluntary Commitments. The transportation rate for each individual WM Transfer Station is the rate invoiced to Wheelabrator under the WMIF Agreement for hauling Contracted Processable Waste.

If WMIF enters into new hauler agreements with different transportation rates and/or Transportation CPI (subject to the County's participation rights described in the "Transfer Station Commitment" provision of the WMIF Voluntary Commitments), such rates and/or Transportation CPI will be updated as follows: for the Contract Year ending July 2, 2026, for the Davie Transfer Station (current hauler agreement expires April 30, 2026) and the Deerfield West Transfer Station (current hauler agreement expires June 30, 2026); and as needed for any WM Transfer Station during future renewals or extensions of this Agreement. The updated rates and/or Transportation CPI will be provided to the County by WMIF in writing (either in the form of a declaration under oath or an affidavit) after completion of the solicitation processes described in the "Transfer Station Commitment" provision of the WMIF Voluntary Commitments, and after verification by the County Administrator, or written designee, of such rates and/or Transportation CPI.

6.1. Annual Transportation Rate. The Parties agree that the rate for transporting the County's and Participating Communities' Contracted Processable Waste from the WM Transfer Stations to the Okeechobee Landfill ("Annual Transportation Rate") will be adjusted annually. The Annual Transportation Rate for the Fiscal Year from October 1, 2024, through September 30, 2025, shall be \$27 per ton.

The process for adjusting the Annual Transportation Rate, including the Commercial Waste Transportation Adjustment (defined below) and the Rate Reconciliation (defined below), will commence following the end of each Contract Year on July 3. The updated Annual Transportation Rate will take effect at the beginning of each Fiscal Year on October 1. The Parties shall follow the procedures outlined in the example attached hereto as Exhibit B to adjust the Annual Transportation Rate.

6.1.1. With respect to the transportation of Contracted Processable Waste, the County and each Participating Community will only be required to pay the Annual Transportation Rate per ton of Contracted Processable Waste delivered from the WM Transfer Stations to the Okeechobee Landfill. Wheelabrator will include in the Disposal Services Fee for Commercial Waste in each Fiscal Year a per ton amount, at a minimum, equal to: (i) the Annual Transportation Rate in effect on July 3 in the then-current Contract Year (including an estimate of changes in the transportation rates from each of the WM Transfer Stations due to the Transportation CPI and fuel surcharges applicable to such transportation rates during the following Fiscal Year) multiplied by (ii) the total tons of Contracted Processable Waste delivered in the previous Contract Year to the Okeechobee Landfill divided by (iii) the total tons of Commercial Waste delivered in the previous Contract Year to the Wheelabrator Disposal Facility and the Okeechobee Landfill ("Commercial Waste Transportation Adjustment"). Wheelabrator will not include any transportation costs in the Disposal Services Fee for the Residential Waste. To calculate the Commercial Waste Transportation Adjustment, the Parties will use tonnage information from the most recently completed Contract Year to establish the adjustment for the following Fiscal Year. For ease of

reference, the calculation for the Commercial Waste Transportation Adjustment is demonstrated below:

$$\begin{array}{rcl}
 \text{Commercial Waste Transportation Adjustment for upcoming Fiscal Year} & = & \frac{\text{(i) Annual Transportation Rate in effect on July 3 (including estimated Transportation CPI and fuel surcharges)} \times \text{(ii) Total tons of Contracted Processable Waste delivered to the Okeechobee Landfill in the previous Contract Year}}{\text{(iii) Total tons of Commercial Waste delivered in the previous Contract Year to the Wheelabrator Disposal Facility and the Okeechobee Landfill}}
 \end{array}$$

6.1.1.1. The Commercial Waste Transportation Adjustment, together with the Rate Reconciliation, is the mechanism for adjusting the Annual Transportation Rate for each Fiscal Year.

6.1.1.2. The Parties further agree that the Commercial Waste Transportation Adjustment calculated for the Fiscal Year from October 1, 2025, through September 30, 2026, will include an estimate of the updates to transportation rates and/or Transportation CPI from WMIF referenced in Section 6, above, in addition to the estimates of Transportation CPI and fuel surcharges referenced in Section 6.1.1.

6.1.2. The Annual Transportation Rate will apply equally to all Participating Communities (including, for the County, the unincorporated areas of Broward County) regardless of the WM Transfer Station to which each Participating Community’s Contracted Processable Waste is delivered.

6.1.3. No transportation costs will be imposed for Broward Waste hauled directly to the Monarch Hill Landfill.

6.2. Annual Transportation Rate Reconciliation. In addition to the County’s right to audit identified in the Agreement and as modified below, the Parties agree that the County has the right to perform an Annual Transportation Rate reconciliation at the end of each Contract Year (“Rate Reconciliation”).

6.2.1. The Rate Reconciliation is a retrospective adjustment process that is conducted independently of, and in addition to, the prospective Commercial Waste Transportation Adjustment to the Annual Transportation Rate described in Section 6.1.1. Because the Commercial Waste Transportation Adjustment to the Annual Transportation Rate includes a forecast of fuel surcharges and the Transportation CPI, the purpose of the Rate Reconciliation is, in part, to verify whether the Annual Transportation Rate itself, as adjusted for a given Fiscal Year,

is an accurate reflection of the actual cost to transport Contracted Processable Waste during that period.

6.2.1.1. Notwithstanding the County's right to perform a Rate Reconciliation at the end of each Contract Year, the Parties agree that the first such Rate Reconciliation will: (i) commence with the Contract Year ending on July 2, 2025; and (ii) include a reconciliation of the Annual Transportation Rate for both the Contract Year ending on July 2, 2024, and the Contract Year ending on July 2, 2025.

6.2.2. The Parties agree to use the Rate Reconciliation results to further adjust the Annual Transportation Rate for each following Fiscal Year, as either a rate increase or decrease, as necessary, based on the fuel surcharge and Transportation CPI escalation for the transportation rates for each of the WM Transfer Stations effective each October 1st.

6.2.3. The Rate Reconciliation process will be as follows:

6.2.3.1. The Rate Reconciliation will commence on July 3 following the end of each Contract Year and will be completed by the County's employees or by a contractor engaged by the County. The Rate Reconciliation shall be provided to Wheelabrator within ten (10) business days after completion for Wheelabrator's review and approval, which approval shall not be unreasonably withheld. Wheelabrator shall have no more than ten (10) business days to respond to the Rate Reconciliation provided by the County. If Wheelabrator fails to respond within this timeframe, then it shall be deemed to have approved the Rate Reconciliation.

6.2.3.2. The County (including any contractor(s) engaged by the County) will conduct the Rate Reconciliation, in part, by comparing the Annual Transportation Rate in effect during the most recently completed Contract Year against the adjusted transportation rate(s) for each WM Transfer Station for the same period including, if applicable, the change in the Transportation CPI and fuel surcharge(s) for each of the WM Transfer Stations (and any change resulting from WMIF's new hauler agreements as provided in Section 6.1. hereof).

6.2.3.3. For the avoidance of doubt, neither the Annual Transportation Rate nor the adjusted transportation rates for each WM Transfer Station will be subject to the separate Disposal Services Fee Adjustment Factor described in the Original Agreement.

6.2.3.4. Following the procedure demonstrated in "Part III: Rate

Reconciliation” of Exhibit B, attached hereto and incorporated herein, the County (including any contractor(s) engaged by the County) will:

Step 1 – adjust the non-fuel portion of the transportation rate(s) for each WM Transfer Station to the Okeechobee Landfill by the change in Transportation CPI;

Step 2 – adjust the fuel portion of the transportation rate(s) for each WM Transfer Station by the applicable fuel surcharge;

Step 3 – add together the adjusted non-fuel and fuel portions of the transportation rate(s) for each WM Transfer Station and then, by multiplying the amount of Contracted Processable Waste delivered from each WM Transfer Station by the adjusted transportation rate(s), determine the total cost to transport Contracted Processable Waste to the Okeechobee Landfill during the most recently completed Contract Year (“Real Transportation Cost Total”); and

Step 4 – determine the difference between the Real Transportation Cost Total and the total costs charged and due to transport Contracted Processable Waste for the most recently completed Contract Year, which amount will then be divided by the total tons of Commercial Waste delivered to the Wheelabrator Disposal Facility and the Okeechobee Landfill for the same period (“Rate Reconciliation Result”).

6.2.3.5. The Rate Reconciliation Result will demonstrate that the Annual Transportation Rate in effect during the most recently completed Contract Year was higher than, lower than, or equal to the amount it should have been based on the Real Transportation Cost Total.

6.2.3.6. The results of the annual Rate Reconciliation process shall be used as follows:

(i) If the County (including any contractor(s) engaged by the County) determines through the annual Rate Reconciliation process that the Annual Transportation Rate in effect for the most recently completed Contract Year was too high (i.e., the Rate Reconciliation Result is a positive number), then the County shall have the right to: (a) decrease the Commercial Waste Transportation Adjustment applied to the Disposal Services Fee for Commercial Waste for the following Fiscal Year to account for the differential specified by the Rate Reconciliation Result; (b) be

reimbursed an amount equal to that differential in addition to interest derived therefrom at the five year U.S. Treasury Rate (with interest from the beginning of the current Fiscal Year until such differential is paid to the County), and use all such reimbursed funds to pay the Annual Transportation Rate (applied to the Disposal Services Fee for Commercial Waste through a reduced Commercial Waste Transportation Adjustment) for any succeeding Fiscal Year during any Renewal Term or to pay any other expense to the benefit of the County and Participating Communities; or (c) be reimbursed and decrease the Annual Transportation Rate (as described above) for the following Fiscal Year by amounts each representing a portion of the differential. If the County wishes to be reimbursed, Wheelabrator shall provide such reimbursement in a lump sum before the end of January of the following Fiscal Year. The County shall provide Wheelabrator with written notification of its decision regarding an Annual Transportation Rate decrease and/or reimbursement as promptly as possible after the date the Rate Reconciliation is completed.

(ii) If such Rate Reconciliation demonstrates that the Annual Transportation Rate for the reconciled Fiscal Year(s) was too low (i.e., the Rate Reconciliation Result is a negative number), the County shall increase the Commercial Waste Transportation Adjustment applied to the Disposal Services Fee for Commercial Waste in the following Fiscal Year to account for the differential specified by the Rate Reconciliation Result and Wheelabrator shall be entitled to retain such differential.

6.2.4. After the final Contract Year or upon termination of the Agreement, the County shall perform both a Rate Reconciliation and a Destination Reconciliation (as described in Section 5.5) for said period pursuant to this section. If such Rate Reconciliation or Destination Reconciliation demonstrates that amounts are due by Wheelabrator to the County or the Participating Communities, Wheelabrator shall promptly reimburse the County and each Participating Community for such amounts promptly following receipt of notice and details of any amounts due. If such Rate Reconciliation or Destination Reconciliation demonstrates that amounts are due by the County and the Participating Communities to Wheelabrator, the County and the Participating Communities as applicable shall promptly reimburse Wheelabrator for such amounts following receipt of notice and details of any amounts due. The Parties agree that the rights and obligations of this section shall survive the expiration or earlier termination of the Agreement.

6.3. Most-Favored Price. If, regardless of the methodology for its calculation, Wheelabrator provides lower transportation rates for waste to any other governmental

or private entity in Miami-Dade County, Palm Beach County, or Broward County, the County and each Participating Community will, in each instance, be promptly notified of and automatically charged the lower transportation rates, retroactive to the date Wheelabrator began charging such lower price to the other entity.

7. Disposal Services Fees.

7.1. Commencing on July 3, 2023, the Disposal Services Fees for Contracted Processible Waste were as follows:

Residential Waste	\$51.68/ton
Commercial Waste	\$64.36/ton

For the Fiscal Year from October 1, 2024, through September 30, 2025, the Disposal Services Fees for Contracted Processible Waste are as follows:

Residential Waste	\$56.15/ton
Commercial Waste	\$67.43/ton

As demonstrated in Exhibit B, Part IV, attached hereto and incorporated herein, the Disposal Services Fee for Commercial Waste consists of the same Disposal Services Fee for Residential Waste adjusted by both the Commercial Waste Transportation Adjustment, pursuant to Section 6.1.1, and the Rate Reconciliation Result, if applicable, pursuant to Section 6.2.3.6.

7.2. Notwithstanding the foregoing, for any municipality that becomes a Participating Community after July 3, 2023, the County shall direct Wheelabrator to charge a “Post-2023 Participant Disposal Services Fee,” that includes the Disposal Services Fee provided in Section 7.1 plus the amount the County deems necessary to account for all incremental fees and additional transportation costs, if any, resulting from the disposal of such Contracted Processible Waste in excess of the Disposal Services Fee and the transportation costs of municipalities that became Participating Communities prior to July 2023 Renewal. The Post-2023 Participant Disposal Services Fee shall not include any mark-up or profit margins other than those included in the Disposal Services Fee. The Post-2023 Participant Disposal Services Fee shall be adjusted in the same manner as the Disposal Services Fee on an annual basis as provided in Section 7.3. Wheelabrator shall charge each such Participating Community at the Post-2023 Participant Disposal Services Fee until such time as the County directs Wheelabrator to charge the Disposal Services Fee as set forth in Section 7.1, provided that the aforementioned incremental fees and transportation costs are accounted for in the Disposal Services Fee.

7.3. Commencing on October 1, 2024, and on each anniversary thereafter, the Disposal Services Fees for both Residential Waste and for Commercial Waste then in effect will be adjusted by the amount of increase or decrease for Residential Waste based

on the Disposal Services Fee Adjustment Factor.

7.4. Wheelabrator shall not be obligated to pay any separate or incremental fee, surcharge, or tax imposed on the County or Participating Communities by WMIF pursuant to the “Fee(s) Due to Change in Law” provisions in Parts IV.A, V.A, or VI.B of the Capacity Schedule attached to the WMIF Voluntary Commitments.

8. **Annual Payments to the County.** Commencing on December 31, 2024, and continuing through and including December 31, 2027, Wheelabrator will pay County an annual amount of \$125,000.00 on each December 31 (for a total of \$500,000.00 during the July 2023 Renewal). As of the date of execution of this Third Amendment, Wheelabrator has not yet paid the December 31, 2024, amount. Consequently, Wheelabrator shall pay to the County the amount of \$125,000.00 within sixty (60) calendar days after final execution of this Third Amendment, which amount shall constitute the payment for December 31, 2024. .

9. **Disposal Capacity.** For each Contract Year for the duration of the Agreement (including all renewals or extensions thereof), Wheelabrator shall provide to the County and the Participating Communities at least 725,000 tons of disposal capacity for Contracted Processable Waste per Contract Year at the Wheelabrator Disposal Facility. Further, Wheelabrator will use commercially reasonable efforts to provide at least 750,000 tons of disposal capacity (i.e., an additional 25,000 tons) for Contracted Processable Waste at the Wheelabrator Disposal Facility per Contract Year.

10. **Yard Waste, Bulk Trash, and Construction and Demolition Debris.**

10.1. Commencing July 3, 2023, the Disposal Services Fee applicable to Additional Waste will be \$46.93 per ton, as adjusted pursuant to this Section 10.1 (“Yard and Bulk Waste Rate”). The Yard and Bulk Waste Rate shall be adjusted annually on October 1 to a per ton amount equal to the Base Yard and Bulk Waste Rate (defined below) then in effect minus \$3.25 per ton each Fiscal Year. The Base Yard and Bulk Waste Rate shall be \$50.18 increased by the Disposal Services Fee Adjustment Factor on October 1, 2023 (“Base Yard and Bulk Waste Rate”). On each subsequent October 1, the Base Yard and Bulk Waste Rate then in effect shall be increased by the Disposal Services Fee Adjustment Factor.

10.2. The Yard and Bulk Waste Rate will be available to the County and each Participating Community that has executed an interlocal agreement with the County on or before July 3, 2023, indicating that the Participating Community will use Wheelabrator’s services to dispose of any Additional Waste. Any Participating Community that has not executed an interlocal agreement with the County that includes any Additional Waste disposal services on or before July 3, 2023, will be charged at the rate for Residential Waste for Additional Waste disposal.

10.3. The Parties agree that the Yard and Bulk Waste Rate is offered in lieu of Wheelabrator’s previously agreed-upon payments to the County of: (i) an \$8,000.00 per

week offset to transportation cost during the July 2023 Renewal; and (ii) the \$500,000.00 annual payment to the County during the July 2023 Renewal (collectively, “Deferred Annual Payments”).

10.3.1. During the July 2023 Renewal, as part of the annual Rate Reconciliation, the Parties will multiply the tons of Additional Waste delivered in the most recently completed Contract Year by \$3.25 per ton (“Yard and Bulk Waste Rate Reduction Amount”). The Parties will then determine whether the Yard and Bulk Waste Rate Reduction Amount is greater or less than the Deferred Annual Payments.

10.3.1.1. If the Yard and Bulk Waste Rate Reduction Amount is greater than the Deferred Annual Payments, Wheelabrator shall be entitled to an increase in the Annual Transportation Rate in the following Fiscal Year to recover such difference.

10.3.1.2. If the Yard and Bulk Waste Rate Reduction Amount is less than the Deferred Annual Payments, the County shall be entitled to a reimbursement or offset of the Annual Transportation Rate for such difference, in each case as provided in Section 6.2.3.5.

10.3.2. If the July 2028 Renewal (defined below) occurs, the Deferred Annual Payments will resume, as provided in Section 13.6, and the Yard and Bulk Waste Rate will expire after July 2, 2028.

11. **Assignment of the Agreement by the County.**

11.1. The Parties acknowledge that, as of the Third Amendment Effective Date, there exists an independent governmental entity known as the Solid Waste Disposal and Recycled Materials Processing Authority of Broward County, Florida (“Authority”).

11.1.1. Wheelabrator hereby agrees that the County may freely assign the Agreement, as amended by this Third Amendment, and any related contract or interlocal agreement, to the Authority at any time upon at least 30 days prior written notice to Wheelabrator provided the Authority assumes all of the obligations of the County under the Agreement, as amended by this Third Amendment, in an assumption agreement (“Assumption Agreement”).

11.1.2. Notwithstanding any assignment of the Agreement, as amended by this Third Amendment, to the Authority, all payments to be made by Wheelabrator to the County pursuant to the Agreement shall continue to be made to the County and the County shall be an intended third-party beneficiary of the Agreement upon assignment.

11.1.3. If the Agreement, as amended by this Third Amendment, is assigned by the County to the Authority, Wheelabrator agrees that, commencing with the effective date of such assignment and the Assumption Agreement, the Authority will be solely responsible for meeting all terms and conditions of the Agreement as amended by this Third Amendment. Upon the effective date of such assignment and the Assumption Agreement, the County will be released from, and relieved of, all obligations under this Agreement except for those that apply to the County not as a regional government but rather as a Participating Community (on behalf of the unincorporated area of the County). Upon assignment, the County will be treated as a Participating Community that has elected to utilize Wheelabrator for its yard waste, bulk trash, and construction and demolition debris disposal as of July 3, 2023. In addition, the County will continue to be a third-party beneficiary of the Agreement as a Participating Community and as may otherwise be set forth in this Third Amendment. Any assignment by the County of this Agreement will also not affect Wheelabrator's status as a third-party beneficiary of the 2012 Interlocal Agreement for Solid Waste Disposal Support Services (as described in Article 12 of that interlocal agreement).

11.1.4. In the alternative to the assignment of the Agreement by the County to the Authority, Wheelabrator agrees, with the County's prior written consent, that the Authority may elect to become a Participating Community by executing the 2012 Interlocal Agreement for Solid Waste Disposal Support Services and may utilize Wheelabrator's services for its constituent municipal members (including, if applicable, the County, for purposes of the unincorporated areas of Broward County) to dispose of Broward Waste. Under that circumstance, the Authority will be treated as a Participating Community that has elected to utilize Wheelabrator for its Additional Waste disposal as of July 3, 2023.

12. **Indemnification.** In addition to all other obligations and indemnification provisions in the Agreement, none of which shall be deemed reduced or eliminated by the inclusion of the indemnification obligations contained in this Third Amendment (including, but not limited to those contained in the Global Amendment), Wheelabrator agrees to the following:

12.1. **General Indemnification Obligations.** Wheelabrator will, at its sole cost and expense, indemnify, hold harmless, and defend the County and the County's current, past, and future officers, agents, and employees (each, an "Indemnified Party"), to the maximum extent permitted by law, from and against any and all causes of action, demands, claims, counterclaims, third-party claims, administrative actions, and damages of any kind including, without limitation, for bodily or personal injury or costs directly or indirectly related to any pollution, remediation, or environmental cleanup ("Matters"), which in any way relate to, arise out of, or are associated with, the acts or omissions of Wheelabrator in performing the Disposal Services, including without limitation, disposal of any wastes or other materials that are the subject of the Agreement, except to the extent any Matters are due to the sole negligence or willful misconduct of an Indemnified

Party (collectively, "Claims"). Wheelabrator shall be responsible for direct payment of all Indemnified Parties' obligations, expenditures, and liabilities of any kind associated with or relating to a Matter or Claim, including, without limitation, direct payment of any reasonable attorneys' fees, court costs, damages, and expenses through the conclusion of any appellate proceedings. Wheelabrator must fulfill its indemnification obligations even if the Indemnified Party allegedly or actually was, directly or indirectly, a partial cause of the Claim. Wheelabrator's indemnification obligations extend to Claims and Matters that may or may not specifically be excluded from any pollution/environmental liability insurance coverage maintained by Wheelabrator.

12.2. Specifically Enumerated Claims. Claims include, but are not limited to, Matters alleged to be caused, in whole or in part, by any intentional, negligent, or reckless act or omission of Wheelabrator, its officers, employees, agents, contractors, subcontractors, or predecessors in interest to the Agreement acting on behalf of Wheelabrator, relating to, arising out of, or associated with one or more of the following:

- (i) any allegation that Wheelabrator's performance of the Disposal Services, including without limitation, disposal of any waste or other materials pursuant to the Agreement was improper or violated the rights of any third party;
- (ii) any alleged, threatened, or actual presence or release of any Hazardous Substances (defined below) in relation to Wheelabrator's performance of the Disposal Services, including without limitation, disposal of any wastes or other materials pursuant to the Agreement;
- (iii) any actual, proposed, or threatened use, treatment, storage, holding, existence, disposition, discharge, or other release, generation, production, manufacturing, processing, refining, control, management, containment, abatement, removal, handling, or transfer of any Hazardous Substances in relation to the Agreement;
- (iv) any actual or proposed assessment, clean up, and/or remediation of any Hazardous Substances at any time hauled or disposed of in relation to the Agreement, whether such assessment, clean up, and/or remediation is voluntary or pursuant to court or administrative order, including any resulting or required clean up, control, management, containment, abatement, removal, remedial, or corrective action;
- (v) the imposition, recording, or filing or the threatened imposition, recording, or filing of any environmental lien encumbering the Wheelabrator Disposal Facility, any related infrastructure or facility, or any portion thereof;
- (vi) any past, present, or threatened injury to, destruction of, or loss of natural resources relating to Wheelabrator's performance of the Disposal Services, including without limitation, disposal of any wastes or other materials pursuant to the Agreement including, without limitation, claims for damages, contribution, costs to investigate and assess such injury, destruction, or loss;
- (vii) any actual or threatened breach of any obligation contained within or undertaken as a result of the Agreement;

- (viii) any failure to obtain or to comply with any provision or material obligation contained within, or undertaken as a result of, any notifications, permits, licenses, or authorizations issued to Wheelabrator (or its predecessor in interest to the Agreement) with regard to the hauling, delivery, management, or disposal of any wastes or other materials pursuant to the Agreement;
- (ix) arranging for storage, handling, treatment, disposal, or transport of Hazardous Substances to, from, or at any facility or incineration vessel containing such or similar Hazardous Substances; or
- (x) any noncompliance or threatened noncompliance with or violation of: (1) any laws, including, without limitation, those pertaining to environmental protection or public safety, Chapter 27 of the Broward County Code of Ordinances, Florida Statutes Chapters 376 and 403, Chapters 62-701 through 62-787 of the Florida Administrative Code, the Clean Water Act, 33 U.S.C. § 1321, et seq., the Safe Drinking Water Act, 42 U.S.C. § 300f, et seq., the Resource Conservation and Recovery Act (“RCRA”), 42 U.S.C. § 6901, et seq., the Comprehensive Environmental Response, Compensation, and Liability Act (“CERCLA”), 42 U.S.C. § 9601, et seq., Toxic Substances Control Act, 15 U.S.C. § 2601, et seq., 40 C.F.R. Parts 239 through 799, 49 C.F.R. § 172.101; (2) any ordinance, regulation, standard, condition, requirement, permit, license, or authorization; or (3) any order of any governmental authority.

12.3. Hazardous Substances. For the purposes of the Agreement, “Hazardous Substances” means: means any waste, debris, substance, constituent, object, or material that: (i) is determined to be hazardous, toxic, corrosive, reactive, ignitable, explosive, radioactive, infectious, carcinogenic, teratogenic, or mutagenic (collectively, “Hazardous”), pursuant to the Broward County Charter, Chapter 27 of the Broward County Code of Ordinances, Florida Statutes Chapter 403, Chapter 62-730 of the Florida Administrative Code, RCRA, 42 U.S.C. § 6901, et seq., CERCLA, 42 U.S.C. § 9601, et seq., the Toxic Substances Control Act, 15 U.S.C. § 2601, et seq., 40 C.F.R. Parts 239 through 374, 40 C.F.R. Parts 700 through 799, 49 C.F.R. § 172.101, or any rule or regulation promulgated pursuant to the foregoing authorities; (ii) is classified as “universal waste” pursuant to 40 C.F.R. Part 273; (iii) is otherwise prohibited or determined to be Hazardous by applicable state or federal law; (iv) is determined to be Hazardous at any time by the United States Environmental Protection Agency; (v) may cause damage to any facility accepting the Hazardous Substances; or (vi) otherwise poses a threat to public health or safety.

12.4. Defense of Indemnified Parties. If any Claim is brought against an Indemnified Party, Wheelabrator must, at its own expense, upon written notice from the County (the County Attorney is authorized to provide this notice on behalf of the County), defend each Indemnified Party against each such Claim by counsel reasonably satisfactory to the County, or, at the option of the County, pay for the reasonable expenses of an attorney selected by the County Attorney to defend the Indemnified Party; provided however that if the County elects to defend the Indemnified Party the County shall not settle any Claim

without the prior written consent of Wheelabrator, which consent shall not be unreasonably withheld. The County shall give such notice to Wheelabrator no later than 20 days after receiving actual notice of any Claim; provided, however, that the failure of the County to so give such notice shall not excuse Wheelabrator's obligation to indemnify except to the extent that Wheelabrator has suffered actual damage or prejudice by reason of the County's failure to give, or delay in giving, such notice.

12.5. Survival. Wheelabrator's indemnification obligations shall survive the termination of the Agreement.

13. **Renewal**.

13.1. The Agreement, as amended by this Third Amendment, shall be renewed for an additional five years for the period from July 3, 2028, through July 2, 2033 ("July 2028 Renewal"), provided that either Party obtains by April 3, 2028, binding disposal commitments for the period of the July 2028 Renewal from Participating Communities whose residents and businesses have, in the aggregate, generated a minimum of 500,000 tons of Contracted Processable Waste on an annual basis (based on each Participating Community's prior five-year average). The Parties shall notify each other of any of such commitments as they are obtained but no later than April 3, 2028. The renewal becomes binding and effective upon the final, written notice confirming the entire 500,000-ton disposal commitment ("July 2028 Renewal Notice"), subject to the satisfaction of the conditions set forth in Section 13.2.

13.2. The July 2028 Renewal shall be on the same terms and conditions as stated in the Agreement, as amended by this Third Amendment, except:

13.2.1. The Disposal Services Fee for Residential Waste and all Additional Waste will equal the Disposal Services Fee for Residential Waste as of July 2, 2028. The Disposal Services Fee for Commercial Waste will equal the Disposal Services Fee for Residential Waste as of July 2, 2028, adjusted by the Commercial Waste Transportation Adjustment for the Contract Year ending on July 2, 2028, and the Rate Reconciliation Result for the same period.

13.2.2. If the July 2028 Renewal Notice is provided by April 3, 2028, and WMIF (including any affiliate, parent, or successor entity) has provided written notice that it intends to cease accepting all Additional Waste or provide the use of the WM Transfer Stations after July 2, 2028 (on materially the same terms as in the WMIF Agreement and assuming WMIF continues to accept residue resulting from processing "Bulky Waste," as defined in the WMIF Agreement, at the Monarch Hill Landfill), the Parties shall negotiate in good faith to amend the Agreement as needed to provide for alternative Transfer Stations, alternative delivery and disposal locations for Additional Waste, and to otherwise negotiate terms for the July 2028 Renewal that, to the extent possible, maintain the status quo of the

Parties' obligations provided for in the July 2023 Renewal and in the WMIF Agreement as described above. Neither Party shall unreasonably withhold its agreement to such amendment. Wheelabrator shall not include in such amendment any markups or profit margins other than those charges set forth in the Agreement for transportation, use of Transfer Stations, or disposal locations. The Disposal Services Fees for the Wheelabrator Disposal Facility shall be limited to those expressly stated in Section 13.2.1 (as adjusted annually pursuant to the Agreement). Subject to each Party's compliance with the foregoing, if the Parties do not enter into the amendment on or before July 2, 2028, the Agreement shall not be renewed for the July 2028 Renewal.

13.3. If the July 2028 Renewal is not timely effectuated because the conditions in Section 13.1 are not satisfied, the County will pay to Wheelabrator a total amount of \$500,000.00. The County is not required to pay to Wheelabrator the \$500,000.00 if the conditions to the July 2028 Renewal have occurred but: (i) Wheelabrator, or its assignee, refuses to renew the Agreement; or (ii) the Agreement is not renewed pursuant to Section 13.2.2 above.

13.4. If the Agreement is renewed for the July 2028 renewal or is assigned to the Authority during the July 2023 Renewal and the Authority extends the Agreement for the July 2028 Renewal, the County will not be obligated to pay to Wheelabrator the amount referenced in Section 13.3.

13.5. Any termination of the Agreement will be made pursuant to the current terms of the Agreement.

13.6. If the July 2028 Renewal occurs (whether by the County or the Authority, if the Agreement is assigned to the Authority), Wheelabrator will pay to the County \$500,000.00 per Contract Year plus \$8,000.00 per week for the duration of the Agreement (including all renewals or extensions thereof) with the first such annual and weekly payments due on July 3, 2028. Such payments will be made by Wheelabrator to the County notwithstanding any assignment of the Agreement by the County or by Wheelabrator.

14. **Audit and Inspection Rights and Retention of Records**. Section 9.6 of the Original Agreement, Audit and Inspection Rights and Retention of Records, is hereby deleted in its entirety and replaced with the following language for the duration of the Agreement, with "Contractor" referring to Wheelabrator in the text that follows:

County shall have the right to audit the books, records, and accounts of Contractor and all subcontractors utilized by Contractor to perform services under the Agreement. Any Participating Community may participate in any audit performed by the County pursuant to this Section 9.6. Contractor and all such subcontractors shall keep such books, records, and accounts as may be necessary to record complete and correct entries related to this

Agreement and performance under this Agreement and reasonably required to document and substantiate Contractor's performance under this Agreement, including, but not limited to, shipping documents and delivery receipts, including load weight for each load delivered to destination, weekly load requirement documents, carrier invoices, records concerning calibration of the motor truck scales and the monthly reports required under Section 2.4. All such books, records, and accounts shall be kept in written form, or in a form capable of conversion into written form within a reasonable time, and upon request to do so, Contractor and all such subcontractors shall make same available in written form at no cost to County. Contractor shall provide the County with reasonable access to Contractor's facilities.

Contractor and all such subcontractors utilized to perform services for Contractor under this Agreement shall preserve and make available, at reasonable times within Broward County, Florida, for examination and audit by County, all financial records, supporting documents, statistical records, and any other documents pertinent to this Agreement for the required retention period of the Florida Public Records Act (Chapter 119, Florida Statutes), if applicable, or, if the Florida Public Records Act is not applicable, for a minimum period of five (5) years after expiration or termination of this Agreement, unless Contractor is notified in writing by County of the need to extend the retention period. Such retention of such records and documents shall be at Contractor's expense. If any audit has been initiated and audit findings have not been resolved at the end of the retention period or five (5) years, whichever is longer, the books, records, and accounts shall be retained until resolution of the audit findings. If the Florida Public Records Act is determined by County to be applicable to Contractor's records, Contractor shall comply with all requirements thereof; however, no confidentiality or nondisclosure requirement of either federal or state law shall be violated by Contractor. This Section shall survive any dispute or litigation between the Parties, and Contractor expressly acknowledges and agrees to be bound by this Section throughout the course of any dispute or litigation with County. Any audit or inspection pursuant to this Section may be performed by any County representative (including any outside representative engaged by County). Contractor hereby grants County the right to conduct such audit or review at Contractor's place of business, if deemed appropriate by County, with seventy-two (72) hours' advance notice. Contractor shall make all such records and documents available electronically in common file formats or via remote access if, and to the extent, requested by County. Any incomplete or incorrect entry in such books, records, and accounts shall be a basis for County's disallowance and recovery of any payment upon such entry. If an audit or inspection reveals overpricing or overcharges to County of any nature by Contractor in excess of five percent (5%) of the total contract billings reviewed by County, Contractor shall make adjustments for the overcharges. Any adjustments or payments due as a result of such audit or inspection shall be made within thirty (30) days after presentation of County's findings to Contractor. Contractor shall ensure that the requirements of this Section are included in all agreements with all applicable subcontractor(s). Notwithstanding anything herein to the contrary, for a twenty (20) year period following any termination or expiration of this Agreement, Contractor shall retain records

reasonably documenting environmental compliance at the Disposal Facilities, and documentation concerning any disposal of Broward Waste at an Alternate Disposal Facility; provided however that Contractor shall be relieved of any retention obligation if, prior to any disposal of the relevant records, Contractor has offered the County and the Participating Communities the opportunity to receive copies thereof.

15. **Miscellaneous.**

15.1. Representation of Transportation Rates. Wheelabrator hereby represents and warrants that to its knowledge the transportation rates, and adjustment methodology, contained in WMIF's contracts with Bulk Express Transport Inc. were agreed upon in an "arm's length" transaction.

15.2. Effect of Amendment. All remaining terms and conditions of the Agreement shall remain in full force and effect, including but not limited to each Party's rights or obligations under the Agreement with respect to payment of incremental transportation costs for disposal of Additional Waste.

15.3. Discriminatory Vendor and Scrutinized Companies List; Countries of Concern. Wheelabrator hereby represents that it has not been placed on the "discriminatory vendor list" as provided in Section 287.134, Florida Statutes, and that it is not a "scrutinized company" pursuant to Sections 215.473 or 215.4725, Florida Statutes. Wheelabrator represents and certifies that, as of the Third Amendment Effective Date, it is not, and for the remaining duration of the Agreement will not be, ineligible to contract with the County on any of the grounds stated in Section 287.135, Florida Statutes. As of the Third Amendment Effective Date, Wheelabrator represents that it is, and for the duration of the Agreement will remain, in compliance with Section 286.101, Florida Statutes.

15.4. Verification of Employment Eligibility. Wheelabrator represents and warrants that, as of the Third Amendment Effective Date, Wheelabrator and each subcontractor utilized by Wheelabrator to perform services for the County under the Agreement have registered with and use the E-Verify system maintained by the United States Department of Homeland Security to verify the work authorization status of all newly hired employees in compliance with the requirements of Section 448.095, Florida Statutes, and that entry into this Third Amendment will not violate that statute. If the County, after consulting with Wheelabrator and providing Wheelabrator with an opportunity to timely respond to any concerns, has a good faith belief that Wheelabrator has knowingly violated Section 448.095, Florida Statutes, the County must immediately terminate the Agreement for cause and Wheelabrator shall be liable for all costs incurred by the County due to the termination.

15.5. Prohibited Telecommunications Equipment. Wheelabrator hereby represents and certifies that as of the Third Amendment Effective Date, Wheelabrator and all

subcontractors utilized by Wheelabrator to perform services for the County under the Agreement do not use any equipment, system, or service that uses covered telecommunications equipment or services as a substantial or essential component of any system, or as critical technology as part of any system, as such terms are used in 48 CFR §§ 52.204-24 through 52.204-26. Wheelabrator represents and certifies that Wheelabrator and, to the best of its knowledge, all subcontractors utilized by Wheelabrator to perform services under the Agreement shall not provide or use such covered telecommunications equipment, system, or services for the duration of the Agreement.

15.6. Criminal History Screening Practices. If the Agreement is subject to the requirements of Section 26-125(d) of the Broward County Code of Ordinances, Wheelabrator hereby represents and certifies that Wheelabrator will comply with Section 26-125(d) of the Broward County Code of Ordinances for the remaining duration of the Agreement.

15.7. Entities of Foreign Concern. The provisions of this section apply only if Wheelabrator or any subcontractor utilized by Wheelabrator to perform services under the Agreement will have access to an individual's personal identifying information under this Agreement. Wheelabrator represents and certifies: (i) Wheelabrator is not owned by the government of a foreign country of concern; (ii) the government of a foreign country of concern does not have a controlling interest in Wheelabrator; and (iii) Wheelabrator is not organized under the laws of and does not have its principal place of business in, a foreign country of concern. On or before the Third Amendment Effective Date, Wheelabrator and any such subcontractor that will have access to personal identifying information shall submit to the County executed affidavit(s) under penalty of perjury, in a form approved by the County attesting that the entity does not meet any of the criteria in Section 287.138(2), Florida Statutes. Terms used in this section that are not otherwise defined in this Agreement shall have the meanings ascribed to such terms in Section 287.138, Florida Statutes.

15.8. Polystyrene Food Service Articles. Commencing on the Third Amendment Effective Date, Wheelabrator agrees that it shall not sell or provide for use on County property expanded polystyrene products or food service articles (e.g., Styrofoam), unencapsulated expanded polystyrene products, or single-use plastic straws or stirrers, as set forth in more detail in Section 27.173, Broward County Administrative Code.

15.9. Anti-Human Trafficking. By execution of this Third Amendment by the undersigned authorized representative of Wheelabrator, Wheelabrator hereby attests under penalty of perjury that Wheelabrator does not use coercion for labor or services, as such terms are defined in Section 787.06, Florida Statutes; under penalties of perjury, the undersigned authorized representative of Wheelabrator declares that he has read the foregoing statement and that the facts stated in it are true.

15.10. Ownership Disclosure Form. By January 1 of each year for the remaining term of the Agreement, Wheelabrator must submit, and cause each of its subcontractors utilized by Wheelabrator to perform services under the Agreement to submit, an Ownership Disclosure Form (or such other form or information designated by the County), available at <https://www.broward.org/econdev/Pages/forms.aspx>, identifying the ownership of the entity and indicating whether the entity is majority-owned by persons fitting specified classifications.

15.11. Conflicts. In the event of any conflict or ambiguity between this Third Amendment and the Agreement, the Parties agree that this Third Amendment shall control. The Agreement, as amended herein by this Third 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 hereof that are not contained in the Agreement as amended in this Third 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.

15.12. Joint Preparation. Preparation of this Third Amendment has been a joint effort of the Parties, 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.

15.13. No Disputes. Each Party acknowledges that through the date this Third Amendment is executed by both Parties, such Party has no disputes against the other Party with respect to any of the matters covered by the Agreement.

15.14. Counterparts. This Third Amendment may be executed in counterparts, whether signed physically or electronically, each of which shall be deemed to be an original, but all of which, taken together, shall constitute one and the same agreement.

(The remainder of this page is blank.)

IN WITNESS WHEREOF, the Parties hereto have made and executed this Third Amendment: 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 ____ day of _____, 202__, and _____, signing by and through its _____, duly authorized to execute same.

COUNTY

ATTEST:

BROWARD COUNTY, by and through its Board of County Commissioners

By: _____
Broward County Administrator, as
ex officio Clerk of the Broward County
Board of County Commissioners

By: _____
Mayor
____ day of _____, 20__

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

By _____
Matthew Haber (Date)
Senior Assistant County Attorney

By _____
Nathaniel A. Klitsberg (Date)
Deputy County Attorney

**THIRD AMENDMENT TO AGREEMENT BETWEEN
BROWARD COUNTY AND WHEELABRATOR SOUTH BROWARD INC.
(AS ASSIGNEE OF WHEELABRATOR ENVIRONMENTAL SYSTEMS INC.)
FOR
SOLID WASTE DISPOSAL SERVICES**

WHEELABRATOR SOUTH BROWARD INC.

By: _____
Authorized Signer

Print Name and Title

_____ day of _____, 20____

WITNESS/ATTEST:

Corporate Secretary or other witness

(CORPORATE SEAL)

GUARANTY

THIS GUARANTY (the "Guaranty") is effective as of May 19, 2015, by Wheelabrator Technologies Inc., a Delaware corporation ("WTI") and Granite Acquisition, Inc., a Delaware corporation ("Granite") (WTI and Granite may be referred to individually as the "Guarantor" or collectively as the "Guarantors") to and for the benefit of Broward County, Florida, a political subdivision of the State of Florida (the "County").

WHEREAS, Wheelabrator South Broward Inc., a Delaware corporation ("WSB"), is a wholly-owned subsidiary of Wheelabrator Environmental Systems Inc., a Delaware corporation ("WES"), which is a wholly-owned subsidiary of WTI;

WHEREAS, WSB and the County are parties to that certain Amended and Restated Facility Site Lease Agreement between WSB and the County dated February 1, 2001, recorded March 1, 2001 in Official Records Book 31328, Page 945, of the Public Records of Broward County, Florida, which lease was amended in the First Amendment dated December 14, 2004, and further amended by the Second Amendment dated June 28, 2011 (collectively, as amended, the "Site Lease");

WHEREAS, WES and the County are parties to that certain Agreement for Solid Waste Disposal Services dated as of June 26, 2012 (the "Current Disposal Agreement");

WHEREAS, the County, Wheelabrator North Broward Inc., n/k/a WM North Broward Inc., a Delaware corporation ("WNB"), WSB, and WTI entered into a letter agreement dated June 19, 2012 (the "2012 Letter Agreement");

WHEREAS, Waste Management, Inc., a Delaware corporation ("Waste Management") formerly owned WTI, which owns WES, which in turn owns WSB, but WM sold WTI to Granite Acquisition, Inc., a Delaware corporation ("Granite"), on December 19, 2014;

WHEREAS, as the former owner of WTI, Waste Management executed a June 2011 guaranty in favor of the County of certain WSB obligations under the Site Lease, and a June 2012 guaranty in favor of the County of WES's obligations under the Current Disposal Agreement (collectively, the "Current Guarantees");

WHEREAS, the County, WNB, WES, WSB, WTI, and Waste Management Inc. of Florida, a Florida corporation ("WMIF"), are entering into a "Global Amendment" on or about May 19, 2015, which will amend documents including the Site Lease and the Current Disposal Agreement; and

WHEREAS, under the Global Amendment, the County has agreed to release Waste Management from the Current Guarantees in exchange for WTI and Granite executing new guarantees and Waste Management executing a limited guaranty covering certain obligations stated in the Global Amendment.

NOW, THEREFORE, as an inducement to the County to enter into the Global Amendment and to release Waste Management from the Current Guarantees, WTI and Granite, jointly and severally, agree as follows:

1. The Guarantors hereby irrevocably, absolutely, and unconditionally guarantee (the obligations stated in a – k below shall be referred to as the “Guaranteed Obligations”):

a. The full, prompt, and timely payment of all sums due from WSB, and the full, prompt, and timely performance by WSB, in connection with the “closing and capping” of the “South Ash Monofill,” as required under section 3(A) (“Rental”) of the Site Lease, as referenced in the Second Amendment to the Site Lease, and as modified by Section VI of the Global Amendment, “Funding of Closure and Long-term Care Costs for the Ash Monofill;”

b. The full, prompt, and timely payment of any and all sums due from WSB pursuant to the indemnification contained in Section IV(D) of the Global Amendment, “Non-Self-Unloading Vehicles;”

c. The full, prompt, and timely performance by WSB, and the full, prompt, and timely payment of any and all sums due from WSB, in connection with its obligations under Section VII(G) of the Global Amendment, addressing the right to reclaim materials;

d. The full, prompt, and timely performance by WSB, and full, prompt, and timely payment of any and all sums due from WSB, pursuant to Section VII(B) of the Global Amendment, “Obligation to Remove South WTE Plant at End of Site Lease Term;”

e. The full, prompt, and timely compliance with the “First Right to Negotiate Purchase of South WTE Plant” provision stated in Section VII(F) of the Global Amendment;

f. The full, prompt, and timely payment by WSB of the “Host Fee,” and the full, prompt, and timely performance of the obligation to remove the South Site Transfer Station and to restore the site upon which it was constructed, both as required under Section IV of the Global Amendment;

g. The full, prompt, and timely payment of any and all sums due from WES pursuant to Section VIII(A)(6) of the Global Amendment,” which addresses certain optional payments;

h. The full, prompt, and timely performance by WES and WSB of their obligations pursuant to Section VIII(A)(7)–(9), of the Global Amendment, in connection with the County’s right to purchase the “South Site Assets;”

i. The performance of the obligation to satisfy and extinguish the leasehold mortgage referenced in Section VII(E) of the Global Amendment, "Consent to Leasehold Mortgage;"

j. The full, prompt, and timely performance and discharge of all of their duties, obligations, covenants and agreements made and undertaken by WES in the Current Disposal Agreement as amended by the Global Amendment, including but not limited to all obligations to provide processing and disposal capacity and the full, prompt, and timely payment when due of all sums and amounts payable by WES; and

k. The truth and accuracy of each Recital in the Global Amendment that references WTI, WES, and/or WSB, but only regarding references to WTI, WES, and/or WSB.

2. If any of the Guaranteed Obligations are not fully and timely met, or if the County suffers any damage as a result of any of the above-referenced Recitals being untrue, and as a result the County files a lawsuit against either Guarantor, if the County is the prevailing party the County shall be entitled to recover from the non-prevailing Guarantor(s) all of the County's reasonable attorneys' fees and litigation costs.

3. All obligations of the Guarantors under this Guaranty shall be irrevocable, absolute, unconditional and continuing, and shall remain in full force and effect until all of the Guaranteed Obligations have been (as applicable) performed, discharged and paid in full in accordance with the terms of the Site Lease, Current Disposal Agreement, and Global Amendment. The Guarantors' obligations hereunder shall not be limited or negated by any underlying contractual provision stating that WSB's or WES's relevant obligations are non-recourse, of limited recourse, or that their performance is dependent upon or somehow limited by the availability of certain assets, income, or other revenues. The obligations of the Guarantors under this Guaranty shall not be released, discharged, affected, modified, or impaired by reason of the happening from time to time of any event or circumstance including, without limitation, any one or more of the following:

- a. the compromise, settlement, release, discharge, or termination of any or all of the Guaranteed Obligations, by operation of law or otherwise, except by payment, performance, or satisfaction in full of such obligation(s) pursuant to the terms of the Site Lease, Current Disposal Agreement, or Global Amendment (as applicable);
- b. the failure of the County to give notice to any entity, including the Guarantor(s), of the occurrence of any default or material breach of any of the Guaranteed Obligations;
- c. the waiver of the payment, performance, or observance by the County of any of the Guaranteed Obligations;
- d. any extension(s) of time for payment or performance of any of the Guaranteed Obligations;

- e. the invalidity or unenforceability of any term or provision of the Site Lease, Current Disposal Agreement, or Global Amendment based on the lack of authority, insolvency, bankruptcy, or reorganization of WSB or WES, as applicable to the specific underlying Guaranteed Obligation;
- f. the voluntary or involuntary liquidation, dissolution, sale, or other disposition of all or substantially all of the assets, marshaling of assets and liabilities, receivership, insolvency, bankruptcy, assignment for the benefit of creditors, arrangement, composition with creditors, or readjustment of, or other similar proceedings affecting, WSB or WES, or the assets of either, or of Guarantor(s) or its/their assets, or any allegation of invalidity or contest of the validity of this Guaranty in any such proceedings;
- g. the occurrence of any events of default by WSB or WES under the Site Lease, Current Disposal Agreement, or Global Amendment; or
- h. any assignment, amendment, modification, or waiver of, or change in any of the terms, covenants, conditions or provisions of, any of the Guaranteed Obligations, or the invalidity or unenforceability of any of the foregoing.

4. This Guaranty shall be binding upon and enforceable against the Guarantors and their successors or permitted assigns and legal representatives (including any successor by merger or consolidation or any transferee of all or substantially all of the assets or capital stock of Guarantor(s)), whether or not a Guarantor's obligations hereunder are expressly assumed by such successor, assignee, legal representative, or transferee.

5. To the full extent permitted by applicable law, Guarantors waive: presentment and protest of any instrument, and notice thereof; notice of default of any Guaranteed Obligation(s); notice of demand for performance of that obligation whether by the underlying obligor or Guarantor(s); and all other notices to which Guarantor(s) might otherwise be entitled. Should WSB or WES default in the payment or performance of any Guaranteed Obligation(s), the obligations of Guarantors hereunder with respect to the obligations in default shall become immediately due and payable (or performable, as relevant) without demand or notice of any nature, all of which are expressly waived by Guarantors. Guarantors may be required by the County to make separate payments to fully satisfy the Guaranteed Obligations. All payments required of either Guarantor hereunder shall be made at the physical notice address for the County provided in paragraph 16 below.

6. No failure, omission, or delay by the County in exercising any right, power, or privilege hereunder or under the Global Amendment shall operate as a waiver thereof. No waiver, amendment, release, or modification of this Guaranty shall be established by conduct, custom, or course of dealing, but rather may be established solely by a written document duly executed by the party against whom any such waiver, amendment, release, or modification is sought to be enforced.

7. Neither Guarantor shall assign its obligations hereunder without first obtaining the express prior written consent of the County, which consent shall not be unreasonably denied or delayed. Any attempted assignment in violation of this paragraph shall be null and void.

8. The obligations of Guarantors to the County set forth in this Guaranty are direct, absolute, and unconditional without regard to the liability of any other person or entity; and shall not be subject to any requirement that the County first enforce any remedies it may have against any other person or entity, or any requirement to seek to recover from any other person or entity before proceeding against Guarantor(s) hereunder, and shall not be subject to any claim of Guarantor(s) against any person or entity including the County. No setoff, counterclaim, reduction, or diminution of any obligation, or any other defense of any kind or nature which the underlying obligor, as applicable, or which Guarantor(s), has/have or may have against the County shall limit or in any way affect Guarantor(s) obligations under this Guaranty (excepting payment or performance in fact or defenses available to the underlying obligor).

9. Each Guarantor irrevocably (i) consents that any action or proceeding against it under, arising out of, or in any manner relating to this Guaranty shall be brought and litigated solely in the Circuit Court for the Seventeenth Judicial Circuit in and for Broward County, Florida, and consents to the exclusive jurisdiction of such court; (ii) assents and submits to the personal jurisdiction of such court in any such action or proceeding; (iii) waives any objection, claim or defense which it may have relating to venue; (iv) waives any claim that any such action or proceeding brought in such court has been brought in an inconvenient forum; and (v) waives the right to object, with respect to any such action or proceeding brought in such court, that such court does not have jurisdiction over the Guarantor(s).

10. The laws of the State of Florida, without regard to the laws of conflicts of laws thereof, shall govern the validity, interpretation, construction, and performance of this Guaranty.

11. Upon payment by Guarantor(s) of any sum to the County hereunder, all rights of Guarantor(s) against the underlying obligor as a result thereof (by way of right of subrogation or otherwise) shall in all respects be subordinate to the County's prior indefeasible right to payment and performance in full of all of the Guaranteed Obligations.

12. If any provision of this Guaranty is determined by the Circuit Court for the Seventeenth Judicial Circuit in and for Broward County, Florida, to be unenforceable, the County and Guarantors hereby agree that such provision may be reformed so that it is enforceable to the maximum extent permitted by applicable law. In the event that any provision of this Guaranty cannot be reformed, such provision shall be deemed to be severed from this Guaranty, but every other provision of this Guaranty shall remain in full force and effect. This Guaranty contains the entire understanding of the parties with respect to the subject matter hereof, and supersedes all prior agreements, representations and understandings of the parties with respect to the subject matter herein.

13. Each Guarantor represents that it is duly organized and validly existing under the laws of the state of its formation or incorporation, with full legal right, power, and authority to enter into and perform its obligations hereunder, and further represents that the individuals

signing on its behalf are duly authorized to execute and deliver this Guaranty and to bind it thereto without further approval, signatures, or authorizations.

14. Joint Preparation. The preparation of this Guaranty has been a joint effort of the County and Guarantors and the resulting document shall not, solely as a matter of judicial construction, be construed more severely against any of them.

15. Any and all capitalized terms used herein but not herein defined shall have the meanings assigned to them in the Global Amendment (or, if applicable, in the underlying documents referenced in the Global Amendment).

16. All notices hereunder shall be in writing and may be sent or delivered personally, by overnight delivery service, by certified or registered mail, return receipt requested, or by fax, at the addresses set forth below. Any notice which is refused, unclaimed, or undeliverable because of an act or omission of the party to be notified, if such notice was correctly addressed to the party to be notified, shall be deemed communicated as of the first date that said notice was refused, unclaimed, or deemed undeliverable.

If to the County:

County Administrator
Broward County Governmental Center
115 South Andrews Avenue, Suite 409
Fort Lauderdale, FL 33301
Fax Number: (954) 357-7360

With a copy to:

County Attorney
Broward County Governmental Center
115 South Andrews Avenue, Suite 423
Fort Lauderdale, FL 33301
Fax Number: (954) 357-7641

If to either or both Guarantors:

Michael F. O'Friel
Senior Vice President and General Counsel
Wheelabrator Technologies Inc.
4 Liberty Lane West
Hampton NH 03842
Fax Number: (603) 929-3365

Changes in the respective addresses to which such notices shall be sent may be made from time to time by the County or either Guarantor by notice given to the others in accordance with this notice provision.

IN WITNESS WHEREOF, this Guaranty has been made and executed on the date above-written.

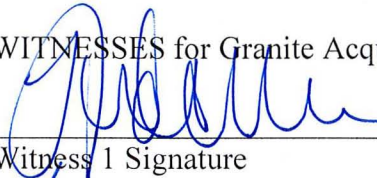
GRANITE ACQUISITION, INC.

By: 
Signature

Printed Name: Michael F. O'Friel

Title: Senior Vice President

WITNESSES for Granite Acquisition, Inc.:

 Lindsey Thencatt
Witness 1 Signature Witness 1 Printed Name

 Sandra L. Nickerson
Witness 2 Signature Witness 2 Printed Name

WHEELABRATOR TECHNOLOGIES INC.

By: 
Signature

Printed Name: Michael F. O'Friel

Title: Senior Vice President

WITNESSES for Wheelabrator Technologies Inc.:

 Lindsey Thencatt
Witness 1 Signature Witness 1 Printed Name

 Sandra L. Nickerson
Witness 2 Signature Witness 2 Printed Name

EXHIBIT B

Calculation for Example Purposes

PART I: BASE RATES

The following Base Rates are provided for example purposes only.

Origin	Transportation Rate (per ton)	Carriers Fuel Cost Rate (per ton)	Threshold Fuel Rate (per gallon)	Roundtrip Mileage
Reuter Transfer	26.49	6.46	3.094	230
Davie Transfer	27.50	8.28	4.503	230
Deerfield West Transfer	24.37	4.97	3.050	204

PART II: COMMERCIAL WASTE TRANSPORTATION ADJUSTMENT

The following example illustrates the calculation of the Annual Transportation Rate and the Commercial Waste Transportation Adjustment per Section 6.1 of the Agreement. The amounts used are simplified for easy calculation. The Annual Transportation Rate is for the Contract Year starting July 3, 2023.

Step 1 - Determine the per-ton rate to transport all tons of Contracted Processable Waste to Okeechobee ("Annual Transportation Rate") for the most recently completed Contract Year	
Annual Transportation Rate in effect on July 3, 2023	\$27.00/ton
Step 2 - Multiply current Annual Transportation Rate by tons of Contracted Processable Waste sent to Okeechobee	
Annual Transportation Rate in effect on July 3 (including estimated changes in Transportation CPI and fuel surcharges)	\$32.00
Contracted Processable Waste tons transported to Okeechobee	250,000.00
	<u>8,000,000.00</u>
Step 3 - Divide by Commercial Waste tons sent to Okeechobee and Wheelabrator Disposal Facility last Contract Year	
Product (from Step 1)	8,000,000.00
Total tons of Commercial Waste sent to Okeechobee and Wheelabrator Disposal Facility last Contract Year	615,000.00
	<u>\$13.00</u>
Commercial Waste Transportation Adjustment = \$13.00/ton	

PART III: RATE RECONCILIATION

The following example illustrates the reconciliation of the Annual Transportation Rate per Section 6.2 of the Agreement.

The amounts are simplified for easy calculation. The Transportation Rate for each WM Transfer Station is from "Part I: Base Rates, Transportation Rate," in effect by July 3, 2023.

Step 1 - Adjust the non-fuel portion of the Transportation Rate ("Adjusted Transportation Rate")			
Step 1a - Determine Change in Transportation CPI			
Step 1b - Adjust the Transportation Rates (from "Part I: Base Rates, Transportation Rate") by the change in Transportation CPI, subtracting the Carriers Fuel Cost Rate			
	Reuter Transfer	Davie Transfer	Deerfield West Transfer
Transportation Rate (\$ / ton)	26.49	27.50	24.37
Less Carriers Cost of Fuel Rate (\$ / ton)	(6.46)	(8.28)	(4.97)
Transportation Rate net of Carriers Cost of Fuel Rate (\$ / ton)	20.03	19.22	19.40
Change in Transportation CPI	1.80%	1.80%	1.80%
Increase (Decrease) (\$ / ton)	0.36	0.35	0.35
Plus Transportation Rate (\$ / ton)	26.49	27.50	24.37
Adjusted Transportation Rate (\$/ton)	26.85	27.85	24.72

Step 2 - Adjust the fuel portion of the rate ("Fuel Surcharge")			
Step 2a - Determine the per trip fuel surcharge increase (decrease)			
The surcharge will increase or decrease by one cent (\$.01) per mile for every 5 cent (\$.05) increase or decrease in the price of diesel fuel above or below the threshold price.			
	Reuter Transfer	Davie Transfer	Deerfield West Transfer
Threshold Fuel Rate (\$ / gallon)	3.094	4.503	3.050
*PADD IC Fuel Price (\$ / gallon)	4.429	4.429	4.429
Difference (\$ / gallon)	1.335	(0.074)	1.379
	0.050	0.050	0.050
Divided by .05	26.700	(1.480)	27.580
	0.01	0.01	0.01
Multiplied by .01	0.27	(0.01)	0.28
Roundtrip Mileage	230	230	204
Per Trip Fuel Surcharge (\$ / mile)	61.410	(3.404)	56.263

Step 2b - Convert Per Trip Fuel Surcharge (from Step 2a) to Per Ton Fuel Surcharge

	Reuter Transfer	Davie Transfer	Deerfield West Transfer
Per Trip Fuel Surcharge (\$ / mile)	61.41	(3.40)	56.26
**Tons per Trip	27.00	27.00	27.00
Fuel Surcharge (\$ / ton)	2.27	(0.13)	2.08

*Refers to fuel price, categorized as "PADD 1C" (Lower Atlantic), under the Petroleum Administration for Defense Districts ("PADD") system by the U.S. Energy Information Administration
 **Tons per trip uses 27.00 as an example and may be set pursuant to hauler agreements

Step 3 - Determine the Real Transportation Cost Total

Step 3a - Add the Adjusted Transportation Rate (from Step 1) and Fuel Surcharge (from Step 2)

Adjusted Transportation Rate (\$/ton)	26.85	27.85	24.72
Fuel Surcharge (\$ / ton)	2.27	(0.13)	2.08
Transportation Rate (\$ / ton)	29.12	27.72	26.80

Step 3b - Determine the total cost of transporting all tons to Okeechobee during the most recently completed Contract Year

Transportation Rate (\$ / ton)	29.12	27.72	26.80	
Contracted Processable Waste tons transported to Okeechobee	15,000	-	235,000	250,000.00
Total cost	\$436,875	\$0	\$6,298,710	\$6,735,584.99

Real Transportation Cost Total = \$6,735,584.99

Step 4 - Determine the Rate Reconciliation Result (to adjust the Commercial Waste Disposal Services Fee for the upcoming Fiscal Year)

Step 4a - Determine the difference between actual transportation costs charged and due for most recently completed Contract Year

Total transportation costs charged and due for most recently completed Contract Year	\$ 7,500,000.00
Real Transportation Cost Total (from Step 3b)	\$ 6,735,584.99
Cost/Payment Difference (Positive is owed to County, Negative owed to Wheelabrator)	\$ 764,415.01

Step 4b - Divide Cost/Payment Difference by prior Contract Year's Commercial Waste tons to determine necessary adjustment ("Rate Reconciliation Result")

Cost/Payment Difference (from Step 4a)	\$764,415.01
Total tons of Commercial Waste sent to Okeechobee and Wheelabrator Disposal Facility last Contract Year	615,000.00
Rate Reconciliation Result (deduct positive number, increase if negative)	\$1.24

PART IV: ADJUSTMENT OF COMMERCIAL WASTE DISPOSAL SERVICES FEE FOR UPCOMING FISCAL YEAR

The following example illustrates the adjustment of the Disposal Services Fee for Commercial Waste, described in Section 7.1 of the Agreement, completed by October 1. The amounts used are simplified for easy calculation. The Disposal Services Fee for Residential Waste is for the Contract Year starting July 3, 2023.

Step 1 - Adjust the Disposal Services Fee for Residential Waste by the Commercial Waste Transportation Adjustment (from Part II, Step 3)

Residential rate (as adjusted for Disposal Services Fee Adjustment Factor) for upcoming Fiscal Year	\$51.68/ton
Commercial Waste Transportation Adjustment (from Part II, Step 3)	\$13.00/ton
	\$64.68

Step 2 - Adjust the result from Step 1 by the Rate Reconciliation Result (from Part III, Step 4b)

Result (from Step 1)	\$64.68
Rate Reconciliation Result (from Part III, Step 4b)	(\$1.24)
	\$63.44

Commercial Waste Disposal Services Fee for upcoming Fiscal Year = \$63.44/ton*

*This number is both simplified and presented as a hypothetical to illustrate the process of calculating this Disposal Services Fee. It is not an actual Commercial Disposal Services Fee for any year.