

RESOLUTION NO. R 2021-030

A RESOLUTION OF THE TOWN OF DAVIE, FLORIDA, APPROVING THE FRANCHISE AGREEMENT BETWEEN THE TOWN OF DAVIE AND COASTAL WASTE AND RECYCLING OF FLORIDA INC. FOR SOLID WASTE, BULK WASTE, CONSTRUCTION AND DEMOLITION DEBRIS AND RECYCLING COLLECTION; PROVIDING FOR CONFLICT; PROVIDING FOR SEVERABILITY; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, the Town solicited RFP# RM-20-96 to obtain proposals for solid waste and recycling collection;

WHEREAS, the Town Council of the Town of Davie ("Town Council") accepted the selection of Coastal Waste and Recycling of Florida, Inc ("Coastal") on November 4, 2020;

WHEREAS, Town staff and Coastal have negotiated a franchise agreement for Town Council consideration; and

WHEREAS, the Town has complied with its charter requirements for publishing a notice of intent to award the franchise agreement for waste collection services.

NOW, THEREFORE, BE IT RESOLVED BY THE TOWN COUNCIL OF THE TOWN OF DAVIE, THAT:

Section 1. Legislative Findings/Recitals. The above recitals are hereby adopted by the Town of Davie as its legislative findings relative to the subjects and matters set forth in this Resolution.

Section 2. The Town Council of the Town of Davie, Florida hereby approves the franchise agreement with Coastal Waste and Recycling of Florida, Inc. for solid waste, bulk waste, construction and demolition debris, and recycling collection.

Section 3. The Town Council hereby authorizes the appropriate Town officials to execute the franchise agreement; a copy of which is attached.

Section 4. Conflict. All resolutions or parts of resolutions in conflict with any of the provisions of this Resolution are hereby repealed.

Section 5. Severability. If any provision of this Resolution or the application thereof to any person or circumstance is held invalid, it is the intent of the Town Council that such invalidity shall not affect other provisions or applications of the Resolution which can be given effect without the invalid provision or application and, to this end, the provisions of this Resolution are declared severable.

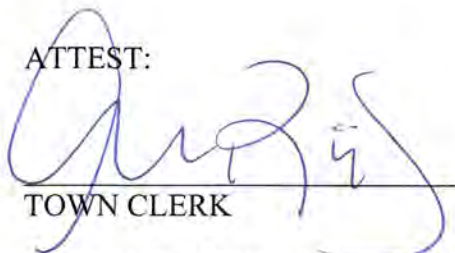
Section 6. The Mayor of the Town of Davie, Florida is authorized to acknowledge such approval by affixing her signature to this Resolution.

Section 7. Effective Date. This Resolution shall take effect immediately upon adoption.

PASSED AND ADOPTED THIS 20TH DAY OF JANUARY, 2021.


MAYOR/COUNCILMEMBER

ATTEST:


TOWN CLERK

APPROVED THIS 20TH DAY OF JANUARY, 2021.

Approved as to Form and Legality:


TOWN ATTORNEY

FRANCHISE AGREEMENT BETWEEN THE TOWN
OF DAVIE AND COASTAL WASTE AND
RECYCLING OF FLORIDA INC. FOR SOLID
WASTE, BULK WASTE, CONSTRUCTION AND
DEMOLITION DEBRIS AND RECYCLING
COLLECTION

JUNE 1, 2021 – DECEMBER 31, 2030

FRANCHISE AGREEMENT BETWEEN THE TOWN OF DAVIE AND COASTAL
WASTE AND RECYCLING OF FLORIDA INC. FOR SOLID WASTE, BULK WASTE,
CONSTRUCTION AND DEMOLITION DEBRIS AND RECYCLING COLLECTION

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SOLID WASTE, BULK WASTE, RECYCLING AND CONSTRUCTION AND DEMOLITION
DEBRIS COLLECTION CONTRACT

This Solid Waste, Bulk Waste, Recycling and Construction and Demolition Debris Collection Contract (hereinafter referred to as "Contract" made and entered into this__ day of____, 20____, by and between the TOWN of Davie, Florida (hereinafter referred to as "TOWN"), a municipal corporation of the State of Florida, acting by and through its duly authorized Council, and Coastal Waste & Recycling of Florida, Inc., (hereinafter referred to as "CONTRACTOR").

RECITALS:

WHEREAS, the TOWN issued a Request for Proposals (RFP) RM 20-96 for Solid Waste and Recycling Collection; and

WHEREAS, the CONTRACTOR, in response to the RFP RM 20-96, submitted a proposal which was relied upon by the TOWN in selecting the CONTRACTOR and Town selected CONTRACTOR for Solid Waste, Bulk Waste, Recycling and Construction and Demolition Debris Collection services, to operate the Franchise, in accordance with the terms, conditions, and provisions of this Contract which was executed on_____, 20_____.

WHEREAS, now therefore, in consideration of the premises here of, the mutual promises and agreements contained herein, and the payments to be made to CONTRACTOR for services rendered hereunder, the parties hereby agree as follows:

NOW THEREFORE, in consideration of the mutual benefits and other considerations recited herein, and the terms and conditions hereinafter set forth, the CONTRACTOR and the TOWN do hereby agree as follows:

SECTION 1: CONTRACT

1.1 TERM OF CONTRACT

The term of this Contract shall commence on June 1, 2021 at 12:00 a.m., EST, through December 31, 2030 at 11:59 p.m., EST. This provision in no way limits the TOWN'S right to terminate this Contract for cause at any time, pursuant to Section 11 of this Contract.

1.2 EXPIRATION OF CONTRACT PROVISIONS

In the event a new Contract has not been awarded upon the expiration of the initial term or additional term thereof, and renewal options are not exercised, the CONTRACTOR agrees to provide service to the TOWN for an additional one hundred and eighty (180) calendar day period beyond the expiration of the CONTRACTOR at the then established rates, provided the TOWN requests said services, in writing, at such time.

1.3 OPTION TO RENEW

After the initial term, the TOWN shall have the option to renew for up to three (3) successive five year periods. The term of the original contract beginning on June 1, 2021 including additional terms shall not exceed thirty (30) years. The parties hereto may renew this Contract by mutual consent, in writing, prior to the expiration of the current term on December 31, 2030 provided the Town Council approves each renewal prior to the end of the respective term. This provision in no way limits the TOWN'S right to terminate this Contract for cause at any time, pursuant to Section 11 of this Contract.

1.4 FRANCHISE

The CONTRACTOR shall for the term of the Contract have the exclusive franchise and the sole obligation to operate and maintain a comprehensive Solid Waste, Bulk Waste, Construction and Demolition Debris and other refuse collection services including Residential Recycling in and for the TOWN as specified in this Contract. No other services shall be exclusive to the CONTRACTOR. The Contract specifically excludes the collection of Recovered Materials from Commercial Service Units in the Service Area. The CONTRACTOR is authorized by the TOWN to enter in and upon private property, in upon over and across the present and future streets, alleys, bridges, easements and other public places of the TOWN for the purposes of collecting the Solid Waste, Bulk Waste, Construction and Demolition Debris and other refuse of the residents, inhabitants, and businesses within the municipal corporate limits of the TOWN, or as directed in conformance with Ordinances and other applicable law.

1.5 FRANCHISE FEE

The TOWN shall withhold payment from the CONTRACTOR, as and for a Franchise Fee in an amount equal to \$4.17 per month per household for all Residential services rendered, within the TOWN of Davie, pursuant to the Agreement.

Payment of the Franchise Fee (\$3.13 per cubic yard for non-compacted and \$4.78 per cubic yard for compacted) to the TOWN from the CONTRACTOR from all Commercial Services rendered shall be paid monthly and in full no later than the 20th day of the month following the end of each month.

Payment of the Franchise Fee (\$45.44 per roll off collection service + \$3.19 per yard) to the TOWN from the CONTRACTOR from all Construction and Demolition Services rendered shall be paid monthly and in full no later than the 20th day of the month following the end of each month.

For any other services not specified above, franchise fees shall be charged at 21% of the gross amount charged. All Franchise Fees are pass through costs and accordingly are not in diminution of CONTRACTOR's compensation.

Beginning on October 1, 2022 (Commercial) and January 1, 2023 (Residential), and annually thereafter, the TOWN shall receive an annual adjustment to the franchise fee and shall be calculated based on 100% of the positive change in the Consumer Price Index- All Urban Consumers for Miami-Fort Lauderdale,-Palm Beach, Florida (CPI). Any decreases in the CPI will result in the franchise fees remaining unchanged for the subsequent year.

1.6 ANNEXATIONS

Adjustments to Service Area boundaries and the rights of the parties to this Contract due to annexation shall be as provided by Florida Statutes Section 171.062, as amended, or its successor and this Section.

The annexation of areas to the TOWN subsequent to the commencement of the initial term of the Contract may require the CONTRACTOR to relinquish any or all exclusivity of its Collection services in that portion of the Service Area and such portion may become exclusive to another entity pursuant to municipal decisions. If the TOWN elects to have the CONTRACTOR provide Collection services for the annexed area; the CONTRACTOR shall provide Collection services at the Rate Structure as established in Exhibit 1 and 2. Any and all such relinquishment of exclusive Collection services required by the TOWN due to annexation of a portion of the Service Area shall have no effect on the TOWN'S Rate Structure as established in Exhibit 1 and 2

1.7 FLOW CONTROL

All Solid Waste, Bulk Waste, Residential Recycling, Yard Waste, Construction and Demolition Debris, and any other named materials as added, generated in the TOWN of Davie, shall be delivered only to the Designated Disposal Facilities.

SECTION 2: DEFINITIONS

For the purpose of this Contract, the definitions contained in this Section shall apply unless otherwise specifically stated. If a word or phrase is not defined in this Section, the definition of such word or phrase as contained in the Code of the TOWN shall apply. To the extent the definitions contained herein conflict with similar definitions contained in any federal, state or local law, the definition herein shall prevail. Definitions contained herein shall not be interpreted to require the CONTRACTOR to undertake any conduct contrary to federal, state, or local law. When consistent with the context, words used in the present tense shall include the future, words in the plural shall include the singular, and use of the masculine gender shall include the feminine gender. The word "shall" is always mandatory and not merely discretionary.

- A. **Administrator** shall mean the TOWN employee designated by the TOWN Administrator to be the TOWN's official representative regarding matters pertaining to this Contract.
- B. **Advertising** shall mean any written communication for the purpose of promoting a product or service. The CONTRACTOR'S name in which it is doing business and non-toll telephone service number, written communication as specified in the Contract or written communication as directed by the TOWN Administrator or his/her designated representative(s), shall not be considered Advertising.

- C. **Agreement** shall mean this Franchise Agreement for Solid Waste and Recycling Services.
- D. **Applicable Law** shall mean any local, state, or federal statute law, constitution, charter, ordinance, judgment, order, decree, permit, rule, regulation, directive or policy which is in effect, enacted, promulgated, issued or enforced by a governmental body, during the term of this Contract, and relate in any manner to the performance of the TOWN or CONTRACTOR under this Contract.
- E. **Bags** shall mean non-dissolvable plastic trash bags, each with a capacity of thirty-nine (39) gallons or less.
- F. **Biological Waste** shall mean, as defined in Chapter 403, Florida Statutes, Solid Waste that causes or has the capability of causing disease or infection and includes, but is not limited to, biomedical waste, diseased or dead animals, and other wastes capable of transmitting pathogens to humans or animals.
- G. **Biomedical Waste** shall mean, as defined in Chapter 403, Florida Statutes, any Solid Waste or liquid waste which may present a threat of infection to humans. The term includes, but is not limited to, non-liquid human tissue and body parts; laboratory and veterinary waste which contain human-disease-causing agents; discarded disposable sharps; human blood, and human blood products and body fluids; and other materials which in the opinion of the Florida Department of Health represent a significant risk of infection to persons outside the generating facility.
- H. **Bulk Waste** shall mean any and all non-liquid material which is predominantly noncombustible and therefore, should not be processed in a mass burn resource recovery system, or which is not susceptible to normal loading and collection in packer-type sanitation equipment. Bulk Waste includes, but is not limited to furniture and large appliances (with refrigerants properly removed and verified), smaller appliances that cannot fit in the 96 gallon container, sinks, toilets, fixtures, furniture, ladders, carpets, incidental tires, concrete rubble, mixed roofing materials, noncombustible building debris, lumber rock, cement, asphalt, tar, gravel and other earthen materials, equipment, wire, cable, Yard Waste (as defined in this agreement) shall be capable of being handled by a standard claw truck. If Yard Waste is too small to be collected by a standard claw truck, Yard Waste shall be placed in carts for pickup or bundled and tied and left on Curbside for Bulk Waste pickup. Bulk Waste must be generated by the customer for whom the Bulk Waste is collected. Bulk Waste does not include items herein defined as CONTRACTOR-Generated Waste, or Exempt Waste. Compacting of Bulk Waste containing refrigerants or other potentially harmful fluids, or gases is prohibited.
- I. **Bulk Waste Collection Service** shall mean the Collection of Bulk Waste from Residential Curbside Service Units, Multifamily Service Units and Commercial Service Units and delivery of the Bulk Waste to the Designated Disposal Facility.
- J. **Business Day** shall mean any day, Monday through Friday, Saturday from 9 a.m. EST till 5p.m., EST.
- K. **Change in Law** shall have the meaning set forth in Section 26.

- L. Collection shall mean the process whereby Solid Waste, Bulk Waste from Residential Service Units and Construction and Demolition Debris are removed and transported to the Designated Disposal Facility.
- M. Commercial Bulk Waste Collection Services shall mean Bulk Waste Collection from Commercial Service Units and delivery of the Bulk Waste to the Designated Disposal Facility.
- N. Commercial Collection Services shall mean Commercial Solid Waste Collection Service and Construction and Demolition Debris Collection Service performed in the Service Area. Commercial Collection Services shall be billed at the rates established in the Rate Structure.
- O. Commercial Landscape Care Service shall mean a person or entity that provides lawn and garden maintenance services for remuneration. This definition includes landscapers, tree trimmers.
- P. Commercial Service Unit shall mean all retail, professional, wholesale, institutional and industrial facilities and any other commercial enterprises, including Hotels and Motels, rental apartment houses and licensed recreational vehicle parks, offering goods or services to the public located in the Service Area.
- Q. Commercial Solid Waste Collection Service shall mean the Collection of Solid Waste from Commercial Service Units in the Service Area and the delivery of the Solid Waste to the Designated Disposal Facility. Commercial Solid Waste Collection Service shall be provided via Container(s) with or without Compactor(s), or Roll-off(s) with or without Compactor(s), or 96 gallon carts upon approval by the TOWN of Davie.
- R. Community Events shall mean events sponsored or co-sponsored by the TOWN.
- S. Compactor shall mean a mechanism, whether stationary or mobile, with a minimum compaction ratio of 2.5 to 1.0 used for the densification of Solid Waste in Containers or Roll-offs. The CONTRACTOR shall clearly mark all Containers and Roll-offs with Compactors as to prohibit their use for the disposal of Biological Waste, biomedical Waste, Hazardous Waste or Sludge.
- T. Construction and Demolition Debris as defined in Chapter 403, Florida Statutes, as may be amended from time to time, shall mean discarded materials generally considered to be not water-soluble and non-hazardous in nature, including, but not limited to, steel, glass, brick, concrete, asphalt roofing material, pipe, gypsum wallboard, and lumber, from new site development, the construction or destruction of a structure as part of a construction or demolition project or from the renovation of a structure, and including rocks, soils, tree remains, trees, and other vegetative matter that normally results from land clearing or land development operations for a construction project, including such debris from construction or structures at a site remote from the construction or demolition project site.
- U. Construction and Demolition Debris Collection Service shall mean the Collection of Construction and Demolition Debris from Residential Curbside Service Units, Multifamily Service Units and Commercial Service Units and delivery of the Construction and Demolition Debris to the Designated Disposal Facility. Construction and Demolition Debris Collection Services are considered Commercial Collection Services, regardless of who generates the Construction and Demolition Debris, which includes (but is not limited to) new construction of Dwelling Units and remodeling projects at existing Dwelling Units.

- V. Consumer Price Index (CPI) shall mean "the Consumer Price Index- All Urban Consumers for Miami-Fort Lauderdale-West Palm Beach as published by the US Department of Labor, Bureau of Labor Statistics, or successor agency.
- W. Container shall mean any metal receptacle, with a capacity of one cubic yard up to and including forty cubic yards designed or intended to be mechanically dumped into a loader- packer type garbage truck. All such Containers must be clearly marked in a manner so as to prohibit their use for the disposal of Biological Waste, biomedical Waste, Hazardous Waste or Sludge.
- X. Contract shall mean this Contract.
- Y. Contract Year shall begin on January 1 at 12:00 a.m., EST, through December 31 at 11:59 p.m., EST of each year for the term of this Contract.
- Z. CONTRACTOR shall mean the person or entity set out initially above that has entered into this Contract to provide the services described herein for the Service Area.
- AA. Contractor-Generated Waste shall mean Bulk Waste generated by builders, building contractors, privately employed tree trimmer and tree surgeons, landscape services and lawn or yard maintenance services and nurseries.
- BB. County shall mean Broward County, Florida
- CC. Curbside shall mean a location within five (5) feet of the curb, pavement or edge of the nearest street. If this location is in a drainage ditch or there is no swale or available pavement other than the roadway, the CONTRACTOR shall designate the appropriate area for placement.
- DD. Designated Disposal Facility shall mean the facility(s) fully permitted to receive Class I waste and designated by the TOWN for the disposal of all Solid Waste, Bulk Waste, and Construction and Demolition Debris. The TOWN reserves the right to designate an alternative facility for the disposal of all Solid Waste, Bulk Waste, and Construction and Demolition Debris collected pursuant to this Contract. CONTRACTOR shall be responsible for all Disposal Charges owed to the Designated Disposal Facility resulting from CONTRACTOR Collection Service.
- EE. Disposal Charges shall mean the prevailing per-ton rate charged at the Designated Disposal Facility for the acceptance and disposal of waste materials from Residential Curbside Collection Services, Multifamily Collection Services and Commercial Collection Services.
- FF. Dwelling Unit shall mean any individual living unit in a single family dwelling, multifamily dwelling or mixed-used dwelling within a structure or building intended for, or capable of being utilized for residential living, other than those structures or building units included within the definition of Commercial Service Unit herein.
- GG. Exempt Waste shall mean Biological Waste, Biomedical Waste, Hazardous Waste, Sludge, sewage, automobiles, automobile parts, boats, boat parts, trailers, internal combustion engines, lead-acid batteries, used oil and tires, dead animals, highly flammable substances, those wastes under the control of the Nuclear Regulatory commission and those other materials whose size, weight, or both are in excess of that allowed for Bulk Waste as defined herein.

- HH. Financial Donation shall mean the financial contribution of 0.5% of the gross revenues (excluding Franchise Fees) that the CONTRACTOR shall make to the TOWN once a month, as corporate goodwill.
- II. Franchise Fee shall mean the charge to CONTRACTOR for the use of present and future streets, alleys, bridges, easements and other public places of the TOWN and the Town's associated administrative costs for oversight of this franchise, pursuant to this Contract.
- JJ. Garbage shall mean all putrescent waste which generally includes but is not limited to kitchen and table food waste, animal, vegetative, food or any organic waste that is attendant with or results from the storage, preparation, cooking or handling of food material whether attributed to residential or commercial activities.
- KK. Garbage Cart shall mean a heavy plastic receptacle affixed with the TOWN logo, with a rated capacity of not less than sixty-five (65) gallons nor more than ninety-six (96) gallons, having a hinged tight-fitting lid and wheels, which is designed or intended to be used for automated or semi-automated collection. Garbage Carts will be provided by and distributed by the CONTRACTOR.
- LL. Gross Revenues shall mean all revenues collected by the CONTRACTOR, from any source whatsoever, arising from, attributable to or in any way derived from the services it provides pursuant to this Contract, inclusive of revenues collected by the CONTRACTOR related to its obligations to pay Disposal Charges, and exclusive of franchise fees. Gross Revenues computations shall not be reduced by Disposal Charges or amounts collected to offset such Disposal Charges.
- MM. Hazardous Waste shall mean Solid Waste, or a combination of Solid Wastes, because of its quantity, concentration, or physical, chemical, or infectious characteristics, may cause, or significantly contribute to, an increase in mortality or an increase in serious irreversible or incapacitating reversible illness or may pose a substantial present or potential hazard to human health or the environment when improperly transported, disposed of, stored, treated, or otherwise managed; any waste, substance, object or material deemed hazardous under (i) Section 403.703, Florida Statutes; (ii) RCRA, 42 U.S.C.A. § 6901 *et seq.*; (iii) CERCLA, 42 U.S.C.A. § 9601 *et seq.*; (iv) Toxic Substances Control Act, 15 U.S.C. § 2601, *et seq.*, and in each case, applicable regulations promulgated thereunder. The term does not include human remains that are disposed of by persons licensed under Chapter 470, Florida Statutes.
- NN. Holiday shall mean Work Day(s) that Collections(s) shall not occur to include Thanksgiving and Christmas.
- OO. Missed Collection shall mean any occasion when the CONTRACTOR does not provide collection service to a customer on the scheduled collection day who timely and properly sets out waste in accordance with this Agreement.
- PP. Multifamily Bulk Waste Collection Service shall mean Bulk Waste Collection from Multifamily Service Units on scheduled Bulk Waste Collection days and delivery of the Bulk Waste to the Designated Disposal Facility.

- QQ. **Multifamily Collection Services** shall mean Multifamily Solid Waste Collection Service, Multifamily Recycling Collection Service, and Multifamily Bulk Waste Collection Service performed in the Service Area. Multifamily Collection Services shall be billed the rates established in the Rate Structure.
- RR. **Multifamily Service Unit** shall mean Dwelling Units utilizing Container(s) with or without Compactor(s) or Roll-off(s) for the accumulation and set-out of Solid Waste.
- SS. **Multifamily Solid Waste Collection Services** shall mean the Collection of Solid Waste from Multifamily Service Units located within the Service Area and the delivery of the Solid Waste to the Designated Disposal Facility.
- TT. **Non-Collection Notice** shall mean a form used by the CONTRACTOR to notify customers of the reason for non-Collection of materials set out by the customer for Collection by the CONTRACTOR pursuant to the Contract, developed by the CONTRACTOR and approved by the TOWN.
- UU. **Ordinance** shall mean those parts of the code of the TOWN governing Collection, disposal within the TOWN.
- VV. **Processable Waste** shall mean that portion of the solid waste stream which is capable of being processed in a mass burn resource recovery facility, including, but not limited to, all forms of household and other garbage, trash, rubbish, refuse, combustible agriculture, commercial and light industrial wastes, commercial waste, leaves and brush, paper and cardboard, plastics, wood and lumber, rags, carpeting, occasional tires, wood furniture, mattresses, stumps, wood pallets, timber, tree limbs, ties, and logs, and excluding Unprocessable Waste and Unacceptable Waste.
- WW. **Rate Structure** shall mean the rates approved by the TOWN shown in Exhibits 1.
- XX. **Recovered Materials** shall mean those materials meeting the statutory definition set forth in F.S. 403.7046. Recovered Materials that meet the statutory definition are metal, paper, glass, plastic, textile, or rubber materials that have known recycling potential, can be feasibly recycled and have been diverted and source separated or have been removed from the Solid Waste stream for sale, use or reuse as raw materials, whether or not the materials require subsequent processing or separation from each other, but does not include materials destined for any use that constitutes disposal. Recovered Materials as described above are not Solid Waste. Construction and Demolition Debris is not Recovered Materials.
- YY. **Residential Curbside Bulk Waste Collection Service** shall mean Bulk Waste Collection from Residential Curbside Service Units and the delivery of the Bulk Waste to the Designated Disposal Facility.
- ZZ. **Residential Curbside Collection Service** shall mean Residential Curbside Solid Waste Collection Service, Residential Curbside Recycling Collection Service, and Residential Curbside Bulk Waste Collection Service performed in the Service Area. Residential Curbside Service Units shall be billed the Rates established in the Rate Structure.
- AAA. **Residential Curbside Service Unit** shall mean any Dwelling Unit utilizing a Garbage Can [Garbage Cart] Bags or bundles for the accumulation and set-out of Solid Waste.

- BBB. Residential Curbside Solid Waste Collection Service shall mean the Collection of Solid Waste from Residential Curbside Service Units in the Service Area and the delivery of that Solid Waste to the Designated Disposal Facility.
- CCC. Residential Waste shall refer to all waste, refuse, garbage, trash and rubbish generated within the Town from residential property and that is capable of being processed at the Waste Receiving Facility, but shall not include construction and demolition debris, tropical storm or hurricane related debris, or Unacceptable Waste.
- DDD. Roll-Off Collection Service shall mean the Collection and disposal of Roll-Off Containers containing Solid Waste and the Collection and disposal of Roll-Off Containers containing Construction and Demolition Debris. All such Roll-Off Containers must be clearly marked to prohibit their use for the disposal of Biological Waste, Biomedical Waste, Hazardous Waste or Sludge.
- EEE. Roll-Off Containers shall mean any metal receptacle with a capacity of more than eight (8) cubic yards, which is normally loaded onto a motor vehicle. Roll-off Containers utilized for services covered under this Contract shall be owned by the CONTRACTOR.
- FFF. Rubbish shall mean all refuse, accumulation of paper, excelsior, rags, wooden or paper boxes and containers, sweep-ups and all other accumulations of a nature other than Garbage and Yard Waste, resulting from the normal activities of a Residential Curbside Service Unit, Multifamily Service Unit or Commercial Service Unit wherein the Rubbish is collected. Rubbish does not include items herein defined as CONTRACTOR-Generated Waste or Exempt Waste.
- GGG. Service Area shall mean the municipal limits of the TOWN.
- HHH. Sludge shall mean the accumulated solids, residues and precipitates generated as a result of waste treatment or processing including wastewater treatment, water supply treatment, or operation of any air pollution control facility, and mixed liquids and solids pumped from septic tanks, grease traps, privies, or similar disposal appurtenances or any other such waste having similar characteristics or effects.
- III. Solid Waste as defined in Chapter 403, Florida Statutes, as may be amended from time to time, shall mean Sludge unregulated under the federal Clean Water Act or Clean Air Act, Sludge from a waste treatment works, water supply treatment plant, or air pollution control facility, or Garbage, Rubbish, refuse, Special Waste, or other discarded material, including solid, liquid, semisolid, or contained gaseous material resulting from domestic, industrial, commercial, mining, agricultural, or governmental operations.
- JJJ. Special Waste as defined in Chapter 403, Florida Statutes, as may be amended from time to time, shall mean Solid Wastes that can require special handling and management, including, but not limited to, White Goods, waste tires, used oil, lead-acid batteries, Construction and Demolition Debris, ash residue, Yard Waste and biological wastes.
- KKK. Tipping Fee shall mean the fee that must be paid for the disposal of Waste Material at the Designated Disposal Facility as designated by the TOWN.
- LLL. TOWN shall mean the TOWN of Davie, Broward County, Florida.

- MMM. TOWN Administrator shall mean the TOWN Administrator of the TOWN, or his/her designated representative(s).
- NNN. TOWN Council shall mean the TOWN Council of the TOWN.
- OOO. Yard Waste shall mean any vegetative matter resulting from normal yard and landscaping generated by the resident and shall include materials such as tree and shrub trimming materials, grass clippings, palm fronds, tree branches and similar other matter usually produced as refuse in the care of laws, landscaping and yards. Yard Waste does not include items herein defined as Contractor-Generated Waste or Exempt Waste.
- PPP. White Goods shall mean discarded refrigerators, ranges, water heaters, freezers, and other similar domestic appliances. White Goods must be generated by the customer and at the Residential Service Unit or Commercial Service Unit wherein the White Goods are collected. All white goods shall be certified and verified that all Freon gas has been removed prior to pickup and transportation.
- QQQ. Work Day shall mean any day, Monday through Saturday.
- RRR. Unacceptable Waste shall refer to (a) Hazardous Waste, (b) cleaning fluids, hazardous paints, acids, caustics, poisons, radioactive materials, fine powdery earth used to filter cleaning fluid, and refuse of similar nature; (c) any item of waste exceeding six feet in any one of its dimensions or being in whole or in part a solid mass, the solid mass portion of which has dimensions such that a sphere with a diameter of eight inches could be contained within such solid mass portion (provided that such restriction does not apply to white goods and other appliances); (d) any controlled substances regulated under the Controlled Substances Act, 21 USC 801 et seq., or any equivalent state law; (e) non- burnable construction materials and demolition debris; and (g) all other items of waste which a CONTRACTOR reasonably believes would be likely to pose a threat to health or safety or the acceptance and disposal of which may cause damage to the Facility or be in violation of any judicial decision, order, action, permit, authorization, license, approval or registration of any federal, state or local government or any agency thereof, or any other regulatory authority or applicable law or regulations. Unacceptable Waste shall not include solid waste that otherwise may be considered Bulk Waste, White Goods, Construction and Demolition Debris, or Yard Waste.
- SSS. Unprocessable Waste shall mean that portion of the solid waste stream that is predominantly noncombustible and therefore, should not be processed in a mass burn resource recovery system. Unprocessable waste shall include, but not limited to, metal furniture and appliances, concrete rubble, mixed roofing materials, noncombustible building debris, rock, gravel and other earthen materials, equipment, wire and cable, and any item of solid waste exceeding six feet in any one of its dimensions such that a sphere with a diameter of eight inches could be contained within such mass portion, and processable waste (to the extent that it is contained in the normal unprocessable waste stream).

SECTION 3: COLLECTION SERVICES TO BE PROVIDED BY CONTRACTOR

The CONTRACTOR shall provide all Collection Services, as defined in Section 3 herein, within the Service Area, except as provided herein. Said service shall include:

3.1 RESIDENTIAL CURBSIDE COLLECTION SERVICES

Single family homes, townhouses, duplexes, triplexes, quadruplexes and mobile homes shall have curbside Garbage Cart pickup, except in those areas that cannot accommodate Garbage Cart collection due to inaccessibility problems, cart storage problems, or similar issues. These areas shall receive service consisting of 3 items, cans, bags or bundles in lieu of 96 gallon carts, as decided by the TOWN and the CONTRACTOR. Residential units that are billed by way of the tax roll and which are serviced by a Container shall be entitled to monthly Bulk Waste collection services. The CONTRACTOR shall be responsible for providing carts and decals for the carts.

- 3.1.1 **Residential Curbside Solid Waste and Recycling Collection Service** - The CONTRACTOR shall pick up, 2x per week, a maximum of one hundred and sixty one gallon (161) gallons consisting of a 96, and a 65 gallon Garbage Cart of Solid Waste including Yard Waste from each Residential Curbside Service Unit. Additional 96 gallon carts may be added at an additional charge. Garbage Carts shall be placed within five (5) feet of the street curb, swale, paved surface of the public roadway, closest accessible roadway, or other location agreed to by the CONTRACTOR and within three (3) feet of poles, trees, etc. Customer will provide safe and efficient accessibility to the CONTRACTOR'S collection crew and vehicle. In certain cases, it may be decided that properly containerized residential solid waste may be placed at a location mutually agreed upon by the customer and the CONTRACTOR. The TOWN Administrator or his Designee shall mediate any dispute regarding location of the Garbage Cart. The CONTRACTOR shall collect Christmas Trees from Residential Curbside Service Units each collection year from December 26 through January 31 on any scheduled Collection Day. The CONTRACTOR shall collect horse manure as part of the collection contract as long as it is disposed of in the garbage and/or recycling cart.

If the TOWN desires separate recycling collection routes, the TOWN and CONTRACTOR agree that this request would trigger a reopener of this contract to account for the additional collection and recyclables processing costs associated with separate recycling collection routes. The Town must provide one (1) year's notice before adding the additional recycling collection routes to this contract.

- 3.1.2 The CONTRACTOR shall not collect Solid Waste or Yard Waste placed outside of the Garbage Carts on any regularly scheduled solid waste collection day, (excluding Christmas trees). If a scheduled collection day falls on a holiday, CONTRACTOR shall collect all solid waste left curbside on the next scheduled collection day.
- 3.1.3 Garbage shall be placed in a plastic bag prior to placing it in the garbage cart, thereby minimizing spillage or leakage
- 3.1.4 Containers, when full, should not weigh more than 75 lbs.
- 3.1.5 For each new residential account, CONTRACTOR shall mail a bulk services brochure to the resident and/or the person that contracts for the service.

- 3.1.6 CONTRACTOR shall not cause any garbage to be spilled on any roadway due to overfilling the hopper, lifting the hopper arm containing garbage while moving, or garbage not being properly covered while traveling.
- 3.1.7 If a resident does not follow proper procedures for set out, the CONTRACTOR shall issue a non-collection notice to a resident stating the reason that it was not collected.
- 3.1.8 **New Carts** – At the commencement of this contract, the CONTRACTOR shall replace all the 96-gallon solid waste carts with new 96-gallon carts (including residences receiving additional carts). Approximately 3,200 additional carts would have to be replaced in addition to the 1 cart per residential curbside property. The CONTRACTOR shall be responsible for the purchase, assembly, and distribution of the new carts; and the removal and disposal of the old carts. The Town shall have final approval over cart specifications, design, branding, and in-mold labelling. The costs related to the procurement of carts will be borne by the CONTRACTOR. All replacement parts shall be procured by the CONTRACTOR at the CONTRACTOR's sole expense. The CONTRACTOR shall be responsible to deliver, repair, remove and replace carts at the customer's location.

The new carts include the communities of Park City Estates and Kings Manor that are joining the Town's solid waste franchise agreement as of June 1, 2021. The Town logo and a serial number must be hot stamped on the cart. The CONTRACTOR shall provide a software system whereby the Town can manage and track collection service in real time.

- 3.1.9 **Additional Carts** - CONTRACTOR shall distribute additional carts to Residential Curbside Service Units that request same. CONTRACTOR will invoice the Resident and/or Property Owner per Exhibit 1 for each additional cart.
- 3.1.10 **Stolen Carts**: Upon notification from a residential customer to the TOWN or CONTRACTOR that a cart has been stolen, the TOWN or the CONTRACTOR shall advise the resident to file a police report. Upon notification by the resident of the police case number to the TOWN or the CONTRACTOR, the cart shall be replaced without charge to the resident. If there is no police report, the cart shall be replaced by CONTRACTOR and paid for by the resident at the cost of the cart, per Exhibit 2.
- 3.1.11 **Garbage Cart(s) Purchase, Distribution, Replacement and Repair** - The CONTRACTOR shall be responsible for the purchase, distribution and repair of Garbage Carts in the complete Service Area. Contractor shall distribute a 96 gallon cart and a 65 gallon cart to each new residential Service Unit within six (6) work days of the request for a cart by the resident or the TOWN. CONTRACTOR shall maintain, at all times, a sufficient number of 96 gallon and 65 gallon carts to ensure that all extra or replacement carts can be provided within six (6) work days upon notification by the Town or the customer.
- 3.1.12 CONTRACTOR shall distribute fully assembled carts to new service units that are added to the service area during the term of this contract.
- 3.1.13 Upon notification from the Residential Curbside Service Unit to the TOWN or the CONTRACTOR that the customer's Garbage Cart(s) has been damaged, the CONTRACTOR shall repair, if possible, or replace said Garbage Cart(s) with an equivalent Garbage Cart(s) (i.e. capacity, wheels, lid, etc.), at the CONTRACTOR'S own expense, within six (6) Work Days. If carts have been damaged due to customer's 16

abuse or negligence, as determined by the TOWN, the Carts shall be repaired or replaced, at the expense of the Customer utilizing the current cost of the cart in Exhibit 2.

- 3.1.14 CONTRACTOR shall be responsible for the repair of carts (excluding body cracks or approved nonrepairable damages) prior to returning the cart to inventory. These refurbished carts shall be cleaned and repaired to "like new" condition.
- 3.1.15 CONTRACTOR shall be responsible for the sanitary cleaning of each cart exchanged or removed prior to returning the cart to inventory. Grey water generated by this process shall be managed and disposed of consistent with County and State regulations.
- 3.1.16 The Town retains ownership of all solid waste and recycling carts at contract expiration.
- 3.1.17 All carts replaced shall be recycled by the CONTRACTOR.
- 3.1.18 **Off-Street Collection Service** - the CONTRACTOR shall provide off-street Collection for Solid Waste from Residential Curbside Service Units if all adult occupants residing therein are handicapped and if a request for off-street service has been made to, and approved by the TOWN, in the manner required by the TOWN. All requests for Off-Street Service available under this Section shall be made to the TOWN with the specific need and criteria attached thereto. The TOWN shall notify the CONTRACTOR of any customers requiring off-street service. No additional monies shall be due to the CONTRACTOR for the provisions of off-street service to handicapped customers. The point of Collection for off-street service shall be the back or side yard or such other location as is mutually agreeable to the CONTRACTOR and the customer. In the event the appropriate location cannot be agreed upon, the TOWN shall mediate the dispute and designate the location for Collection. The CONTRACTOR shall provide off-street service on the same Scheduled Collection Day that Residential Curbside Solid Waste Collection Service would otherwise be provided to the Residential curbside Service Unit.
- 3.1.19 **Residential Curbside Bulk Waste Collection Service** The CONTRACTOR shall pick up Bulk Waste, not to exceed fifteen (15) cubic yards per Residential Customer Service Unit, Town-wide; twelve (12) times per year on one of the scheduled collection days of the week that Residential Solid Waste Collection Service is provided to the Residential Customer Service Unit. If a residential property exceeds the allotted 15 cubic yards per scheduled collection, or if it is not properly placed, CONTRACTOR shall not pick up the bulk items, shall tag the pile by placing a notice of options including how to have the excess bulk removed at their expense, how to properly place the materials and call for removal and that the Town Code Compliance Division will be notified of the issue. The CONTRACTOR shall notify the Town Code Compliance Division and Contract Administrator within 24 hours. The Town Code Compliance Division shall respond within one business day to initiate the Town's Code process for corrective action. If the bulk is, or becomes a health and/or safety concern, the CONTRACTOR will be notified by the Town to remove the debris. The TOWN shall then proceed with its Code Enforcement case against said property to recover the CONTRACTOR's costs, in excess of the 15 cubic yards in Exhibit 2. 15 cubic yards is defined and measured at approximately 15 feet long, 7 feet wide and 4 feet high.

3.2 MULTIFAMILY COLLECTION SERVICES

3.2.15 Multifamily Solid Waste Collection Service - The CONTRACTOR shall pick-up Solid Waste from Multifamily Service Units within the Service Area. The size of the Container(s) or Roll-Off(s) and the frequency of Collection shall be sufficient to provide that no Solid Waste shall be placed outside the Container(s) or Roll-Off(s). The size of the Container(s) or Roll-Off(s) and the frequency of Collection (meeting minimum requirements contained in the Ordinance unless less frequent service is approved by the TOWN) shall be mutually agreed upon by the customer and the CONTRACTOR. Collections service scheduled to fall on a holiday may be rescheduled as long as the minimum frequency requirement is met. The CONTRACTOR shall provide the Container(s) and Roll-Off(s) at the approved rental rates. Containers and Roll-Offs shall meet accepted industry standards and be maintained by the CONTRACTOR as necessary to maintain efficient and sanitary services. The CONTRACTOR shall notify the TOWN if it is deemed necessary to increase service for a customer. The TOWN reserves the right to approve or decline the service change. If the TOWN approves the service change request, the CONTRACTOR shall notify the customer of the increased service frequency and Rate Structure. If the TOWN declines the service change request, the CONTRACTOR shall continue to provide the customer the current level of service. The CONTRACTOR shall collect Christmas Trees from Multifamily Service Units at no additional cost to the Multifamily Service Unit or the TOWN.

3.2.15.1 Multifamily container and/or Roll-off Replacement Upon notification from the Multifamily Service Unit to the TOWN or the CONTRACTOR that the CONTRACTOR damaged the customer's Container(s) and/or Roll-off(s), the CONTRACTOR shall repair or replace said Container(s) and/or Roll-off(s) with an equivalent Container(s) and/or Roll-off(s) (i.e. capacity, wheels, lid, compacting device, etc.), at the CONTRACTOR'S own expense, within six (6) Work Days. If carts have been damaged due to customer's abuse or negligence, as determined by the TOWN, the Carts shall be repaired or replaced, at the current cost of the cart at the expense of the Customer.

3.2.15.2 Multifamily Bulk Waste Collection Service - The CONTRACTOR shall provide four (4) bulk waste pick-up collections per year at all multifamily units that utilize commercial collection service Multi-Family Residential Containerized Collection Services, scheduled in advance without additional charges. Additionally, Bulk Waste Collection would be provided as necessary on an individual basis per Exhibit 2 of this Agreement.

3.3 COMMERCIAL COLLECTION SERVICES

3.3.15 Commercial Solid Waste Collection Service - The CONTRACTOR shall pick-up Solid Waste from Commercial Service Units within the Service Area. The size of the Container(s) or Roll-off(s) and the frequency of Collection shall be sufficient to provide that no Solid Waste shall be placed outside the Container(s), Garbage Cart(s) or Roll-off(s). Customer and CONTRACTOR shall determine the level of service and size of container after considering the type of business, waste generation rate and type, and other similar factors. In the event that same cannot be reasonably agreed upon, the TOWN shall make the final determination in advance of the change. During the term of this Contract, a written service agreement between the CONTRACTOR and the customer; in a format acceptable to the TOWN, shall be entered into regarding 18

the level and type of service to be provided, for solid waste services only. The written service agreement shall include rate information, the name and address of the Customer, and the name and address of the contact person for the customer in a format as prescribed by the TOWN in advance and a copy shall be filed with the TOWN within five (5) days of execution of the written agreement. The size of the Container(s), Garbage Cart(s) or Roll-off(s) and the frequency of Collection (meeting minimum requirements contained in the Ordinance unless less frequent service is approved by the TOWN) shall be mutually agreed upon by the Commercial Service Unit and the CONTRACTOR. Commercial Service Units generating more Solid Waste than can be stored in three (3) Garbage Carts or generating a large percentage of waste, as determined by the TOWN and CONTRACTOR, shall be required to use a Container. The service agreement can be electronically signed by both parties.

Collection service scheduled to fall on a Holiday may be rescheduled as determined between the Commercial Service Unit and the CONTRACTOR as long as the minimum frequency requirement is met. The CONTRACTOR shall provide the Container(s) and Roll-off(s) at the approved rental rates. Containers, Garbage Carts and Roll-offs, shall meet accepted industry standards and be maintained by the CONTRACTOR as necessary to maintain efficient and sanitary services. The CONTRACTOR shall notify the TOWN if it is deemed necessary to increase service for a customer. The TOWN reserves the right to approve or decline the service change. If the TOWN approves the service change request, the CONTRACTOR shall notify the customer of the increased service frequency and Rate Structure. If the TOWN declines the service change request, the CONTRACTOR shall continue to provide the customer the current level service. All Containers, Garbage Carts and Roll-offs shall be readily accessible to the CONTRACTOR'S crew and vehicles.

- 3.3.16 **Exclusivity Enforcement** - The TOWN shall assist CONTRACTOR in enforcing the exclusivity of this Contract. In the event that a CONTRACTOR determines that a commercial establishment has not contracted with the CONTRACTOR for garbage collection or roll-off collection service, or is not following the guidelines within the definition of recovered material's defined by the Florida Statute 403.7046 and this agreement, as the case may be, CONTRACTOR shall notify the TOWN. The TOWN shall notify the commercial establishment to cure the noncompliance. If the noncompliance is not cured, the TOWN shall file an appropriate enforcement action within thirty (30) days.

3.4 CONSTRUCTION AND DEMOLITION DEBRIS COLLECTION SERVICE

The CONTRACTOR shall provide Construction and Demolition Debris Collection Service within the Service Area. The CONTRACTOR shall be the exclusive provider to collect and dispose of all construction and demolition debris generated at construction sites, except for single family residential remodeling construction and demolition debris. The construction and demolition debris shall be taken to the designated construction and demolition debris disposal facility. Builders, building CONTRACTORS, construction tradesmen, "handymen or women," and developers shall be responsible for the excavation, construction, demolition and land clearing waste emanating from their work and shall use the TOWN's designated CONTRACTOR for such removal and disposal. The size of the Roll-off(s) and the frequency of Collection shall be sufficient to provide that no Construction and Demolition Debris shall be placed outside the Roll-off(s). The size of the Roll-Off(s) and the frequency of Collection meeting minimum requirements contained in the Ordinance unless frequent 19

service is approved by the TOWN shall be mutually agreed upon by the customer and the CONTRACTOR. Collection Service scheduled to fall on a Holiday may be rescheduled as determined between the customer and the CONTRACTOR. The CONTRACTOR shall provide the Container(s) and Roll-off(s) at the approved rental rates. The CONTRACTOR shall deliver the mutually agreed upon size and quantity of Roll-offs within three (3) Work Days of receipt of the request for services or delivery date requested by the customer, whichever the customer selects. The CONTRACTOR shall pick up for disposal Roll-Off containers within a 24 hour period from the time of the Customer's call, and excluding Sundays, for all ongoing construction sites. All Roll-off(s) Containers shall be readily accessible to the CONTRACTOR'S crew and vehicles. Collection and Disposal shall be performed on the request of the client. However, if there is no activity during a one month period, the customer will be charged for a month of service. There shall be no additional delivery charge so long as there is no break in service. Whenever a container is removed from a service location without a replacement being requested, the removal shall be deemed a break in service.

The CONTRACTOR shall also provide construction and demolition debris service via truck whereby construction and demolition debris can be continuously removed daily as part of the construction project.

3.5 CORPORATE GOODWILL

The CONTRACTOR shall provide the following Collection services and Financial Donations to the TOWN. The CONTRACTOR shall be responsible for the expenses of Container(s) and Roll-off(s) rental and maintenance, Collection, Disposal Charges, locks, and all other expenses incurred with providing the Collection services contained in this Section. There shall be no cost to the TOWN or Community Event co-sponsors. The TOWN shall determine the location of Collection, size, quantity, and frequency of Collection for Container(s), Roll-off(s), Garbage Can(s), [Garbage Carts], and other required equipment to be provided at the expense of the CONTRACTOR.

- 3.5.15 **TOWN Facilities Service-** The CONTRACTOR shall provide Solid Waste, Bulk Waste, Construction and Demolition Debris Collection and Disposal Services to all current and future TOWN owned and/or operated facilities free of charge. Containers and Roll-Offs shall be furnished and maintained by the CONTRACTOR at no expense to the TOWN. The size of Containers and the frequency of the service for said facilities shall be at such intervals as determined by the TOWN and CONTRACTOR.
- 3.5.16 **TOWN Properties** -The CONTRACTOR shall provide for the removal and Disposal of Solid Waste, Bulk Waste, Construction and Demolition Debris from rights of way, roads, swales, vacant lots, parks and properties owned by a governmental entity.
- 3.5.17 **TOWN Construction Site-The** CONTRACTOR shall provide Solid Waste, Bulk Waste and Construction and Demolition Debris Collection and Disposal Services to any Town of Davie managed construction site free of charge for up to 1,500 cubic yards per Contract Year. CONTRACTOR shall provide construction and demolition debris removal services for demolition of Davie Town Hall at no cost to the TOWN.
- 3.5.18 **Clean-up Days** - The CONTRACTOR shall provide Solid Waste, Bulk Waste and Construction and Demolition Debris Collection and Disposal Services to a maximum of three (3) clean-up days per Contract Year sponsored by the TOWN.

- 3.5.19 **Community Events** - The CONTRACTOR shall provide Solid Waste, Bulk Waste, Construction and Demolition Debris and Disposal to a maximum of twenty-five (25) Community Events per year for the term of the Contract. Containers, dumpsters and Roll-Offs shall be furnished and maintained by the CONTRACTOR at no expense to the TOWN. The size of Containers and the frequency of the service for said facilities shall be at such intervals as determined by the TOWN and CONTRACTOR.
- 3.5.20 **Financial Donation** - The CONTRACTOR shall donate 0.5% of Gross Revenues on a monthly basis. The financial donation shall be due to the TOWN according to Section 8 of the Contract.

3.6 SPECIAL COLLECTION SERVICES

Special collection services included in Exhibit 2 shall be provided by the CONTRACTOR.

SECTION 4: TOWN'S RIGHT TO DESIGNATE COLLECTION SERVICE LEVEL

The TOWN reserves the right to determine the frequency of pick up and size of Container(s) or Roll-off(s) within the Service Area. If the TOWN determines that a change in frequency of service or Container(s) or Roll-off(s) size is necessary, the CONTRACTOR shall adjust Container(s) or Roll-off(s) and frequency of service accordingly.

SECTION 5: DESIGNATED DISPOSAL FACILITY

The Town currently participates in an Inter-Local Agreement requiring that all Processable Waste be disposed at the Wheelabrator Waste-to-Energy Plant located in Broward County, Florida.

The Town reserves the right to direct the CONTRACTOR to use specific disposal sites located within Broward County during the term of the contract without additional charge.

The following disposal sites have been approved and are currently being used:

Garbage: all Processable collected shall be disposed of at: Wheelabrator Waste-to-Energy facilities in Broward County, Florida. South Plant: 4400 South State Road 7, Fort Lauderdale, Florida 33314, North Plant: 2700 Wiles Road, Coconut Creek, Florida 33073.

Bulk and Yard Waste: all Bulk and Yard Waste collected under this contract shall be delivered as directed by Wheelabrator; currently it is going to Waste Management: 3250 SW 50th Avenue, Davie, Florida 33314 or Waste Management 2281 NW 16 Street, Pompano Beach, Florida 33069.

Construction and Demolition Debris: all construction and demolition debris collected under this contract shall be delivered to: Waste Management: 3250 SW 50th Avenue, Davie, Florida 33314, or Waste Management 2281 NW 16 Street, Pompano Beach, Florida 33069.

The CONTRACTOR shall be responsible for all Disposal Charges owed to the Designated Disposal Facility(ies) and the Designated Recycling Facility(ies) resulting from CONTRACTOR Collection services. All Solid Waste, Bulk Waste, Construction and Demolition Debris, Recyclable Materials and other material collected pursuant to this Contract shall be delivered to the Designated Disposal Facility (ies) or the Designated Recycling Facility (ies), as appropriate. The TOWN shall retain ownership of all Solid

Waste, Bulk Waste, and Recyclable Materials until delivery to the Designated Disposal Facility (ies) or the Designated Recycling Facility (ies).

In the event that CONTRACTOR commingles any Solid Waste, Bulk Waste, Recyclable Materials, or other materials collected under the terms and conditions of this Contract with materials from other jurisdictions, CONTRACTOR shall indemnify and hold TOWN harmless from any and all losses, claims, or liability associated with the quantities of materials that were commingled.

SECTION 6: EDUCATION SERVICES

The CONTRACTOR shall provide the following public education services. The CONTRACTOR shall provide and deliver notices or any other written materials that are specifically designed for Single Family Residential Units, by mail to each such unit. The CONTRACTOR shall provide and deliver notices or any other written materials that are specifically designed for Multifamily Family Residential Units, by mail through the Homeowners Associations within that service area. The design of said notices shall be approved by the TOWN, and the CONTRACTOR shall be responsible for all expenses incurred with providing the education services contained in this Section. CONTRACTOR shall reimburse TOWN, in the form of a cashier's check drawn on a U.S. Bank, in an amount not to exceed \$25,000 (\$) U.S. dollars annually, payable to the TOWN within thirty (30) calendar days of receipt of TOWN'S invoice, for public education expenses incurred by TOWN related to the services performed by CONTRACTOR under this Contract. It is understood that such expenses shall be minimal and shall be mutually agreed upon by the parties in advance.

6.1 TRANSITIONAL SERVICE INFORMATION

The CONTRACTOR shall be required to print, and mail, separate from the bill, an informational piece designed by the TOWN to be sent to all residents prior to the inception of service. The mailing shall include a flyer provided by the TOWN to the CONTRACTOR. In the event the TOWN deems any other informational piece as necessary to aid in the transition, CONTRACTOR shall be required to print and distribute the educational information. It is agreed that Contractor may combine the informational piece herein with the annual notice and/or new customer notice unless time warrants immediate notification.

6.2 ANNUAL NOTICE

The CONTRACTOR shall be required to design and mail an annual bulk waste schedule notice to all Residential Curbside Service Units, and Multifamily Service Units within the service areas and will be published on the Towns website. The notice shall include at a minimum the Scheduled Collection Days, for garbage and bulk waste schedules including maps and set out requirements for each. Contact information shall also be listed.

6.3 NEW CUSTOMER PACKAGE

The CONTRACTOR shall be required to design, print, and distribute, a new customer package to all Residential Curbside Service Units, and Multifamily Curbside Service Units through Owner Associations as they are added to the Service Area. The notice shall include at a minimum, the Scheduled Collection Days, for garbage and bulk waste schedules including maps and set out requirements for each. Contact information shall also be listed. The Town shall provide written notice to CONTRACTOR of all such new customers.

6.4 SCHEDULE AND/OR ROUTE CHANGE NOTICE

In accordance with Section 9.1, in the event the TOWN Administrator or his/her designated representative(s) approves a change in schedule and/or route, the CONTRACTOR shall be responsible to provide said service units with a notice. The notice shall comply with all requirements set forth in the Contract.

6.5 NON-COLLECTION NOTICE

The CONTRACTOR shall not be required to collect any Solid Waste, Bulk Waste, or Construction and Demolition Debris that do not meet the requirements in this Contract. CONTRACTOR shall affix to the Garbage Can, Garbage Cart, Bag, or other material, a Non-Collection Notice explaining why Collection was not made. The CONTRACTOR shall maintain a record of the address of any customer where Solid Waste, Bulk Waste, or Construction and Demolition Debris were not collected, the date of non-collection, and the reason they were not collected, to be provided to the TOWN upon request.

6.6 PUBLIC AWARENESS PROGRAM

The CONTRACTOR agrees to cooperate in complying with requests of up to forty (40) hours per year from the TOWN to supply Solid Waste truck and driver at public outreach events, provided that notice of at least five (5) Work Days is given. It is understood and agreed that there shall be no charge to the TOWN by the CONTRACTOR for compliance with any requests to provide a demonstration Collection truck and driver in response to the TOWN'S request. In the event that the TOWN'S notice for the CONTRACTOR'S cooperation under this Section is less than five (5) Work Days, the CONTRACTOR, at its sole discretion, may agree to provide the requested demonstration truck and driver.

SECTION 7: GENERAL LOCATION AND HOURS OF COLLECTION

The work will be performed within the municipal boundaries of the Town of Davie excluding the following communities that are not covered by the franchise agreement because of annexation agreements:

- Everglades Lakes
- Paradise Village
- Rexmere Village

7.1 RESIDENTIAL CURBSIDE COLLECTION SERVICES – HOURS OF COLLECTION

Residential Services shall be made with a minimum of noise and disturbance commencing no earlier than 7:00 a.m., EST and terminating no later than 7:00 p.m., EST Monday through Saturday with no service on Sunday. The hours and/or days of Collection may be extended with the prior written consent of the TOWN.

7.2 MULTIFAMILY COLLECTION SERVICES – HOURS OF COLLECTION

Multifamily Residential Services shall be made with a minimum of noise and disturbance commencing no earlier than 7:00 a.m., EST and terminating no later than 7:00 p.m., ET Monday through Saturday with no service on Sunday. The hours and/or days of Collection may be extended with the prior written consent of the TOWN.

7.3 COMMERCIAL SERVICES – HOURS OF COLLECTION

Commercial Services shall be made with a minimum of noise and disturbance and shall be provided between the hours of 5:00 a.m., EST and 7:00 p.m., EST Monday through Sunday. The hours and/or days of Collection may be extended with the prior written consent of the Town. Services shall not be provided prior to 7:00 a.m., EST on any Commercial Service Units that abut Residential Curbside Service Units or Multifamily Service Units unless such service is requested in writing, and approved by the TOWN Administrator or his/her designated representative(s). In the event a resident in a residential area complains about collection noise, the TOWN and the CONTRACTOR will evaluate the circumstances of the complaint on a case by case basis and attempt to resolve same within the structure of current collection practices, schedules and routes. If the parties are unable to do so, the TOWN shall determine a reasonable resolution such that CONTRACTOR shall adhere to same without added expense or change in rates.

SECTION 8: CHARGES AND RATES

8.1 BILLING

The CONTRACTOR is hereby designated the agent and representative of the TOWN for the billing and collection payments for Multifamily and Commercial Services/Roll-off. The CONTRACTOR shall invoice those entities receiving Multifamily and Commercial Collection Services/Roll-off on a monthly or otherwise agreed basis.

For Residential Solid Waste Collection Service, CONTRACTOR acknowledges that the TOWN imposes and collects a Special Assessment for Residential Solid Waste commencing January first of every year. Therefore the CONTRACTOR acknowledges and agrees to provide the residential rate to the TOWN on or before June 1 of each calendar year. Residential Accounts, whose tax bills do not reflect a Special Assessment for Solid Waste Services, either due to involuntary omission, or purchase of the home after December 1st of the previous year, will be charged an annual fee by the CONTRACTOR which will be pro-rated accordingly under the proper circumstances. CONTRACTOR shall be responsible for collection of payment from those accounts whose tax bills do not reflect a Special Assessment for Solid Waste Services, either due to involuntary omission, or purchase of the home after December 1st of the previous year. These residences will be placed on the next year's tax bill as a Special Assessment.

- 8.1.1. At any time during the term of this Contract, the TOWN reserves the right to impose, levy and collect a special assessment for residential curbside solid waste collection services beginning in January of the following year. Therefore, the CONTRACTOR acknowledges and agrees to provide the residential rate to the TOWN on or before June 1 of each calendar year.

The solid waste assessment shall be based upon the following annual costs: solid waste collection cost per household, solid and bulk waste disposal fee based upon the waste24

generation per household, Town franchise fees, and other waste service fees as appropriate. The CONTRACTOR shall receive payment based upon the solid waste collection cost per household, and disposal fee per household.

The TOWN incurs approximately one hundred thousand dollars (\$100,000.00) in Administrative Costs, which shall include, but not be limited to, all direct costs paid to the Broward County Appraiser's Office and the Broward County Finance and Administrative Services Department for processing of the special assessment, and the cost of the TOWN staff to implement and/or process the special assessment. CONTRACTOR agrees that the costs of the assessment process are part of the costs of affecting Collection services and, thus, are the responsibility of the CONTRACTOR. CONTRACTOR further agrees that, in consideration of that responsibility, and because the special assessment ultimately results in a benefit to the CONTRACTOR, that the CONTRACTOR shall compensate the TOWN for its costs. Therefore, the CONTRACTOR shall pay the TOWN one hundred thousand dollars (\$100,000.00) for its costs, and such payment shall be made annually by a check payable to the TOWN, drawn on a U.S. Bank, in U.S. dollars, by January 15, 2022, or thirty (30) days after execution of this Agreement by the TOWN, whichever is later.

The amount received during February will be paid to the CONTRACTOR in eleven equal installments from March through January of the following year minus the TOWN'S Franchise Fee and other administrative costs as referenced above. The amount received during March will be paid out over a ten (10) month period from April through January of the following year minus the TOWN'S Franchise Fee and other administrative costs as referenced above. The amount received during the months from April through December will be paid out in a similar manner with all months paid out by January of the following year minus the TOWN'S Franchise Fee and other administrative costs as referenced above.

It is understood and agreed that discounts for early payment as provided by Statute, Ordinance or otherwise shall not be applicable to the compensation paid to CONTRACTOR for services pursuant to this Agreement.

At any time during the term of this agreement, the Town reserves the right to require the CONTRACTOR to be responsible for the billing and collection of payments for all or part of Collection Services performed by the Company within the Service Area. For providing said billing service, the Company can charge a monthly billing fee. The Company shall receive payment for billing and Collection Services equal to the Company's total monthly collections (monies actually received by the Company). If the TOWN requires CONTRACTOR to invoice residents, CONTRACTOR shall have the ability to stop service for non payment and may use any legal measure necessary to collect the monies.

8.2 DELINQUENT ACCOUNTS

For monthly billing, an account shall be delinquent once a service unit fails to pay the billed amount for Collection Services within a period of one (1) month. For annual billing, an account shall be delinquent once the due date lapses on the bill. The CONTRACTOR may request authorization from the TOWN Administrator or his/her designated representative(s) to stop service; however, the TOWN Administrator or his/her designated representative(s) reserves the right to deny or approve said request.

The CONTRACTOR shall be solely responsible for collections from delinquent accounts, excluding those accounts on the tax roll.

8.3 COLLECTION OF ADDITIONAL CARTS

The CONTRACTOR shall be responsible for the servicing of additional carts from residential curbside service units. Additional carts shall be billed, according to the rate structure, by the CONTRACTOR to the TOWN. Additional residential carts must be approved by the TOWN. CONTRACTOR will notify the TOWN of any request by a residential unit for an additional cart.

8.4 SPECIAL COLLECTION SERVICES

The CONTRACTOR shall be responsible for the billing and collection of payments for special collection services such as locks for containers, backdoor/side of house service, additional bulk waste collections, etc., Special Collection Services shall be billed in accordance with the Rate structure. Special collection services for current and future TOWN facilities shall be provided at the request of the TOWN facilities and at the expense of the CONTRACTOR.

8.5 FRANCHISE FEES, FINANCIAL DONATION, AND HOUSEHOLD HAZARDOUS WASTE PAYMENTS

The Franchise Fees, Financial Donation, and Household Hazardous Waste Payments shall be paid as follows:

CONTRACTOR shall pay the Franchise Fee, Financial Donation and Household Hazardous Waste payments separately. Franchise Fee and Financial donation payments shall be due to the TOWN on or before the fifteenth (15th) day of each month for the term of the Contract. The CONTRACTOR shall pay the TOWN two hundred fifty thousand dollars (\$250,000.00) for its household hazardous waste costs, and such payment shall be made quarterly by a check payable to the TOWN, drawn on a U.S. Bank, in U.S. dollars, by the 15, of the first month of that quarter.

- 8.5.1 CONTRACTOR shall file with the TOWN, on a monthly basis with the payment of the Franchise Fee and Financial Donation, a financial statement setting forth the computation of Gross Revenues used to calculate the Franchise Fee and Financial Donation for the preceding month and a detailed explanation of the method of computation for the Franchise Fee and Financial Donation each respectively. The statement shall be certified by an independent certified public accountant. For the twelfth (12th) month of each Contract Year, CONTRACTOR shall provide a summary by an independent certified public accountant of the monthly reports for that Contract Year. The CONTRACTOR will bear the cost of the preparation of such financial statement.
- 8.5.2 Subject to applicable law, no acceptance by the TOWN of any Franchise Fee or Financial Donation payment shall be construed as an accord that the amount paid is in fact the correct amount, nor shall such acceptance of payment be construed as a release of any claim the TOWN may have for additional sums payable. The Franchise Fee or Financial Donation payment is not a payment in lieu of any other tax, fee or assessment.
- 8.5.3 In the event that a Franchise Fee and/or the Financial Donation payment is not received by the TOWN on or before the due date set forth in the Contract, or is underpaid, the TOWN

reserves the right to retain funds from its payment to the CONTRACTOR or require the CONTRACTOR to forfeit the prior month's collection consistent with this Contract.

- 8.5.4 Franchise Fees shall be subject to adjustment for changes in the Consumer Price Index pursuant to the calculations set forth in Section 8.8.1.

8.6 APPROVED RATE STRUCTURE

The rates shown in the Rate Structure shall apply to all Residential Curbside Service Units, Multifamily Service Units and Commercial Service Units, respectively, within the corporate limits of the TOWN as well as any areas annexed into the TOWN subsequent to the commencement of this Contract.

8.7 DISPOSAL ELEMENT ADJUSTMENT

In order for the CONTRACTOR to receive a disposal rate adjustment, as set forth below, based on a change in the Disposal Charge per ton, the CONTRACTOR must provide, in a manner that is acceptable to the TOWN, evidence of the change in the Disposal Charge. The TOWN shall approve the request in accordance with the formulas below to be effective on the date of the change in the Disposal Charge at the Designated Disposal Facility.

- 8.7.1 Residential Curbside Collection Service - The Residential Curbside Collection Service "Monthly Curbside Unit Disposal Rate" is based on the Disposal Charge per ton and the "Monthly Curbside Unit Residential Waste Generation Factor" of 1.92 tons per year per single family residence of MSW and .9 tons for bulk, per year. Any approved change in the per ton Disposal Charges will result in a corresponding change in the appropriate "Monthly Curbside Unit Disposal Rate" based on the following formula:

The new Disposal Charge X ("Residential Curbside Generation Rate"/12)

Less: The old Disposal Charge X ("Residential Curbside Residential Generation Rate"/12)

Will Equal: The change in the Residential Curbside Collection Service "Monthly Curbside Unit Disposal Rate".

The monthly Residential Curbside Service Unit rates shall be adjusted based on the change in the Residential Curbside Collection Service "Monthly Curbside Unit Disposal Rate" as calculated above, and the resulting change in Franchise Fees.

- 8.7.2 Multifamily Collection Service and Commercial Collection Service -The Multifamily Collection Service and the Commercial Collection Service "Disposal Rate" excluding Compactors is based on the Disposal Charge per ton, the size of the Container, the frequency of Collection, and the "Weight Per Cubic Yard Factor". The Weight Per Cubic Yard Factor" is currently 100 lbs per cubic yard. Any approved change in the per ton Disposal Charges will result in a corresponding change in the "Disposal Rate" based on the following formula:

("Weight per Cubic Yard Factor" /2,000 pounds) x
The new Disposal Charge, x the Container size, x Frequency per week x 4.33

Less: ("Weight per Cubic Yard Conversion Factor"/2,000 pounds) x the old Disposal Charge x the Container size x Frequency per week X 4.33.

Will Equal: The change in the Multifamily Collection Service "Disposal Rate" for that specific Container size and frequency of Collection per month.

The monthly Multifamily Service Unit and Commercial Service Units rates shall be adjusted based on the change in the Multifamily Collection Service "Disposal Rate" as calculated above, and the resulting change in Franchise Fees. The Multifamily Service and the Commercial Collection Service "Disposal Rate" for Compactors is based on the Disposal Charge per ton, the frequency of Collection and the "Compacted Weight Per Cubic Yard Factor". The compacted weight per cubic yard is 402 lbs. Any approved change in the per ton Disposal Charges will result in a corresponding change in the "Disposal Rate", for Multifamily Collection Services and the Commercial Collection Service based on the following formula:

("Compacted Weight Per Cubic Yard Factor" / 2,000 pounds) x
The new Disposal Charge x the Container Size x Frequency per week x 4.33.

Less: ("Compacted Weight Per Cubic Yard Factor" / 2,000 pounds) x the old Disposal Charge x the Container size x Frequency per week x 4.33.

Will Equal: The change in the appropriate Commercial Solid Waste Compactor Service "Disposal Rate" per month.

The monthly Multifamily Service Unit and Commercial Service Units rates with Compactors shall be adjusted based on the change in the Multifamily Collection Service and Commercial Collection Service "Disposal Rate" for Compactors as calculated above, and the resulting change in Franchise Fees.

8.8 ADJUSTMENTS TO OTHER COSTS

8.8.1 Beginning on October 1, 2022 (Commercial) and January 1, 2023 (Residential), and annually thereafter, the CONTRACTOR shall receive an annual adjustment in the rates that are part of the total Collection element of rates established in the Rate Structure provided in Exhibits 1 and 2 (as adjusted). The adjustment to the costs the Collection element of cost in Exhibits 1 and 2 shall be calculated as the Consumer Price Index- All Urban Consumers for Miami-Fort Lauderdale,-Palm Beach, Florida (CPI). Such adjustment shall be calculated at 100% of the change in CPI for single family residential services with the maximum adjustment in any one year limited to 3%. The adjustment for all other services shall be calculated at 100% of the change in the CPI with the maximum adjustment in any one year limited to 3%. To the extent the calculated CPI adjustment exceeds the above limits so as not to be charged, such excess shall not be carried forward or added to the CPI calculations the following year.

8.8.2 The CONTRACTOR may petition the TOWN to adjust CONTRACTOR'S rates based upon unusual and unanticipated increases in the cost of doing business limited to a change in the law or regulation "Change in Law". Any such request shall be supported by full documentation establishing the increase in the operating costs and the reasons, therefore. The TOWN shall be entitled to audit the CONTRACTOR'S request in order to verify the increase in costs and the reasons, therefore.

"Change in Law" means (I) the adoption, promulgation, or modification after the date of this Agreement of any law, regulation, order, statute, ordinance, rule, or judicial decision affecting the contract or any part thereof that was not adopted, promulgated, or modified on or before the date of this Agreement, or (II) the imposition of any material conditions in connection with the issuance, renewal, modification of any permit, license or approval after the date of this Agreement which in the case of either (I) or (II) establishes requirements affecting the CONTRACTOR'S operation under this Agreement more burdensome than the requirements that are applicable to the CONTRACTOR and in effect as of the date of this Agreement. A change in any federal, state, county, or other tax law or workers compensation law shall not be a "Change of Law." However, in the event that a federal, state, or local entity imposes a fee, charge or tax after the date of this Agreement that applies to CONTRACTOR'S operations per se, such fee, charge, or tax shall be treated as a Change in Law.

The CONTRACTOR'S REQUEST must be made within one hundred and twenty (120) days of the occurrence of such unusual change or cost, and shall contain reasonable proof and justification to support the need for rate adjustment. The TOWN COUNCIL may request from the CONTRACTOR, and the CONTRACTOR shall provide, such further information within its possession as may be reasonably necessary in making its determination. The TOWN COUNCIL shall approve or deny the request, in whole or in part, within sixty days (60) days or receipt of the request and all other additional information required by the TOWN COUNCIL.

- 8.8.3 The CONTRACTOR shall supply the TOWN with such further information as may be reasonably necessary to make the calculations to determine the annual adjustment.

SECTION 9: SCHEDULES AND ROUTES

9.1 SCHEDULES AND ROUTES TO TOWN

The CONTRACTOR shall submit a proposed route and schedule to be approved by the TOWN Administrator or his/her designated representative(s) no later than ninety (90) calendar days prior to June 1, 2021.

The TOWN Administrator or his/her designated representative(s) reserves the right to deny the CONTRACTOR'S vehicles access to certain streets, alleys, bridges and public ways, inside the TOWN or outside the TOWN in route to Designated Disposal Facilities where it is in the best interest of the general public to do so due to conditions of streets and bridges. The CONTRACTOR shall use best efforts to not interrupt the regular schedule and quality of service because of such street closures.

In the event of a change in residential routes or schedules that will alter the day of Collection, the CONTRACTOR shall have said changes approved by the TOWN Administrator or his/her designated representative(s) not less than sixty (60) calendar days prior to the change. In accordance with Section 6, of this Contract the CONTRACTOR shall bare all expenses for public education in the event of a change in residential routes (i.e. postage, copies, etcetera).

9.2 HOLIDAY PICK-UP SCHEDULE

Solid Waste and Bulk Waste Collection will not occur on Work Days that the Designated Disposal Facility is closed. Collections that would normally occur on Work Days that the Designated Disposal Facility is closed shall occur on the next regularly scheduled solid waste or bulk waste pick up day.

The CONTRACTOR is not expected to provide service on Christmas Day or Thanksgiving on any day that the designated facility is closed. If a residence is skipped because of Christmas Day or Thanksgiving, pick-up will occur on the next scheduled pickup day. Additional garbage may be set out on that day, in sealed plastic bags comparable to one 96 gallon container.

SECTION 10: EMERGENCY PROVISIONS

In an emergency event such as a hurricane, tornado, major storm, natural disaster, or other such event, the TOWN Administrator or his/her designated representative(s) may grant the CONTRACTOR a variance from regular routes and schedules. Such variances shall be submitted in writing to the TOWN Administrator or his/her designated representative(s), and if requested by the TOWN Administrator or his/her designated representative(s), the CONTRACTOR shall furnish a map depicting such routes. The CONTRACTOR shall notify the TOWN Administrator or his/her designated representative(s) on a daily basis indicating what portion of each designated route was completed that day. In addition, the CONTRACTOR shall notify the TOWN Administrator or his/her designated representative of completion of each route during such event. As soon as practicable after such event, the CONTRACTOR shall advise the TOWN Administrator or his/her designated representative(s) when it is anticipated that normal routes and schedules can be resumed.

The CONTRACTOR will be expected to resume and continue normal collection schedules as soon as safely possible. In addition, the CONTRACTOR shall refund to the Town the 50% of the collection portion of any missed pick-ups for solid waste collection, recycling or bulk-waste for properties receiving Residential Curbside Collection services.

In the event of a non-natural disaster resulting in a Town declared State of Emergency, such as a pandemic, commercial establishments shall have the right to reduce their waste collection services up to 50% of the pre-disaster levels. Businesses will still need to comply with Town of Davie Code of Ordinances, Chapter 9 regarding solid waste including minimum frequency of collection and overages.

SECTION 11: CONTRACTOR'S RELATION TO TOWN

11.1 CONTRACTOR REPRESENTATIVE

The CONTRACTOR shall cooperate with the TOWN in every reasonable way in order to facilitate the progress of the work contemplated under this Contract. As such, the CONTRACTOR shall have a minimum of three (3) competent and reliable representatives on duty that are authorized to receive orders and to act on behalf of the CONTRACTOR. The CONTRACTOR agrees that the TOWN shall have twenty-four (24) hour access to said representatives via a non-toll call and email from the TOWN. Answering machines, pagers or

other devices that do not provide for immediate contact with the CONTRACTOR'S said representatives shall not meet the requirements of this Section.

11.2 INDEPENDENT CONTRACTOR

It is expressly agreed and understood that CONTRACTOR is in all respects an independent CONTRACTOR as to the work. Even though in certain respects, CONTRACTOR may be required to follow the direction of the TOWN Administrator or his/her designated representative(s), the CONTRACTOR is in no respect an agent, servant or employee of the TOWN.

11.3 SUPERVISION OF CONTRACT PERFORMANCE

The TOWN Administrator or his/her designated representative(s) is hereby designated as the public official responsible for the administration of this Contract by the TOWN, and, in such capacity, they are charged with the overall, general supervision of CONTRACTOR'S performance hereunder. CONTRACTOR shall diligently work with the TOWN Administrator or his/her designated representative(s) to formulate and to adopt guidelines and procedures to facilitate the supervision and review of its performance by the TOWN Administrator or his/her designated representative(s) and their staff. The CONTRACTOR shall not be required to comply with instructions or directions from any TOWN official except the TOWN Administrator or his/her designated representative(s) unless such other official has been delegated in writing by the TOWN Administrator or his/her designated representative(s) to perform specified administrative functions under this Contract.

11.4 QUARTERLY AND ANNUAL OPERATIONS REPORT

The CONTRACTOR shall provide to the TOWN four (4) quarterly reports and one (1) annual operations report identifying each service, additional service, weigh ticket, etc. as provided for Residential Curbside Service Unit, Multifamily Service Unit, or Commercial Service Unit. Quarterly operation reports shall be submitted to the TOWN no later than the fifteenth (15th) day of the month following the calendar quarter and shall be in the form of an executive summary. Said reports shall be provided in Microsoft Excel format. The annual operations report shall be submitted to the TOWN no later than the (15th) day after the completion of the Contract Year. Operational reports shall outline the following information for the preceding month or year as applicable: (1) Count of service units by billing class, (2) Container count by customer class and Container Size/Frequency, (3) Multifamily and Commercial customer report including name, address, container size, collection frequency, and monthly bill amount, (4) list of weight tickets for Solid Waste collected in the TOWN including route number, customer class, truck type, date, and Solid Waste quantity, (5) summary of Additional Services subject to Franchise Fee provided by CONTRACTOR, and associated revenues obtained, and (6) delinquent accounts list. The CONTRACTOR shall maintain the weight tickets from the Designated Disposal Facility for the Collection of Solid Waste, Bulk Waste, or other materials from Residential Service Units or Commercial Service Units delivered from the TOWN. If the CONTRACTOR fails to provide the above data or additional data requested by the TOWN, the TOWN reserves the right to withhold payment for services as provided in the Contract, and such non-compliance may be considered a breach of contract by the CONTRACTOR, as provided in Section 11.9.

11.5 QUARTERLY COMPLAINTS AND MISSED COLLECTION REPORT

CONTRACTOR shall maintain an accurate and up-to-date log of date, time, and address of all complaints received and missed collections; the disposition thereof, actions taken to resolve the complaint or missed collection, and the date and time the complaint or missed collection was resolved. The CONTRACTOR shall provide the TOWN with access to the complaint log to the TOWN in the form of a monthly report in Microsoft Excel or in an alternative computer program selected by the TOWN at a monthly meeting between the TOWN and the CONTRACTOR, or upon request by the TOWN. The TOWN reserves the right to correct a complaint if the complaint is not corrected within twenty-four (24) hours of notification to the CONTRACTOR. If the CONTRACTOR fails to provide the above data or additional data requested by the TOWN, the TOWN reserves the right to withhold payment for services or impose the liquidated damages provided in Sections 14 and 15.

11.6 AUDIT AND INSPECTION OF WORK RIGHTS

CONTRACTOR shall, during the term of this Contract, maintain records and accounts of all transactions that result from doing business pursuant to this Contract for the length of the Contract including renewals, utilizing a computerized record-keeping program that is capable of club accounting. Such records shall include complete and legible daily attendance and enrollment records. CONTRACTOR shall also keep financial records so as to satisfy generally accepted accounting procedures. These records shall include a statement of revenues and expenses ("the Revenue/Expense Statements"), identifying the source of the revenues, and shall be provided to the TOWN monthly, along with documentation of the time period represented by each payment. The CONTRACTOR shall maintain a record of addresses served pursuant to this Contract, which shall include the level of service associated with each address. Such books and records shall be made available to TOWN for inspection, review and auditing during regular hours on Business Days, with the exception of Holidays, without advance notice. Any such audit will be at the expense of the TOWN unless the result of the audit shows a variance from the Revenue/Expense Statements of more than two percent (2%).

11.7 FACILITY INSPECTION RIGHTS

The TOWN may, at reasonable times during the term hereof, inspect the CONTRACTOR'S facilities and perform such inspections, as the TOWN deems reasonably necessary, to determine whether the services required to be provided by the CONTRACTOR under this Contract conform to the terms hereof and/or the terms of the solicitation documents, if applicable. The CONTRACTOR shall make available to the TOWN all reasonable facilities and assistance to facilitate the performance of inspections by the TOWN'S representatives.

11.8 LIABILITY FOR DELAYS OR NON-PERFORMANCE DUE TO UNUSUAL CIRCUMSTANCES

It is expressly agreed that in no event shall the TOWN be liable or responsible to the CONTRACTOR, or to any other person, on account of any stoppage or delay in the work herein provided for, by injunction or other legal or equitable proceedings brought against the TOWN or the CONTRACTOR, or on account of any delay from any cause over which

the TOWN has no control. The CONTRACTOR shall not be responsible for delays or non-performance of the terms and provisions of this Contract where such delays or non-performance are caused by events or circumstances beyond the control of the CONTRACTOR. The CONTRACTOR shall not be entitled to compensation for such period of time as the delay or non-performance shall continue, but will be entitled to pro-rata compensation once said work has been completed. In the event of a strike of the employees of CONTRACTOR, or any other similar labor dispute which makes performance of this Contract by the CONTRACTOR substantially impossible, CONTRACTOR agrees that the TOWN shall have the right to call the bond hereinafter described within one (1) week of such action and engage another person, firm or corporation to provide necessary services with the bond proceeds applied to pay any difference between the Contract price in effect and the costs charged by the successor CONTRACTOR. In the event the bond is called, the TOWN will first call and use the cash/surety bond posted by the CONTRACTOR.

11.9 BREACH OF CONTRACT

If, in the opinion of the TOWN Administrator or his/her designated representative(s), there has been a material breach of Contract, the TOWN Administrator or his/her designated representative(s) shall notify the CONTRACTOR, in writing, specifying the basis and reason in which there has been a breach of Contract. If, within a period of five (5) calendar days from the date of the notice, the CONTRACTOR has not eliminated or otherwise cured the conditions considered to be a breach of Contract, the TOWN Administrator or his/her designated representative(s) shall so notify the TOWN Council in writing, and a public hearing shall be set for a date within thirty (30) calendar days of such notice to the TOWN Council. On the date of the hearing, the TOWN Council shall hear from the CONTRACTOR and the TOWN Council shall make a final determination as to whether or not there has been a breach of Contract and direct what further action shall be taken by the TOWN, as hereinafter provided. Pending resolution of the alleged breach, the CONTRACTOR shall be governed by the provisions of Section 23.

11.10 TERMINATION

If the CONTRACTOR fails to begin work at the time specified, or discontinues the prosecution of the work, or any portion thereof, for any cause not excused as provided herein, and the TOWN Council makes a final determination that a breach has occurred, and if the CONTRACTOR fails to cure such default within five (5) Business Days after the receipt of such notice from the TOWN Council, the TOWN may thereupon, by action of the TOWN Council, declare the Contract terminated and in default within ninety (90) days of said default. Upon such declaration of cancellation or breach, the TOWN may take over the work or any portion thereof or engage another firm to take over the work or any portion thereof. The TOWN shall pay the CONTRACTOR for any payments due for services rendered by the CONTRACTOR prior to termination of the Contract. Such cancellation of the Contract shall not relieve the CONTRACTOR or the cash/surety of liability for failure to faithfully perform this Contract, and, in case the expense incurred by the TOWN in performing or causing to be performed the work and services provided for in said Contract shall exceed the sum which would have been payable under this Contract, then the CONTRACTOR, and the cash/surety, to the extent of its obligation, shall be liable to the TOWN in the amount of any such expenses in excess of the Contract price. The TOWN may apply the cash bond in its possession toward any and all damages incurred as a direct or indirect result of failure by the CONTRACTOR to properly perform its obligations under this Contract and it may look to the cash/surety, the CONTRACTOR and any

guarantor for additional damages. The CONTRACTOR'S cash/surety or security will not be released until such time as the term of this Contract otherwise expires.

SECTION 12: CUSTOMER RELATIONS

12.1 CUSTOMER OFFICE HOURS

The CONTRACTOR shall take all reasonable steps to ensure good and harmonious customer relations in the TOWN. The CONTRACTOR agrees that it shall have telephone service via a non-toll call from the TOWN. The non-toll telephone service shall be listed in the name in which the CONTRACTOR is doing business as the CONTRACTOR. The telephone service shall be staffed from 7:00 a.m., EST till 5:30 p.m., EST, Monday through Saturday, by the CONTRACTOR'S employee(s), whom shall be familiar with the TOWN. Answering machines, pagers or other devices that do not provide for immediate contact with the CONTRACTOR'S employee(s) shall not meet the requirements of this Section.

CONTRACTOR shall provide the Town with an emergency contact list identifying the names, positions held, phone numbers, and emails of account manager and/or field supervisor.

12.2 MISSED COLLECTIONS

If the Collection of any Residential Service Unit or Commercial Service Unit is missed during the regular route Collection, the CONTRACTOR shall ensure that the missed collection shall be picked up on the same day if notification was received by the CONTRACTOR from the TOWN or customer before 3:00 p.m., EST, otherwise the missed collection shall be picked up before 12:00 p.m., EST on the next Work Day after such notification from TOWN or customer. Any deviation from the requirements of this provision must be approved by the TOWN Administrator or his/her designated representative(s). If the CONTRACTOR fails to comply with this provision, or any of the terms and conditions of the Contract, the TOWN reserves the right to ensure that the collection is made, either with its own force or an outside source, and to charge all costs, plus reasonable overhead, to the CONTRACTOR. Late set outs will not be counted as missed collections.

The CONTRACTOR shall refuse to collect residential or commercial waste from a customer if the CONTRACTOR believes that the waste is non-conforming e.g.: hazardous, radioactive or biomedical Waste). In such cases the CONTRACTOR shall place a Non-Collection notice on the container. At a minimum, the notice shall contain the following information: the issuance date, the CONTRACTOR's reason for not providing the service, information advising the customer how to correct the problem, and a telephone number to call if the customer has any further questions. The CONTRACTOR will promptly notify the Administrator when a non-conforming location is noticed.

12.3 SPILLAGE AND LITTER

The CONTRACTOR shall not be responsible for cleaning up sanitary conditions around Garbage Cans, Garbage Carts, Containers, Roll-off Containers, caused by the carelessness of the customer; however, the CONTRACTOR shall clean up any Solid Waste, Bulk Waste, or other refuse materials including leakage of fluids spilled from Garbage Cans, Garbage Carts, 34

Containers, Roll-off Containers, and Collection vehicles by the CONTRACTOR, CONTRACTOR'S vehicles or the CONTRACTOR'S employees. During transport, all Solid Waste shall be contained, covered or enclosed so that leaking, spilling and blowing of the Solid Waste, Bulk Waste, or other refuse materials is prevented. The CONTRACTOR shall be responsible for the cleanup of any spillage or leakage caused by the CONTRACTOR, CONTRACTOR'S vehicles or the CONTRACTOR'S employees. Said cleanup shall be done at the CONTRACTOR(s) expense within twenty-four (24) hours of the spillage or leakage.

SECTION 13: LIQUIDATED DAMAGES

Based upon an investigation, the TOWN Administrator or his/her designated representative(s) shall determine whether liquidated damages shall be assessed against the CONTRACTOR for failure to comply with provisions described in the Contract. Factors to be considered include, but are not limited to, acts of God, repeated occurrences of similar types, and documentation of the incident.

The CONTRACTOR shall have three (3) Work Days from the time of notification by the TOWN Administrator or his/her designated representative(s) to begin to correct a problem. If the problem is not corrected within a reasonable period of time as determined by the Town in its original notice to CONTRACTOR, the TOWN shall notify the CONTRACTOR of its intention to assess Liquidated Damages for such nonperformance or breach by the CONTRACTOR via certified mail or hand delivery to CONTRACTOR'S principle office address. If the CONTRACTOR believes that the situation warrants a protest, the CONTRACTOR shall submit a written letter of protest within ten (10) days of receipt of Town's notice via certified mail to attention of the TOWN Administrator or his/her designated representative(s) at 6591 Orange Drive, Davie, Florida 33314- 3399. The burden of proof shall lie with the CONTRACTOR. If the protest is not timely filed, the TOWN Administrator or his/her designated representative(s) shall deduct the amount of the liquidated damage from payment due or to become due the CONTRACTOR.

13.1 OTHER PROVISIONS

Following notification by the TOWN Administrator or his/her designated representative(s) or customer, failure by the CONTRACTOR to remedy the cause of any complaint within the time indicated, failure to comply with Contract provisions or performance failures shall result in the TOWN Administrator or his/her designated representative(s) imposing liquidated damages against the CONTRACTOR, or any other legal means available. The TOWN may withhold from any payment due the CONTRACTOR the sum total of the liquidated damages.

Liquidated Damages are set forth below:

Spillage and Litter - Failure to clean up spilled material from loading and/or transporting in compliance with the "Florida Litter Law" and/or as described in the Contract. For each failure, Two Hundred Fifty Dollars (\$250.00) shall be imposed against the CONTRACTOR.

Collection Misses - Failure or neglect to collect properly prepared Solid Waste, Bulk Waste from any customer at those times provided by this Contract within the schedule described in the Contract. For each failure, One Hundred Dollars (\$100.00) shall be imposed against the CONTRACTOR.

Route Completion - Failure or neglect to complete each route (including missing whole streets) on the regular scheduled Collection day within twenty-four (24) hours of the day of 35

notification. Failure to complete a route means failing to collect at least 10% of all customers on that route. For each failure or neglect, Five Hundred Dollars (\$500.00)/route/day for each instance shall be assessed against the CONTRACTOR. If the failure to complete a route on the specified day becomes a chronic complaint, (more than 3 times in one year), the fine will increase to \$750.00 on the 4th time and will stay at that cost for a period of one (1) year starting with the date of the initial complaint. CONTRACTOR shall notify the TOWN on the same day, that a route or neighborhood has been missed.

Customer Complaint other than Collection Misses - Failure to resolve complaints other than Collection misses within the time provided in the Contract or for all other complaints within three (3) Work Days from the day of notification. For each occurrence, Two Hundred Fifty Dollars (\$250.00) shall be assessed against the CONTRACTOR.

Disposing at non-Designated Disposal Facility - Failure to dispose of Solid Waste collected in the TOWN at the Designated Disposal Facility shall result in the payment of One Thousand Two Hundred Fifty Dollars (\$1,250) per load to the TOWN. For unforeseen circumstances where delivery cannot be made to the Designated Disposal Facility and whereby the Town gives authority to dispose at another facility, liquidated damages shall not apply.

Chronic Complaint Problems - Failure or neglect to correct chronic problems (chronic shall mean three (3) or more similar complaints at the same premises within a twelve (12) month period) in any category of service shall result in a fine of \$500.00 per day and on the 4th time the fine shall increase to \$750.00 per day and will stay at that cost for a period of one (1) year starting with the date of the initial complaint.

SECTION 14: PAYMENT WITHHELD/FORFEIT PRIOR MONTH'S COLLECTIONS

In accordance with express provisions elsewhere contained in this Contract, the TOWN may withhold from any payment otherwise due the CONTRACTOR, or, the CONTRACTOR shall remit such amount as determined necessary to protect the TOWN'S interest, or, if it so elects, may withhold or retain all or a portion of any monthly payment or the CONTRACTOR shall forfeit the prior month's collections on the following:

- 1) Failure to remit Franchise Fee or Financial Donation payment;
- 2) Defective work not corrected;
- 3) The CONTRACTOR'S failure to carry out instructions or orders of the TOWN or its representative;
- 4) Execution of work not in accordance with the Contract;
- 5) Failure of the CONTRACTOR to make payments to any SUBCONTRACTOR for material or labor;
- 6) Unsafe working conditions allowed to persist by the CONTRACTOR;
- 7) Failure of the CONTRACTOR to provide route schedules, and other reports as required by the TOWN;
- 8) Use of any SUBCONTRACTORS without the TOWN'S prior written approval.

When the above grounds are removed, payment shall be made for amounts withheld because of them and the TOWN shall not be liable for interest on any delayed or late payment. The TOWN'S right to withhold payments under this Section will be reasonable in light of the nature of the claim, amount of available insurance, letter of credit and performance bond pursuant to this Contract.

SECTION 15: LETTER OF CREDIT

An Irrevocable Letter of Credit shall be submitted as a Condition Precedent to the Effective Date in an amount equal to \$1 million (Exhibit 3). In the event of a Breach of Contract pursuant to Section 11.9, the Contractor agrees that the Town shall have the right to draw on the Irrevocable Letter of Credit immediately, as necessary to provide uninterrupted Collection Services. The Town shall have the right to engage another person, firm or corporation to provide the necessary Collection Services, and Town may utilize the proceeds from the Letter of Credit and apply said proceeds to pay any difference between the Collection in effect at the time of occurrence of the Breach of Contract, and the actual cost for Collection Services charged by the successor CONTRACTOR for the Disposal Services. In the event of a drawdown of the Letter of Credit, CONTRACTOR shall fully replenish the Letter of Credit within thirty (30) days. The Irrevocable Letter of Credit shall automatically expire at the end of the Contract Term or any extensions thereof.

SECTION 16: PERFORMANCE BOND

The CONTRACTOR shall furnish to the TOWN at the CONTRACTOR'S own cost, for the initial term and each extension, an irrevocable Performance Bond, in form and content approved by the TOWN Attorney and as attached to this Contract as Exhibit 4 for the faithful performance of this Contract and all of its obligations arising hereunder in the amount of Four Million Dollars (\$4,000,000.00). Said bond shall be rated "A+" or better as to management and "FSC XV" or better as to the strength by Best's Insurance Guide or Surety; shall be listed on the U.S. Treasury Department's list of acceptable sureties for federal bonds or bonding limits shall not exceed 20% of its policy surplus (capital & surplus) as listed in Best's Insurance Guide; and, Surety shall have been in business and have a record of successful and continuous operation for at least five years; further, all bonds shall contain all provisions required by §255.05, Florida Statutes, guarantee the performance of the Contract and serve as security for the payment of all persons performing labor and furnishing materials in connection with the Contract. The CONTRACTOR shall furnish to the TOWN proof of such bond within ten (10) calendar days after the execution of this Contract. Such proof shall include a statement that the policy or bond may not be canceled or altered without at least thirty (30) calendar days prior notice to the TOWN.

Maintenance of said bond and the performance by the CONTRACTOR of all of the obligations under this paragraph shall not relieve the CONTRACTOR of liability under the default or breach of contract provisions set forth in this Contract or from any other liability as a result of any material breach hereunder. The Performance Bond may be "called" in the event of any default or breach of contract hereunder by the CONTRACTOR. The calling of the Bond shall in no manner restrict or preclude any additional or further remedies available to the TOWN against the CONTRACTOR for breach of contract, default, or damages hereunder.

In the event of a drawdown of the Performance Bond, CONTRACTOR shall fully replenish the Performance Bond within thirty (30) days.

SECTION 17: EQUIPMENT AND PERSONNEL

17.1 VEHICLES AND COLLECTION EQUIPMENT

All equipment shall be maintained in a safe operating condition while performing work under this contract. CONTRACTOR shall have proper safety devices maintained at all times while in use. If equipment does not contain proper safety devices and/or is being operated in an unsafe manner, the Town shall direct the CONTRACTOR to remove such equipment and/or the operator until the deficiency is corrected to the satisfaction of the Town of Davie. The CONTRACTOR shall be responsible for injury to persons caused by the operation of the equipment.

The CONTRACTOR shall provide and maintain and have available at all times the necessary amount of Collection trucks and equipment to perform the work as specified herein. During severe storms and emergencies, the CONTRACTOR shall have sufficient vehicles, personnel, Containers, and other necessary equipment in order to meet the needs of the TOWN.

17.2 DEDICATED EQUIPMENT

Equipment used to provide service pursuant to this Contract shall not mix materials from the Service Area with materials from outside of the Service Area. In the event of a mechanical breakdown, the CONTRACTOR may utilize a truck from another municipality with the sole purpose of the continuance of service to the TOWN. In the event of such breakdown, CONTRACTOR shall notify the TOWN within 12 hours of such event. In the event that the CONTRACTOR mixes material (except as stated above), the TOWN reserves the right to retain funds from its payment to the CONTRACTOR or require the CONTRACTOR to forfeit the prior month's collection consistent with this Contract.

17.3 EQUIPMENT IN GOOD REPAIR

The CONTRACTOR shall use Collection vehicles, one (1) per route, and recently painted, with bodies that are watertight to a depth of not less than eighteen inches (18"), with solid sides, without body damage, using pneumatic tires. The Contractor's name, local telephone number and truck number shall be properly displayed and visible on all collection vehicles. At commencement, the CONTRACTOR shall purchase new trucks to service all routes. The average age of the Fleet of the CONTRACTOR'S Collection vehicles shall not exceed five (5) years old, with no vehicle over seven (7) years old. The fleet shall run on bio-diesel fuel. All vehicles shall be equipped with operational radio transceiver capable of communicating with the CONTRACTOR'S dispatch from anywhere in the TOWN. The CONTRACTOR shall provide sufficient equipment, in proper operating condition so regular schedules and routes of Collection can be maintained. Equipment is to be maintained in reasonable, safe, and aesthetically pleasing working condition, in the TOWN'S opinion.

Collection vehicles shall be painted uniformly in color, with the name of the CONTRACTOR and the number of the vehicle printed in letters not less than four inches (4") high, on each side of the vehicle, and vehicles shall be numbered, and a record kept of the vehicle to which each number is assigned. No advertising shall be permitted on vehicles, Containers, Roll-offs or any other equipment servicing the TOWN. The CONTRACTOR is required to keep Collection vehicles and Containers cleaned and painted to present a pleasing appearance.

Collection vehicles shall also display a sign on both sides of the vehicle body (left and right) no less than 36" by 24" identifying the material being collected. The design will be approved by the Town and the sign supplied by the CONTRACTOR. No advertising shall be permitted on vehicles, equipment, or apparel except for vehicle manufacturer, alternative fuel provider (as applicable) or parent CONTRACTOR names and logos.

All vehicles used to provide collection services under this contract shall be equipped with D.O.T. required safety equipment including a fire extinguisher and an audible back-up alarm. Collection vehicles shall be watertight to a depth of eighteen (18) inches minimum, with solid sides to prevent discharge of accumulated water during load and transport operations. CONTRACTOR shall provide sufficient equipment, in proper working condition, so regular schedules and routes of collection can be maintained. All vehicles and equipment shall be maintained on a regular schedule and be in proper working condition at all times. Any vehicle found to be leaking, unsafe or not in proper working condition shall be removed immediately from use and replaced until which time appropriate repairs can be made. The Town reserves the right to request the removal of any vehicle found to be leaking, unsafe or not in proper working condition. The average age of the collection vehicles in use in the Town shall not exceed five (5) years.

Vehicles used for collection services under this contract shall be compacting bodies unless otherwise specified in the operational plan submitted. All vehicles shall be completely covered and loaded such that all collected garbage and yard waste are contained and cannot be scattered. Any material that is scattered by the CONTRACTOR's vehicle for any reason shall be picked up immediately. CONTRACTOR's vehicles may not interfere unduly with vehicular or pedestrian traffic and shall not be left standing on streets unattended except as is necessary during the loading process.

All collection vehicles must be equipped with GPS tracking devices monitoring at a minimum, location and speed of the collection vehicle at any time during the route day. Any spare vehicles used to support collections under this contract must also have a GPS tracking device at a minimum, location and speed of the collection vehicle at any time during the route day. Town reserves the right to request data reports including route hours, route pattern, speed on route and other productivity or service related information as available.

Each non-packer Collection vehicle shall be equipped with a cover, which may be net with mesh not greater than one and one-half inches (1.5"), or tarpaulin, or fully enclosed metal top. Such cover shall be kept in good order and used to cover the load going to and from the Designated Disposal Facility, or when parked, if the contents are likely to be scattered if not covered.

Collection vehicles shall not be overloaded so as to scatter refuse, however, if refuse is scattered from the CONTRACTOR'S Collection vehicle for any reasons, it shall be picked up immediately.

All vehicles with a side opening exceeding 36 inches between the front and rear axles shall have side guards to protect pedestrians and bicyclists. These side guards shall not interfere with the operation of the vehicle.

- The bottom of the grade shall be approximately 13" from grade or (asphalt/concrete)
- The Guard face shall be 24" wide and made of 11 gauge steel or greater
- The guard shall be supported by 3 - 1"x3" supports extending from frame

All CONTRACTOR vehicles shall be well maintained and clean in appearance.

CONTRACTOR shall provide the Town Contract Administrator or designee, including other authorized Town staff and elected officials, reasonable access to CONTRACTOR's facility and equipment when provided written notice at any reasonable time and place.

It shall be the sole responsibility of the CONTRACTOR to provide at no cost to the Town all essential facilities for storage and maintenance of equipment necessary to perform services required 39

under this contract. Additionally, CONTRACTOR shall be responsible for providing adequate office space and telephone/data services to perform under this contract, at no additional cost to the Town.

17.4 CONTRACTOR'S PERSONNEL

The CONTRACTOR shall assign at least one (1) qualified person or persons to be in charge of its operations within the TOWN, and shall give the name or names of the CONTRACTOR'S representatives to the TOWN. The CONTRACTOR shall also provide information regarding the experience of the CONTRACTOR'S representatives. The CONTRACTOR shall adhere to the following requirements:

17.4.1 Each driver shall, at all times, carry a valid Florida Driver's license for the type of vehicle they are driving.

17.4.2 All employees and CONTRACTORs of the CONTRACTOR shall be considered to be, at all times, the sole employees or CONTRACTORs of the CONTRACTOR under its sole discretion and not an employee, CONTRACTOR, or agent of the TOWN. The CONTRACTOR shall supply competent and physically capable employees and CONTRACTORs. The TOWN may require the CONTRACTOR to remove any employee or CONTRACTOR it deems careless, incompetent, insubordinate, or otherwise objectionable and whose continued performance of the services is not in the best interest of the TOWN.

CONTRACTOR certifies and agrees that all personnel used in the performance of this work have had a criminal background check. Personnel whom have been found guilty of the following crimes shall not be employed by CONTRACTOR:

- All Sex Offenses regardless of the amount of time since the offense
- All Felony Offenses involving violence regardless of the amount of time since offense
- All Felony Offenses other than violence or sex within the past 5 years

The Town reserves the right to request evidence of personnel passing the criminal background check.

17.4.3 The direction and supervision of Collection and disposal operations shall be by competent, qualified and sober personnel, and the CONTRACTOR shall devote sufficient personnel, time and attention to the direction of the operation to assure performance satisfactory to the TOWN. All subcontractors, subconsultants, superintendents, foremen and workmen employed by the CONTRACTOR shall be careful and competent. The CONTRACTOR shall also provide uniforms that are clearly identified with the CONTRACTOR name. Employees and subcontractors of the CONTRACTOR shall have and wear proper dress attire at all times. Proper dress attire shall consist of industrial style work pants, a button front shirt or T-shirt with the CONTRACTOR'S name or logo and the name of the shirt bearer, and appropriate footwear.

17.4.4 All employees used by the CONTRACTOR during the term of the Contract shall be of a standing or affiliation that will permit the CONTRACTOR'S performance herein

to be carried on harmoniously and without delay, and in no case, or in any circumstance, will such employees cause any disturbance, interference of delay to any work or service rendered to the TOWN or by the TOWN and in no case or in any circumstances will the employees conduct themselves negligently, disorderly or dishonestly in the due and proper performance of the employee's duties. The CONTRACTOR shall see to it that his employees serve the public in a courteous, helpful and impartial manner. The CONTRACTOR shall furnish the TOWN with a current roster of employees on the first (1st) Business Day of every month for the term of the Contract.

- 17.4.5 The CONTRACTOR'S employees shall follow the regular walk for pedestrians while on private property and shall not trespass nor cross property to the adjoining premises unless the occupant or owner of both properties has given permission. No employee shall meddle with property that does not concern him. Care should be taken to prevent damage to property, including flowers, shrubs, and other plantings. After emptying Garbage Cans, [Garbage Carts, or Roll-offs, employees shall return them to the same location from which they were taken, in the proper position behind the curb or edge of pavement and anything spilled shall be picked up immediately by such employee. Any damages incurred shall be paid by CONTRACTOR.

SECTION 18: WORKING CONDITIONS

18.1 COMPLIANCE WITH STATE, FEDERAL, AND LOCAL LAWS

The CONTRACTOR shall comply with all applicable County, State and Federal laws relating to wages, hours and all other applicable laws relating to the employment or protection of employees, now or thereafter in effect.

18.2 EEO STATEMENT

The CONTRACTOR agrees that it shall not knowingly violate any applicable laws, statutes, codes, rules and regulations related to or prohibiting discrimination in employment in the performance of its work under this Contract.

18.3 AMERICANS WITH DISABILITIES ACT COMPLIANCE

The CONTRACTOR shall comply with the requirements of the Americans with Disabilities Act, as amended from time to time.

18.4 FAIR LABOR STANDARDS ACT

The CONTRACTOR is required and hereby agrees by execution of this Contract to pay all employees not less than the Federal minimum wage and to abide by other requirements as established by the Congress of the United States in the Fair Labor Standards Act, as amended from time to time.

SECTION 19: INSURANCE

The CONTRACTOR shall furnish to the Town at 6591 Orange Drive, Davie, Florida 33314-3399, certificates of insurance which indicate that insurance coverage has been obtained that meets the following requirements.

The CONTRACTOR shall provide or cause to be provided insurance of the type and on the terms and conditions as specified in this Section. The cost of this insurance is included in the service rate. The failure of the CONTRACTOR to provide such insurance shall be considered a material breach of this Contract. Insurance purchased by the CONTRACTOR shall be purchased from a carrier acceptable to the Town. CONTRACTOR shall maintain the coverages for insurance as required by this Section and thereafter during any and every period when the CONTRACTOR or subcontractors are performing any work or furnishing any services pursuant to the Contract. Upon execution of this Contract, CONTRACTOR shall provide or cause to be provided the workers' compensation insurance, comprehensive general liability insurance, business automobile insurance, and the umbrella liability insurance policies.

CONTRACTOR shall provide or cause to be provided the following insurance and shall also ensure that the following insurance language shall be included in the subcontractor contracts. Prior to commencement of work, certificates of insurance shall be provided evidencing CONTRACTOR' and its subcontractor's compliance with these insurance requirements. Without limiting any of the other obligations or liabilities of CONTRACTOR and subcontractors, CONTRACTOR shall provide, pay for, and maintain in full force until all of the work is completed and accepted by the Town (or for such duration as otherwise specified hereinafter), the insurance coverages set forth herein.

- (1) Workers' Compensation insurance to apply for all employees in compliance with the "Workers' Compensation Law" of the State of Florida and all applicable federal laws. In addition, the policy (ies) must include:
 - (a) Employers' Liability with a limit of One Hundred Thousand Dollars (\$100,000) each accident.
 - (b) If any operations are to be undertaken on or about navigable waters, coverage must be included for the U.S. Longshoremen & Harbor Workers Act and Jones Act.
- (2) Comprehensive General Liability with minimum limits of One Million Dollars (\$1,000,000) per occurrence combined single limit for Bodily Injury Liability and Property Damage Liability with respect to CONTRACTOR. Coverage must be afforded on a form no more restrictive than the latest edition of the Comprehensive General Liability policy, without restrictive endorsements, as filed by the Insurance Services Office, and must include:
 - (a) Premises and/or Operations;
 - (b) Independent Companies;
 - (c) Products and/or Completed Operations for contracts over Fifty Thousand Dollars (\$50,000.00) CONTRACTOR shall maintain in force until at least three (3) years after completion of all work required under the Contract, coverage for Products and Completed Operations, including Broad Form Property Damage;
 - (d) Explosion, Collapse and Underground Coverages;
 - (e) Broad Form Property Damage;
 - (f) Broad Form Contractual Coverage applicable to this specific Contract, including any hold harmless and/or indemnification agreement;

- (g) Personal Injury Coverage with Employee and Contractual Exclusions removed, with minimum limits of coverage equal to those required for Bodily Injury Liability and Property Damage Liability; and
 - (h) TOWN is to be expressly included as "Additional Insured" with respect to liability arising out of operations performed for TOWN and CONTRACTOR by or on behalf of CONTRACTOR and Subcontractors or acts or omissions of TOWN or CONTRACTOR in connection with general supervision of such operation.
- (3) Umbrella Liability, general aggregate of Six Million Dollars (\$6,000,000).
- (4) Business Automobile Liability with minimum limits of One Million Dollars (\$1,000,000.00) per occurrence combined single limit for Bodily Injury Liability and Property Damage Liability. Coverage must be afforded on a form no more restrictive than the latest edition of the Business Automobile Liability policy, without restrictive endorsements, as filed by the Insurance Services Office, and must include:
- (a) Owned Vehicles; and
 - (b) Hired and Non-Owned Vehicles.
 - (c) TOWN is to be expressly included as "Additional Insured" with respect to liability arising out of operations performed for TOWN and CONTRACTOR by or on behalf of CONTRACTOR and Subcontractors or acts or omissions of TOWN or CONTRACTOR in connection with general supervision of such operation.
- (5) Pollution Liability Insurance. Pollution Liability Insurance must be afforded for Bodily Injury and Property Damage of not less than \$5,000,000 each claim. Town of Davie must be shown as an additional insured with respect to this coverage.

All required insurance shall be evidenced by valid and enforceable policies issued by a CONTRACTOR licensed to do business in the State of Florida and otherwise acceptable to the Town. The CONTRACTOR shall not cancel (or permit any lapse under) any policy of required insurance. Each policy of required insurance shall: (i) contain the agreement of the insurer that the insurer shall not cancel or materially alter the same without thirty (30) calendar days prior written notice to TOWN except in the case of non-payment by the CONTRACTOR for which ten (10) calendar days' prior written notice will be provided to TOWN; (ii) provide for third party vicarious liability; (iii) delete the insured versus insured exclusion with respect to claims brought by the owner; and (iv) be effective for a period from the date of this Contract through at least one (1) year after completion of the Work provided hereunder, except for professional liability insurance which shall be effective for a period from the date of this Contract through at least five (5) years after completion of the work provided hereunder. Insurance shall be provided to the Town at the times required by this Section at which time the CONTRACTOR shall deliver to Town a certificate of insurance naming Owner as an additional insured as required hereunder for each policy of required insurance except for professional liability insurance. The minimum coverages and time periods specified above are not intended, and shall not be construed, to limit any liability of the CONTRACTOR to Town under this Contract. Neither party shall be liable to the other for loss or damage covered by insurance to the extent that insurance proceeds are actually available with respect to such loss or damage and to the extent that the applicable policies of such insurance include the waiver or subrogation (which the parties shall obtain if available without additional premium). CONTRACTOR is responsible for the payment of all deductibles

in connection with any claims made under the insurance policies required by this Contract. The cost of deductibles paid by CONTRACTOR shall be included in the cost of the service.

SECTION 20: DAMAGE TO PUBLIC OR PRIVATE PROPERTY

If property (public or private) is damaged while CONTRACTOR is performing work specified or is removed for the convenience of the work it shall be repaired or replaced at the expense of the CONTRACTOR in a manner acceptable to the TOWN prior to the final acceptance of the work. CONTRACTOR will be responsible for applying and securing any permits that may be required to complete such repairs. Such property shall include but not be limited to: existing facilities and all of its components, site amenities, concrete and/or asphalt surfaces, vehicles, structures, sidewalks, curbs and gutters, driveways, utilities, etc.

The CONTRACTOR shall notify the Town Administrator or his/her designee of any reports by TOWN residents or CONTRACTOR'S employees of property damage within two (2) hours of occurrence.

SECTION 21: INDEMNIFICATION

To the extent of its negligence or other fault, the CONTRACTOR shall indemnify, defend and hold harmless the TOWN and its officials, employees and agents (collectively referred to as "Indemnities") and each of them from and against all loss, costs, penalties, fines, damages, claims, expenses (including attorney's fees) or liabilities (collectively referred to as "Liabilities") by reason of any injury to or death of any person or damage to or destruction or loss of any property arising out of, resulting from, or in connection with (i) the performance or non-performance of the services contemplated by this Contract which is or is alleged to be directly or indirectly caused, in whole or in part, by any act, omission, default or negligence (whether active or passive) of the CONTRACTOR or its employees, agents or subcontractors (collectively referred to as "CONTRACTOR"), regardless of whether it is, or is alleged to be, caused in whole or in part (whether joint, concurrent or contributing) by any act, omission, default or negligence (whether active or passive) of the Indemnities, or any of them or (ii) the failure of the CONTRACTOR to comply with any of the paragraphs herein or the failure of the CONTRACTOR to conform to statutes, ordinances, or other regulations or requirements of any governmental authority, federal or state, in connection with the performance of this Contract. The CONTRACTOR expressly agrees to indemnify and hold harmless the Indemnities, or any of them, from and against all liabilities which may be asserted by an employee or former employee of the CONTRACTOR, or any of its subcontractors, as provide above, for which the CONTRACTOR'S liability to such employee would otherwise be limited to payments under state Worker's Compensation or similar laws. Nothing herein is intended to serve as a waiver of sovereign immunity by any party entitled thereto nor shall anything included herein be construed as consent to be sued by third parties in any matter arising out of this agreement or any other contract. The TOWN of Davie is a State political subdivision as defined in Chapter 768.28

SECTION 22: ASSIGNMENT OF CONTRACT; NON-TRANSFERABILITY

This Contract, or any portion or interest herein, shall not, under any circumstances, be assigned, transferred or otherwise encumbered by CONTRACTOR without the express, written consent of the TOWN and assumption of all terms and conditions set forth in this Contract by the assignee or transferee.

The CONTRACTOR shall not sell or otherwise dispose of any assets that negatively affect the CONTRACTOR'S performance of the TOWN'S pickup or disposal of Solid waste during the term of this Contract, without the express, written consent of the TOWN. The TOWN has the sole discretion to determine whether the CONTRACTOR'S ability to perform its obligations under this Contract has been affected or impaired by such sale or disposition of assets.

For purposes of this Contract, any transaction that results in the CONTRACTOR being purchased by, or merged with, another corporate entity shall constitute a non-permitted assignment and subject the CONTRACTOR to the Breach, Termination or default provisions of this Contract.

SECTION 23: OPERATIONS DURING DISPUTE

In the event that any dispute, arises between the TOWN and the CONTRACTOR relating to this Contract performance or compensation hereunder, the CONTRACTOR shall continue to render service and receive compensation in full compliance with all terms and conditions of this Contract as interpreted, in good faith, by the TOWN, regardless of such dispute

The CONTRACTOR expressly recognizes the paramount right and duty of the TOWN to provide adequate Collection and disposal services to its residents and further agrees, in consideration of the execution of this Contract, that in the event of such a dispute, if any, it will not seek injunctive relief in any court without first negotiating with the TOWN in good faith for an adjustment on the matter or matters in dispute and, upon failure of said negotiations to resolve the dispute may present the matter to a court of competent jurisdiction in Broward County, Florida in an appropriate suit therefore instituted by it or by the TOWN.

Notwithstanding the other provisions in this Section, the TOWN reserves the right to terminate this Contract at any time whenever the service provided by the CONTRACTOR fails to meet reasonable standards of the trade or is in material breach of this Contract, after TOWN provides written notice to the CONTRACTOR pursuant to the terms of this Contract and CONTRACTOR fails to cure such performance problem within five (5) days, or if such problem cannot be cured in such time, fails to take steps to cure same in a reasonable time as determined by the nature of the problem. Upon termination, the TOWN may call the letter of credit and the performance bond and apply the cash of the letter of credit and performance bond for the cost of service in excess of that charged to the TOWN by a collection firm engaged for the balance of the Contract period.

SECTION 24: ORDINANCE

Nothing contained in any TOWN ordinance hereafter adopted, pertaining to the Collection of Solid Waste, shall in anyway be construed to affect, change, modify or otherwise alter the duties, responsibilities, and operations of the CONTRACTOR in the performance of the terms of this Contract, unless it is agreed to in writing by both the CONTRACTOR and the TOWN and this Contract is amended accordingly.

SECTION 25: AMENDMENTS

Amendments in writing which are consistent with the purposes of this Contract may be made with the mutual consent of the TOWN and the CONTRACTOR.

SECTION 26: MODIFICATIONS TO THE CONTRACT

The TOWN shall have the power to make changes in this Contract as the result of changes in law, TOWN Code or both to impose new rules and regulations on the CONTRACTOR under this Contract relative to the scope and methods of providing Collection services as shall from time-to-time be necessary and desirable for the public welfare. The TOWN shall give the CONTRACTOR notice of any proposed change and an opportunity to be heard concerning those matters. The scope and method of providing Collection services as referenced herein shall also be liberally construed to include, but is not limited to the manner, procedures, operations and obligations, financial or otherwise, of the CONTRACTOR.

The TOWN and the CONTRACTOR understand and agree that the Florida Legislature has the authority to make comprehensive changes in Solid Waste Management legislation and that these and other changes in law in the future which mandate certain actions or programs for counties or municipalities may require changes or modifications in some of the terms, conditions or obligations under this Contract. The CONTRACTOR agrees that the terms and provisions of TOWN Code as it now exists or as it may be amended in the future, shall apply to all of the provisions of this Contract and the customers of the CONTRACTOR located within the Service Area. In the event any future change in the TOWN Code materially alters the obligations of the CONTRACTOR, then the Collection charges established in this Contract shall be adjusted. Nothing contained in this Contract shall require any party to perform any act or function contrary to law. The TOWN and the CONTRACTOR agree to enter into good faith negotiations regarding modifications to this Contract which may be required in order to implement changes in the interest of the public welfare or due to change in law. When such modifications are made to this Contract, the TOWN and the CONTRACTOR shall negotiate in good faith, a reasonable and appropriate compensation adjustment for any increase or decrease in the services or other obligations required of the CONTRACTOR due to any modification in the Contract under this Section. The TOWN and the CONTRACTOR shall not unreasonably withhold agreement to such compensation adjustment.

SECTION 27: RIGHT TO REQUIRE PERFORMANCE

The failure of the parties at any time to require performance of any provisions hereof shall in no way affect their rights thereafter to enforce same. No waiver of any breach of any provisions hereof shall be taken or held to be a waiver of any succeeding breach of such provision or as a waiver of any provision itself.

SECTION 28: LAW GOVERNING

The Contract shall be governed and enforced pursuant to the laws of the State of Florida. Venue for any litigation shall be commenced in Broward County, Florida.

SECTION 29: COMPLIANCE WITH LAWS AND REGULATIONS

The CONTRACTOR hereby agrees to abide by and comply with all applicable Federal, State, County, Special District and TOWN laws, statutes, codes, rules and regulations. The CONTRACTOR and its cash/surety shall indemnify, defend and hold harmless the TOWN, its TOWN Council, its officers, representatives, agents and employees against any claim or liability arising from or based on the violation of any such laws, regulations, ordinances, orders or decrees, whether by itself or its employees. The CONTRACTOR shall obtain at its own expense all permits and licenses required by law or ordinance and maintain same in full force and effect.

SECTION 30: SAVINGS CLAUSE

Should any provision, paragraph, sentence, word or phrase contained in this Contract be determined by a court of competent jurisdiction to be invalid, illegal or otherwise unenforceable under the laws of the State of Florida or the TOWN, such provisions, paragraph, sentence, word or phrase shall be deemed modified to the extent necessary in order to conform with such laws, or if not modifiable, then same shall be deemed severable, and in either event, the remaining terms and provisions of this Contract shall remain unmodified and in full force and effect or limitation of its use.

SECTION 31: GENERAL

31.1 NO CONTINGENT FEES

The CONTRACTOR warrants that it has not employed or retained any CONTRACTOR or person, other than a bona fide employee, agent, consultant or lobbyist working solely for the CONTRACTOR, to solicit or secure this Contract, and that it has not paid or agreed to pay any person, CONTRACTOR, corporation, individual or firm, other than a bona fide employee, agent, consultant or lobbyist working solely for the CONTRACTOR, any fee, commission, percentage, gift or other consideration contingent upon or resulting from the award or making of this Contract. For the breach or violation of this provision, the TOWN shall have the right to terminate the Contract without liability at its discretion, to deduct from the Contract price or otherwise recover the full amount of such fee, commission, percentage, gift or consideration.

31.1 NO WAIVER

No waiver by the TOWN of any term, covenant or condition herein contained shall be deemed to be a waiver of such term, covenant or condition or any subsequent breach of the same or any other term, covenant or condition herein contained. The rights and remedies created by this Contract are cumulative, and are not intended to be exclusive. The use of one remedy under this Contract shall not be taken to exclude or waive the right or use of another and each party shall be entitled to pursue all remedies generally available under the laws of the State of Florida.

SECTION 32: LEGAL REPRESENTATION

It is acknowledged that each party to this Contract had the opportunity to be represented by legal counsel in the preparation of this Contract and, accordingly, the rule that a Contract shall be interpreted strictly against the party preparing the same shall not apply herein due to the joint contributions of both parties.

SECTION 33: MISCELLANEOUS

33.1 RECORDS

The CONTRACTOR shall keep books and records and require any and all SUBCONTRACTORS to keep books and records as may be necessary in order to record complete and correct entries as to services provided and fees charged pursuant to this Contract. Upon providing reasonable notice, such books and records shall be available at all

reasonable times for examination and audit by the TOWN and its representatives, and shall be kept for a period of three (3) years after the completion of all work to be performed pursuant to this Contract. Incomplete or incorrect entries in such books and records may be grounds for disallowance by the TOWN of any fees or expenses based upon such entries.

33.2 MODIFICATION

This Contract, including Exhibits, constitutes the entire Contract and understanding between the parties hereto, and it shall not be considered modified, altered, changed or amended in any respect unless in writing and signed by the parties hereto.

33.3 PUBLIC RECORDS LAW

Contractor agrees to comply with public records laws. This includes but is not limited to:

1. Keep and maintain public records as required by the Florida Statutes.
2. Upon request from the Town Clerk, provide the Town of Davie with a copy of the requested records or allow the records to be inspected or copied within a reasonable time at a cost that does not exceed the cost provided in the applicable Florida Statutes.
3. Ensure that public records that are exempt or confidential and exempt from public records disclosure requirements are not disclosed except as authorized by law for the duration of the contract term and following completion of the contract if the contractor does not transfer the records to the public agency.
4. Upon completion of the contract, transfer, at no cost to the Town all public records in possession of the contractor or keep and maintain public records required by the Town to perform the service. If the contractor transfers all public records to the Town, upon completion of the contract, the contractor shall destroy any duplicate public records that are exempt or confidential and exempt from public records disclosure requirements. If the contractor keeps and maintains public records upon completion of the contract, the contractor shall meet all applicable requirements for retaining public records. All records stored electronically must be provided to the Town, upon request from the Town Clerk, or his/her designee, in a format that is compatible with the information technology systems of the Town.

If the Contractor has questions regarding the application of Chapter 119, Florida Statutes, to the Contractor's duty to provide public records relating to this contract, contact the custodian of public records at 954-797-1000, Evelyn_Roig@Davie-FL.gov, 6591 Orange Drive, Davie, FL 33314.

33.4 FORCE MAJEURE

Force Majeure -The performance of this Agreement may be suspended and the obligations of either party excused in the event of and during the period that such performance is prevented or delayed by a Force Majeure occurrence, except as spelled out elsewhere in this contract. Force Majeure shall mean:

- a) An act of God, including hurricanes, tornadoes, landslides, lightning, earthquakes, fire, flood, explosion, sabotage or similar occurrence, acts of a public enemy, extortion, war, blockage, or insurrection, riot or civil disturbance or epidemics and pandemics.
- b) The order or judgment of any Federal, State or Local Courts administrative agency or governmental body (excluding decisions of federal courts interpreting federal tax laws, and decisions of State courts interpreting State tax laws) if it is not also the result of the willful misconduct or negligent action or inaction of the party relying thereon or of a third party for whom the party relying thereon is responsible; provided that neither the contesting in good faith of any such order or judgment nor the failure to so contest shall constitute or be construed as a measure of willful misconduct or negligent action or inaction of such party.
- c) The failure to issue, suspension, termination, interruption, denial, or failure or failure of renewal of any permit or approval essential to the operation of CONTRACTOR'S business which is not the product of willful misconduct or negligent action or inaction of the party relying thereon;

As a condition precedent to the right to claim excuse of performance, the party experiencing the Force Majeure shall:

- a) promptly notify the other party verbally; and
- b) As soon as practical, but in no event more than ten (10) days thereafter, prepare and deliver to the other party a Notice with a written description of:
 - (1) the commencement of the Force Majeure event,
 - (2) its estimated duration impact on the party's obligations, under this Agreement.

Whenever a Force Majeure event shall occur, the parties shall, as quickly as possible, to the extent reasonable, eliminate the cause and resume performance under this Agreement. Additionally, either party shall provide prompt Notice to the other of the cessation of a Force Majeure event.

33.5 NOTICE

Whenever any party desires to give notice unto any other party, it must be given by written notice, sent by certified United States mail, with return receipt requested, or via a nationally recognized private courier (ie: FedEx) with proof of delivery addressed to the representatives designated in this contract to receive notice. For the present, the CONTRACTOR and the TOWN designate the following as the respective places for giving of notice:

AS TO TOWN:

Town Administrator
Town of Davie
6591 Orange Drive
Davie, Florida 33314-3399

Town Attorney
6591 Orange Drive
Davie, Florida 33314-3399

AS TO CONTRACTOR: John Casagrande
Coastal Waste & Recycling
1840 NW 33rd Street
Pompano Beach, Florida 33064

The Town shall be responsible for providing notices to the Disposal Service Provider.

33.6 PIGGYBACKING

In the event that another governmental entity piggy backs onto this Agreement for solid waste generated within Broward County (the "Piggyback Municipality") during the Initial Term of the Agreement, CONTRACTOR shall pay the TOWN, in an amount equal to 2% of the residential revenues net of disposal and any fees and 1% of all non-residential revenues generated net of disposal and any fees by the piggyback agreement to the Town. CONTRACTOR shall pay this revenue to the Town monthly. This clause is only for the benefit of Town.

33.7 TRANSITION PLAN

The CONTRACTOR shall be responsible for the removal and delivery of containers, roll-offs, etc. as required by a transition. The CONTRACTOR shall provide a facility whereby the previous collection contractor's containers, roll-offs, etc. will be stored during the transition. The CONTRACTOR shall be responsible for initial delivery to the proposed storage site or a site to be identified by the previous franchisee. Upon delivery to the storage location, the previous collection contractor shall be responsible for removal and transportation of said container, roll-off, etc. at their sole expense.

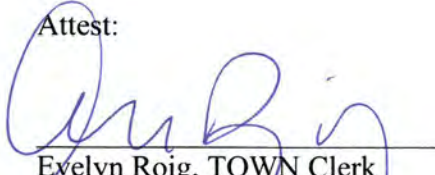
By March 1, 2021, the CONTRACTOR shall provide the TOWN a transition plan that describes the following:

- Individual or group of individuals that will oversee the execution of the transition plan.
- Proposed approach including equipment, personnel, and schedule, for delivering containers to residents.
- Describe how the delivery of carts, dumpsters and roll-offs will be conducted in coordination with removal or use of existing carts, dumpsters and roll-offs.
- Overall schedule for the transition

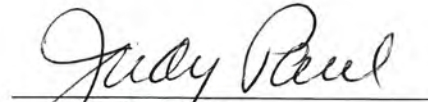
IN WITNESS WHEREOF, the parties have caused these presents to be executed and attested to by their duly authorized officers or representatives and their official seals to be affixed hereon, the day and year first above written.

TOWN OF DAVIE, through its Town Council

Attest:


Evelyn Roig, TOWN Clerk

By:


Judy Paul, Mayor

20 day of January, 2021

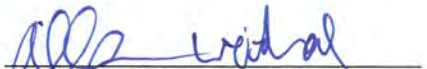
Approved as to form and legality by
Office of the TOWN Attorney

By:


Richard J. Lemack, Town Administrator

20 day of January, 2021

By:


Allan Weinthal, TOWN Attorney

20 day of January, 2021

(TOWN SEAL)

CONTRACTOR WITNESSES:

COASTAL WASTE AND RECYCLING OF
FLORIDA, INC.

John Casagrande
Signature

John CASAGRANDE VP
Print Name and Title

15 day of January, 2021

Stephanne DeLaRosa
Signature

Stephanne DeLaRosa
Print Name and Title

15 day of January, 2021

ATTEST:

C. O. H.
Asst. SECRETARY

STATE OF FLORIDA)
) SS:
COUNTY OF BROWARD)

BEFORE ME, an officer duly authorized by law to administer oaths and take acknowledgments, personally appeared Brendan Pantano as CEO, of Coastal Waste & Recycling, an organization authorized to do business in the State of Florida, and acknowledged executed the foregoing Contract as the proper official of _____ for the use and purposes mentioned in it and affixed the official seal of the corporation, and that the instrument is the act and deed of that corporation. He/she is personally known to me or has produced _____ as identification.

IN WITNESS OF THE FOREGOING, I have set my hand and official seal at in the State and County aforesaid on this 15th day of January, 2021.

[Signature]
NOTARY PUBLIC

My Commission Expires:



Bahaa Abughalla
Notary Public
State of Florida
Comm# HH075663
Expires 12/29/2024

Exhibits

**Town of Davie
Solid Waste Rate Schedule
Rates Effective June 1, 2021**

EXHIBIT 1

DISPOSAL RATE/TON	MSW	\$46.57
	Bulk/Veg	\$37.05

RESIDENTIAL SINGLE FAMILY SERVICE

Residential Curbside Rate (monthly)

Solid Waste Collection	\$9.00
Monthly Disposal – MSW*	\$7.45
Monthly Disposal – Bulk/Veg**	\$2.81
Monthly Service Rate Including Disposal	\$19.26
Franchise Fee	\$4.17
<u>Total Curbside Rate***</u>	<u>\$23.43</u>

*MSW Generation at 1.6104 tons annually (Recycling Generator factor is 0.31 tons, included in the MSW)\

**Bulk Generation factor is 0.90 tons annually

***Excludes miscellaneous fees that are paid as part of Solid Waste Assessment

Additional Carts (monthly rate) – billed annually in advance by CONTRACTOR

Additional cart	\$4.75
<u>Franchise Fee</u>	<u>\$1.00</u>
<u>Additional Cart Total</u>	<u>\$5.75</u>

Rates for additional carts exclude franchise fees which will be included in the annual bill

Additional Bulk Waste Collection

Per Yard Fee	\$15.00
<u>Franchise Fee</u>	<u>\$3.15</u>
<u>Total</u>	<u>\$18.15</u>

**Town of Davie
Solid Waste Rate Schedule
Rates Effective June 1, 2021**

MULTIFAMILY AND COMMERCIAL COLLECTION SERVICE

Container Service Non-Compacted Rate Per Yard

Solid Waste Collection Service	\$12.65
<u>Non-Compacted Disposal Rate</u>	<u>\$2.33</u>
Per Cubic Yard Rates including disposal	\$14.98
<u>Franchise Fee</u>	<u>\$3.13</u>
Total Non-Compact Rate Per Yard	\$18.11

Container Service Compacted Rate Per Yard

Solid Waste Collection Service	\$19.97
<u>Compacted Disposal Rate</u>	<u>\$7.34</u>
Per Cubic Yard Rates including disposal	\$27.31
<u>Franchise Fee</u>	<u>\$4.78</u>
<u>Total Non-Compact Rate Per Yard</u>	<u>\$31.62</u>

Bill Fee (per customer per month)	\$0.40
-----------------------------------	--------

Commercial Cart Charges (monthly)

2x/Week Service

1 cart (collection and disposal)	\$100.00
<u>Franchise Fee</u>	<u>\$21.00</u>
<u>Total Cart Rate</u>	<u>\$121.00</u>

**Town of Davie
Solid Waste Rate Schedule
Rates Effective June 1, 2021**

ROLLOFF SERVICES

Compaction and Open Top Rolloff Service

All Sizes

Haul Charge (per pull)

Compaction \$275.00

Open Top \$225.00

Disposal Cost Disposal is calculated based on actual weight of each load at the current disposal tonnage in effect plus franchise fees (\$45.55 per roll off collection service + \$3.19 per yard).

Temporary Rolloff Flat Rate Service

10 yard (per pull)

Haul and Disposal \$350.00

Franchise Fee \$77.34

Total \$427.34

20 yard (per pull)

Haul and Disposal \$450.00

Franchise Fee \$109.24

Total \$559.24

30 yard (per pull)

Haul and Disposal \$550.00

Franchise Fee \$141.14

Total \$691.14

40 yard (per pull)

Haul and Disposal \$650.00

Franchise Fee \$173.04

Total \$823.04

**Town of Davie
Special Collection Service Rates
Rates Effective June 1, 2021**

EXHIBIT 2

Description	Unit Price
Rolling out Container and returning it to original location	No Charge
Opening (and closing) Doors or Gates	No Charge
Locks	\$25.00 (one time) Charge for Replacements based on cost + 10%
Unlocking and Locking	\$45.00 / month
Supplying (and retrofitting) locking mechanism	\$80.00 / one time
Adding wheels to or changing wheels	No Charge
Adding lids to or changing lids	No Charge
Moving Container or Roll-off Location Per Customer Request	No charge at time of scheduled return Non-Scheduled returns are \$75.00
Changing out Sizes (about twice per year)	\$100.00
Additional Unscheduled (Not Including "On Call") Solid Waste Pick-ups for Commercial Service Units and Multifamily Service Units	2x (Applicable 1X Week Solid Waste Collection Cost) + Regular Disposal Charges (\$25.00 Minimum or above schedule)
Return Roll-Off to Same Spot or Round Trip for Roll-Off	No Charge
Return Container or Roll-Off After Service was Stopped (applicable only to the same customer)	\$100.00
Residential Off-Street Collection Services (excluding handicapped)	\$50.00
Additional Bulk Waste Collection (per cubic yard)	\$15.00
Replace Stolen or damaged Cart (without police report or a customer damaged cart)	\$95.00

Comerica Bank

**SPECIMEN
LANGUAGE
ONLY**

EXHIBIT "A" TO LETTER OF CREDIT APPLICATION AND AGREEMENT

COMERICA BANK HAS PREPARED THIS SPECIMEN UPON THE REQUEST OF APPLICANT AND IS FOR INFORMATIONAL PURPOSES ONLY. NO REPRESENTATION OR WARRANTY IS MADE BY COMERICA BANK TO ISSUE THIS LETTER OF CREDIT IN THIS OR ANY OTHER FORM. WHEN SIGNED, THIS EXHIBIT A WILL BECOME AN INTEGRAL PART OF THE CORRESPONDING STANDBY LETTER OF CREDIT APPLICATION AND AGREEMENT.

WE HEREBY AGREE WITH THE LANGUAGE OF THE BELOW SPECIMEN.



DATE 1-15-2021

AUTHORIZED SIGNER (same as signer of the application)

****This disclaimer will be removed at time of issuance.**

*****Please provide approval no later than 1:00 p.m. to make interdepartmental deadlines for request to issue letter of credit*****

Shared Drive: Coastal Waste.Town of Davie.USD1MM.LC.123120.GMM.docx

Comerica Bank

411 West Lafayette
MC 3341
Detroit, MI 48226
Phone: 313-222-4956
Fax: 313-222-9324
SWIFT: MNBDUS33XXX

IRREVOCABLE STANDBY LETTER OF CREDIT NO.

Beneficiary:
Town of Davie
6591 Orange Drive
Davie, FL 33314-3399

Applicant:
Coastal Waste & Recycling Holdco, LLC
1840 NW 33rd St
Pompano Beach, FL 33064

Date of issue:

Date and Place of Expiry
December 31, 2021 office of Issuing Bank
or any automatically extended date, as herein
defined.

Amount:
USD1,000,000.00 One Million and 00/100 United States Dollars

Ladies and Gentlemen:

We hereby establish our Irrevocable Standby Letter of Credit in your favor, for the Account Party, for a sum not exceeding the total amount stated above, available with Comerica Bank, by presentation of the following:

1. This original Letter of Credit and all amendments hereto.
2. Sight draft, drawn on Comerica Bank and referencing this letter of credit number.
3. A written and dated statement on the Town of Davie letterhead signed by beneficiary indicating name and title of the signer with the following wording:

"The undersigned does hereby certify that the drawing is due to default in performance of certain obligations on the part of Coastal Waste & Recycling Holdco, LLC with respect to the Waste Collection Service, as set forth in the "Service" agreement dated as of _____, 2021 (the "Service"), by and between the Town of Davie and Coastal Waste & Recycling Holdco, LLC; Therefore, we are entitled to draw in the amount of USD (Insert Amount) under Comerica Bank's Standby Letter of Credit number _____".

It is a condition of this Standby Letter Credit that it shall be deemed automatically extended without amendment for a period of One Year from the present or any future expiration date, unless at least thirty (30) days prior to the expiration date we shall send our written notice to all named beneficiaries above by courier, that we elect not to extend this credit for any such additional period. The notification will be sent to Town of Davie at the Beneficiary addresses indicated above, unless a change of address is otherwise notified by either beneficiary to us in writing by receipted mail or courier, quoting our Standby letter of Credit number. A change of address notification must be received by Comerica Bank at our above address.

In no event, and without further notice from ourselves, shall the expiration date be extended beyond a final expiration date of December 31, 2030.

In the event this Letter of Credit is no longer required the original Letter of Credit and all amendments thereto must be submitted to Comerica Bank together with a signed letter from both beneficiaries on the Beneficiary's letterhead addressed to Comerica Bank agreeing to cancellation.

This Letter of Credit is subject to and governed by the International Standby Practices, ISP98, International Chamber of Commerce Publication 590.

We engage with you that documents drawn under and in compliance with the terms of this credit will be duly honored on delivery of the documents as specified if presented at Comerica Bank International Trade Services, 411 W. Lafayette St. 5th Fl., Detroit, MI 48226, Attention: International Trade Services or any other such location as we may advise you in writing on or before expiration indicated above or any automatically extended date.

END OF SPECIMEN

Endurance Assurance Corporation
1221 Avenue of the Americas, 18th Floor
New York, NY 10020

PERFORMANCE BOND
Annual Form

Bond No. EACX4016615

KNOW ALL BY THESE PRESENTS, That we Coastal Waste & Recycling, as Principal, and Endurance Assurance Corporation, of New York, NY, authorized to do business in the State of FL, as Surety, are held and firmly bound unto Town of Davie, as Obligee, in the maximum penal sum of Four Million Dollars and 00/100 Dollars (\$4,000,000.00), lawful money of the United States of America, for which payment well and truly to be made we bind ourselves, our heirs, executors and assigns, jointly and severally, firmly by this Surety Bond.

WHEREAS, the Principal has entered, or is about to enter, into a written agreement with the Obligee to perform in accordance with the terms and conditions of the SOLID WASTE, BULK WASTE, CONSTRUCTION AND DEMOLITION DEBRIS AND RECYCLING COLLECTION, hereafter referred to as the Contract), said Contract is hereby referred to and made a part hereof,

NOW THEREFORE, the condition of this obligation is such that if the above named Principal, its successors and assigns, shall well and truly perform its obligations as set forth in the above mentioned Contract, then this Bond shall be void; otherwise to remain in full force and effect pursuant to its terms.

Notwithstanding anything to the contrary in the Contract, the Bond is subject to the following express conditions:

1. Whereas, the Obligee has agreed to accept this Bond, this Bond shall be effective for the definite period of June 1, 2021 to June 1, 2022. The Bond may be extended, at the sole option of the Surety, by continuation certificate for additional periods from the expiry date hereof. However, neither: (a) the Surety's decision not to issue a continuation certificate, nor (b) the failure or inability of the Principal to file a replacement bond or other security in the event the Surety exercises its right to not renew this Bond, shall itself constitute a loss to the Obligee recoverable under this bond or any extension thereof.
2. The above referenced Contract has a term ending December 31, 2030. Regardless of the number of years this Bond is in force or the number of continuation certificates issued, this Bond shall not be extended beyond December 31, 2030, unless earlier nonrenewed pursuant to paragraph 1 above.
3. No claim, action, suit or proceeding, except as hereinafter set forth, shall be had or maintained against the Surety on this instrument unless such claim, action, suit

or proceeding is brought or instituted upon the Surety within one year from termination or expiration of the bond term.

4. Regardless of the number of years this Bond is in force or the number of continuation certificates issued, the liability of the Surety shall not be cumulative in amounts from period to period and shall in no event exceed the amount set forth above, or as amended by rider.
5. Any notice, demand, certification or request for payment, made under this Bond shall be made in writing to the Surety at the address specified below. Any demand or request for payment must be made prior to the expiry date of this Bond.

Surety Address:

Endurance Assurance Corporation
1221 Avenue of the Americas, 18th Floor
New York, NY 10020

Claim Department

6. If any conflict or inconsistency exists between the Surety's obligations or undertakings as described in this Bond and as described in the underlying Contract, then the terms of this Bond shall prevail.

SIGNED, SEALED AND DATED this 15th **day of** January, 2021.

Coastal Waste & Recycling

BY:



Principal

Endurance Assurance Corporation

BY:



James I. Moore, Attorney-In-Fact



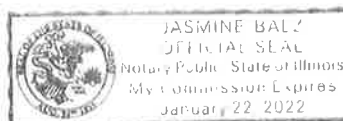
State of Illinois }
 } ss.
County of DuPage }

On January 15, 2021, before me, a Notary Public in and for said County and State, residing therein, duly commissioned and sworn, personally appeared James I. Moore known to me to be Attorney-in-Fact of Endurance Assurance Corporation the corporation described in and that executed the within and foregoing instrument, and known to me to be the person who executed the said instrument in behalf of the said corporation, and he duly acknowledged to me that such corporation executed the same.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal, the day and year stated in this certificate above.

My Commission Expires 1/22/2022

Jasmine Baez
Jasmine Baez, Notary Public



First Amendment to September 1, 2012 Interlocal Agreement

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

RECITALS

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

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

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

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

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

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

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

☐ Price Option B

☐ Price Option C

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

Yard Waste

☐ Yes

☐ No

Bulk Trash

☐ Yes

☐ No

Construction and Demolition Debris

- ☐ Yes
☐ No

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

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

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

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

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

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

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

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

COUNTY

WITNESSES:

Susan Seferian
Print Name: SUSAN SEFERIAN

Mary Anne Darby
Print Name: MARY ANNE DARBY

BROWARD COUNTY, by and through
its County Administrator

By Bertha Henry
Bertha Henry, County Administrator

20th day of June, 20 18



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

By Angela F. Benjamin 6/29/18
Angela F. Benjamin (Date)
Senior Assistant County Attorney

FIRST AMENDMENT TO INTERLOCAL AGREEMENT FOR SOLID WASTE DISPOSAL
SUPPORT SERVICES BETWEEN BROWARD COUNTY AND PARTICIPATING
COMMUNITY Town of Davie.

ATTEST:

[Signature]
Municipal Clerk
Evelyn Roig
Print or Type Name

Participating Community

By Judy Paul
Mayor-Commissioner
Judy Paul
Print or Type Name

(SEAL)



20th day of June, 20 18.

[Signature]
Municipal Manager
Richard J. Lemack
Print or Type Name

Approved as to Form:

By [Signature]
Municipal Attorney

EXHIBIT A

INTERLOCAL AGREEMENT

between

BROWARD COUNTY

and

PARTICIPATING COMMUNITIES

for

SOLID WASTE DISPOSAL SUPPORT SERVICES

INTERLOCAL AGREEMENT

between

BROWARD COUNTY

and

PARTICIPATING COMMUNITIES

for

SOLID WASTE DISPOSAL SUPPORT SERVICES

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

AND

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

ARTICLE 1
BACKGROUND

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

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

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

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

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

ARTICLE 2 DEFINITIONS

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

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

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

ARTICLE 3

COMMITMENT OF WASTE STREAM

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

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

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

ARTICLE 4 PARTICIPATING COMMUNITY'S OBLIGATIONS

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

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

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

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

ARTICLE 5
OUT OF STATE DISPOSAL AND REPORTING REQUIREMENTS

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

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

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

ARTICLE 6 OPTIONAL COUNTY CENTRALIZED BILLING SERVICES

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

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

ARTICLE 7

OPTIONAL COUNTY FLOW CONTROL ENFORCEMENT SERVICES

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

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

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

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

ARTICLE 8 RELATIONSHIPS OF THE PARTIES

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

ARTICLE 9 INDEMNIFICATION

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

ARTICLE 10 DEFAULT AND TERMINATION

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

ARTICLE 11 DURATION

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

ARTICLE 12
THIRD PARTY BENEFICIARY

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

ARTICLE 13
MISCELLANEOUS

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

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

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

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

13.8 JOINT PREPARATION

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

13.9 JURISDICTION, VENUE, WAIVER OF JURY TRIAL

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

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

13.10 MULTIPLE ORIGINALS

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

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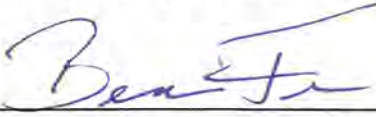
IN WITNESS WHEREOF, the parties hereto have made and executed this Agreement on the respective dates under each signature: BROWARD COUNTY through its BOARD OF COUNTY COMMISSIONERS, signing by and through its Mayor or Vice-Mayor, authorized to execute same by Board action on the 8th day of January, 20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

COUNTY

ATTEST:

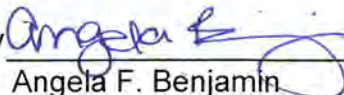

for Broward County Administrator, as
Ex-officio Clerk of the Broward County
Board of County Commissioners

BROWARD COUNTY, by and through its
Board of County Commissioners

By 
Mayor
28th day of June, 20 18

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



By  6/25/18
Angela F. Benjamin (Date)
Senior Assistant County Attorney

PARTICIPATING COMMUNITY

Town of Davie

Name of Participating Community

WITNESS:

William Piquero

Judy Paul
20th day of June, 20 18.

ATTEST:

By:

Donna Bland

City Manager

Cheryl J.
City Clerk

20th day of June, 20 18.

(CORPORATE SEAL)

APPROVED AS TO FORM:

Joan Rayson
City Attorney



NMP:slw
12-19-12
NMP-DisposalLA121912.doc
Rev. signature pages 05-24-18)

EXHIBIT A
NAMES OF PARTICIPATING COMMUNITIES

EXHIBIT B
NOTICES FOR PARTICIPATING COMMUNITIES

EXHIBIT C

NOTICE OF MUNICIPAL SELECTIONS FOR SOLID WASTE DISPOSAL

Municipality: Town of Davis

Residential Waste and Commercial Waste:

☒ Wheelabrator

☐ Price Option A

☐ Price Option B

☒ Price Option C

☐ Sun-Bergeron

☐ Neither

☐ Both

Describe: _____

Yard Waste

☐ Wheelabrator

☐ Sun-Bergeron

☒ Neither

Bulk Trash

☒ Wheelabrator

☐ Sun-Bergeron

☐ Neither

Construction & Demolition Debris

☒ Wheelabrator

☐ Sun-Bergeron

☐ Neither

Signature of Authorized Official 

Date 6-20-18

SUN-SENTINEL

**NOTICE OF INTENT TO AWARD
FRANCHISE AGREEMENT FOR SOLID
WASTE AND RECYCLING COLLECTION**

Notice is hereby given that on January 6, 2021 at 6:30 p.m., or as soon thereafter as practicable, at the Davie Pine Island Park Multipurpose Facility, 3801 S. Pine Island Road (Cypress Room), Davie, Florida, 33328, the Town Council of the Town of Davie will hold a public hearing to consider the granting of a solid waste, bulk waste, construction and demolition debris, and recycling collection franchise agreement to Coastal Waste and Recycling of Florida, Inc. through the adoption of the following resolution:

A RESOLUTION OF THE TOWN OF DAVIE, FLORIDA, APPROVING THE FRANCHISE AGREEMENT BETWEEN THE TOWN OF DAVIE AND COASTAL WASTE AND RECYCLING OF FLORIDA INC. FOR SOLID WASTE, BULK WASTE, CONSTRUCTION AND DEMOLITION DEBRIS AND RECYCLING COLLECTION; PROVIDING FOR CONFLICT; PROVIDING FOR SEVERABILITY; AND PROVIDING FOR AN EFFECTIVE DATE.

All interested persons are invited to attend and participate in the public hearing. The Town Council may continue or defer a hearing to a new date and time certain without further notice, provided the date and time of the continuance or deferral is announced at the hearing. If you have any questions or require additional information, please contact the Town Clerk's Office at (954) 797-1000.

Pursuant to Florida Statute § 286.0105, if a person decides to appeal any decision made by the town council with respect to any matter considered at such meeting or hearing, he or she will need a record of the proceedings. For such purpose he or she will need to ensure that a verbatim record of the proceeding is made, which record includes the testimony and evidence upon which the appeal is to be based.

Persons with disabilities requiring accommodations in order to participate should contact the Town Clerk at (954)797-1023 at least two business days prior to the meeting to request such accommodation. If you are hearing or speech impaired, please contact the Florida Relay Service by using the following numbers: 1-800-955-8770 (voice) or 1-800-955-8771 (TDD).

By: Town of Davie, Florida
12/19, 12/26/2020 6838048

Order # - 6838048

**TOWN OF DAVIE
TOWN COUNCIL AGENDA REPORT**

Item Number: 20.

To: Mayor and Councilmembers

From: Phillip R. Holste, Assistant Town Administrator, 954-797-1041

Prepared By: Phillip R. Holste, Assistant Town Administrator - Administration

Subject: Resolution

Affected District: Town Wide

Item Request: Staff Requesting a Tabling

Title of Agenda Item: **FRANCHISE AGREEMENT - A RESOLUTION OF THE TOWN OF DAVIE, FLORIDA, APPROVING THE FRANCHISE AGREEMENT BETWEEN THE TOWN OF DAVIE AND COASTAL WASTE AND RECYCLING OF FLORIDA INC. FOR SOLID WASTE, BULK WASTE, CONSTRUCTION AND DEMOLITION DEBRIS AND RECYCLING COLLECTION; PROVIDING FOR CONFLICT; PROVIDING FOR SEVERABILITY; AND PROVIDING FOR AN EFFECTIVE DATE. (tabled from January 6, 2021)**

Executive Summary: The Purchasing Division issued RFP# RM-20-96 to obtain a qualified and experienced firm to provide solid waste and recycling collection services.

On October 16, 2020, the Town took receipt of one (1) proposal: Coastal Waste and Recycling of Florida, Inc. The Purchasing Division conducted an administrative review of the company; no issues arose. The Review Committee convened on October 23, 2020 to evaluate the proposal in accordance with the criteria stated in the RFP document. The Review Committee's final decision was to negotiate a contract with Coastal Waste and Recycling of Florida, Inc. The Town Council approved this selection at their November 4, 2020 meeting.

This resolution will consider the negotiated franchise agreement between the Town of Davie ("Town") and Coastal Waste and Recycling of Florida, Inc ("Coastal"). The proposed franchise agreement term will be June 1, 2021 – December 31, 2021+ 2030. Residential solid waste and recycling collection rates will be increased by 43.8% (\$6.26 to \$9.00 monthly) which was anticipated as part of the FY2021 solid waste assessment. Due to the downturn in the recycling commodities market and elimination of certain products (glass, etc.) from the recycling stream, the Town will pick up municipal solid waste (MSW) and recyclables in the same truck. Residents will still utilize their 96 gallon cart for MSW and their 65 gallon cart for recycling; however, if there is cross contamination or MSW is placed in the recycling cart, Coastal will still pick up the cart. In addition, the MSW and Recycling carts will be picked up 2x per week. The MSW and recyclables will be delivered to the Wheelabrator waste to energy facility, which meets with State's recycling criteria. If the Town initiates a recycling processing materials contract, a separate recycling collection will need to occur which would result in a contract reopener. For additional residential carts, the cost will increase from \$2.00 monthly (first cart)/\$2.75 (each additional cart) to \$5.75 monthly to ensure the contractor recoups the actual cost of this service. The waste generation factor or the assumed residential waste disposal for MSW and bulk waste has been updated to reflect actual trends from the past 5 years. Town residences will also receive a new 96 gallon garbage cart at contract commencement.

As part of the transition to Coastal, the MSW/Recycling schedule will be altered to ensure a balanced pickup schedule throughout the Town i.e. 10 trucks running each day. In addition, the bulk pick-up schedule will be altered whereby bulk will be picked up over 24 days a month instead of 12 days a month. This change is being enacted to ensure that a residence is picked up on the planned bulk pick-up day and assist Code Enforcement by monitoring a smaller area each day. The Town and Coastal will undertake a public information strategy including mailings and social media to highlight the changes to the MSW/Recycling and Bulk maps and schedules.

For commercial and multifamily properties, the price per cubic yard for collection and disposal will increase from \$17.37 to \$18.11 per cubic yard or a 4.2% increase. For construction and demolition debris services, rates for haul and disposal will increase by 1.2% (10 yard); 3.6% (20 yard); 4.8% (30 yard) and 5.7% (40 yard). The collection prices will remain unchanged until October 1, 2022 for commercial/multifamily and construction and demolition debris services and January 1, 2023 for residential services.

The Town will receive franchise fee and financial donation revenue at the same rate as the previous waste collection contract. This contract also includes a payment of \$250,000 annually for Town household hazardous waste services (HHW) to be procured separately by the Town. The HHW service benefits single family and multi-family properties as they can now drop off HHW weekly instead of 4 times per year. In addition, the Town will receive \$100,000 for direct costs related to providing a customer service liaison for the Town's solid waste program.

The franchise agreement includes performance protections through the posting of a \$1 million irrevocable letter of credit and \$4 million irrevocable performance bond that may be utilized if default or breach of contract occurs. Coastal will purchase new trucks to service all routes and these trucks will run on bio-diesel fuel. Finally, in the case of an emergency event and collection services are suspended, Coastal shall refund to the Town 50% of the collection portion of any missed pick-ups for solid waste collection, recycling or bulk waste for properties receiving Residential Curbside Collection services.

The letter of credit application is attached to the agreement. The agreement can be approved but will not be executed until receipt of the letter of credit.

Key Points:

- This resolution will consider the negotiated franchise agreement between the Town of Davie ("Town") and Coastal Waste and Recycling of Florida, Inc ("Coastal").
- The proposed franchise agreement term will be June 1, 2021 – December 31, 2021. Residential solid waste and recycling collection rates will be increased by 43.8% (\$6.26 to \$9.00) monthly which was anticipated as part of the FY2021 solid waste assessment.
- The franchise agreement includes performance protections through a \$1 million letter of credit and \$4 million performance bond.
- The Town will receive franchise fee and financial donation revenue at the same rate as the previous waste collection contract. This contract also includes a payment of \$250,000 annually for Town household hazardous waste services (HHW) to be procured separately by the Town and \$100,000 for direct costs related to implementing the Town's solid waste program.

Previous Actions: R-2020-318 (RFP Selection)

Concurrences: Town Attorney's Office

Fiscal Impact:

Has request been budgeted? Yes

If yes expected cost: Residential solid waste services are budgeted in a liability account from the assessment

Account name and number:

If no, amount needed:

Account name funds will be appropriated from

Additional Comments The Town's Fiscal Year 2021 Solid Waste Assessment of \$330.49 will sufficiently cover the residential solid waste costs contemplated in this franchise agreement. Staff anticipates providing a refund on the FY2022 Solid Waste Assessment of an estimated \$78.00 from the FY2021 Solid Waste Assessment, if this contract is approved. For the FY2023 Solid Waste Assessment that will not include a refund, we currently estimate that assessment at \$308.00 based on contract approval and CPI estimates. The Town will receive revenues from this agreement including franchise fees, financial donation, administrative fees, and HHW revenues.

Recommendation: Motion to approve

Strategic Goals This Item Supports:

Commitment to Customer Satisfaction, Dedication to Excellence in Service Delivery, Nurturing the health, safety, and welfare of the community

ATTACHMENTS:

File Name	Description
☐ Resolution_-_Solid_Waste_Collection_Franchise_Agreement.docx	Resolution - Waste Collection Franchise RFP
☐ Davie_Solid_Waste_Contract_(FINAL).pdf	Solid Waste Contract
☐ Davie_Solid_Waste_Contract_(FINAL)_-_Exhibit_1.docx	Solid Waste Contract - Exhibit 1
☐ Davie_Solid_Waste_Contract_(FINAL)_-_Exhibit_2.docx	Solid Waste Contract - Exhibit 2
☐ Davie_Solid_Waste_Contract_(FINAL)_-_Exhibit_3.pdf	Solid Waste Contract - Exhibit 3
☐ Davie_Solid_Waste_Contract_(FINAL)_-_Exhibit_4.pdf	Solid Waste Contract - Exhibit 4
☐ Davie_Solid_Waste_Contract_(FINAL)_-_Exhibit_5.pdf	Solid Waste Contract - Exhibit 5
☐ Waste_Collection_Franchise_Agreement_-_Public_Notice.pdf	Waste Collection Franchise Agreement - Public Notice