

AGREEMENT
BY AND BETWEEN
SUN-BERGERON SOLID WASTE
SERVICES (SUN-BERGERON) JV, A
FLORIDA JOINT VENTURE
AND
BROWARD COUNTY
FOR
SOLID WASTE DISPOSAL SERVICES

This Agreement is made and entered into this ____ day of _____, 2012, by and between Bergeron Environmental and Recycling, LLC, a Florida limited liability company AND Sun Recycling, LLC, a Florida limited liability company, doing business as SUN-BERGERON SOLID WASTE SERVICES (Sun-Bergeron) JV, a Florida Joint Venture (hereinafter referred to as “Contractor”), and BROWARD COUNTY, a political subdivision of the State of Florida (hereinafter referred to as the “County”).

WHEREAS, On March 27, 2012, Broward County Board of County Commissioners unanimously voted to authorize negotiations with Wheelabrator Technologies, Inc. and Sun-Bergeron for a solid waste disposal agreement; and

WHEREAS, Contractor and the County desire to enter into this Agreement (the “Agreement”) to provide for the disposal of solid waste generated within certain geographic boundaries of Broward County and to set forth how such solid waste disposal services will be provided; and

WHEREAS, it is the intent of the parties that this Agreement may be used by other municipalities in Broward County and the unincorporated areas that deliver solid waste to the Contractor’s Waste Processing Facility(ies); and

WHEREAS, the County is desirous of securing and maintaining a high level of professional, safe and environmentally sound solid waste disposal services in conjunction and harmony with its environmental protection and conservation polices and fiscal policies of sound, economical management; and

WHEREAS, the County has determined that it is beneficial and in the best interest of the public to enter into this Agreement.

NOW THEREFORE, in consideration of the mutual covenants, promises, terms and conditions set forth herein, Contractor and the County do hereby agree as follows:

ARTICLE 1

DEFINITIONS

For the purpose of this Agreement, the following definitions shall apply, unless otherwise specifically stated:

“Bulk Waste ” shall refer to any non-vegetative item that cannot be containerized, bagged, or bundled including, but not limited to, white goods, discarded refrigerators, ranges, pool heaters, water softeners, pianos, washers, dryers, water heaters, bicycles, and other similar appliances, electronics, mattresses, household goods, furniture, large boxes, barrels and crates, and shall not be commingled with vegetative waste or any other type of refuses and as otherwise defined under Section 403.703, Florida Statutes or applicable regulations promulgated thereunder. (Class III Waste)

“County Waste” shall refer to Commercial Waste and Residential Waste generated within the unincorporated portions of the County and those governmental entities listed in Exhibit “D” attached hereto and made a part hereof(“Participating Communities”).

“Commercial Waste” shall refer to all waste, refuse, garbage, trash and rubbish generated within the unincorporated portions of County and governmental entities listed on Exhibit “D” from non-residential property and that is capable of being processed at the Waste Processing Facility(ies), but shall not include construction and demolition debris, tropical storm or hurricane related debris, recyclable material that is source separated (removed from the waste stream at the point of generation) and recycled, or Unacceptable Waste.

“Commencement Date” shall refer to the date upon which the Interlocal Agreement has either terminated or expired.

“Construction and Demolition Debris” shall refer to discarded materials generally considered to be not water-soluble and nonhazardous in nature, including, but not limited to, steel, glass, brick, concrete, asphalt roofing material, pipe, gypsum wallboard, and lumber, from the construction or destruction of a structure as part of a construction or demolition project or from the renovation of a structure, and includes 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 of structures at a site remote from the construction or demolition project site as defined under Section 403.703, Florida Statutes or applicable regulations promulgated thereunder.

“Solid Waste Disposal Facility(ies)” shall refer to any solid waste management facility that is the final resting place for solid waste, including landfills and incineration facilities that produce ash from the process of incinerating municipal solid waste, under Section 403.703, Florida Statutes or applicable regulations promulgated thereunder.

“Disposal Services” refers to everything required to be furnished and done by the Contractor pursuant to this Agreement. Disposal Services include, but are not limited to, the employment and furnishing of all labor, materials, equipment, supplies, tools, storage, transportation, insurance, sales, delivery and other things and kinds of services whatsoever necessary for the receipt, processing, transferring, transporting and disposal of County Waste or Additional Waste, as defined in Section 3.1, and any associated residual materials.

“Disposal Services Fee” shall mean the per-ton (or per cubic yard as appropriate) rate charged by the Contractor for providing the Disposal Services in accordance with this Agreement and set forth on **Exhibit “A,”** attached hereto and made a part hereof.

“Disposal Services Fee Adjustment Factor” shall refer to the adjustment that shall be applied to the Disposal Services Fee on an annual basis, as calculated pursuant to Section 6.2.

“Effective Date” shall refer to the date that this Agreement has been executed by both the County and the Contractor.

“Force Majeure” means any event or condition having a material and adverse effect on the rights, duties and obligations of a party hereunder that is beyond the reasonable control, and not the result of willful or negligent action or omission or a lack of reasonable diligence, of the party relying thereon as justification for not performing. Such events or conditions may include, but

shall not be limited to: an act of God, epidemic, hurricane, earthquake, fire, explosion, storm, flood or similar occurrence, an act of war, effects of nuclear radiation, blockade, insurrection, riot, labor unrest (other than with respect to employees of the party claiming relief), civil disturbance, restraint of government or people or similar occurrences, or damage caused by Hazardous Waste, explosives or radioactive waste entering a Waste Processing Facility or Materials Recovery Facility unless knowingly accepted by Contractor. In any event, Force Majeure shall not include the following:

- (a) the failure of any subcontractor or any supplier to furnish labor, services, materials or equipment, unless caused by an event of Force Majeure;
- (b) the suspension, termination, interruption, denial or failure of renewal of any permit, license, consent, authorization or approval relating to the operation of a Waste Processing Facility or Materials Recovery Facility, or Solid Waste Disposal Facility which is the result of any action or inaction or failure of compliance by Contractor or any affiliate;
- (c) any change in law (other than to the extent that Contractor's physical ability to process County Waste is eliminated due to a change in law);
- (d) loss or unavailability of personnel desired by Contractor to operate or maintain a Waste Processing Facility or Materials Recovery Facility;
- (e) wear and tear or obsolescence of any parts or equipment utilized in or at a Waste Processing Facility or Materials Recovery Facility; or
- (f) except as a result of an independent event of Force Majeure, the loss of or inability to obtain or retain any utility services, including water, sewerage, fuel oil, gasoline and electric power necessary for the operation of the Waste Processing Facility or Materials Recovery Facility.

"Hazardous Waste" means 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.

"Interlocal Agreement" shall refer to the Agreement between Broward County and the Contract Communities consisting of the participating political subdivisions within Broward County, dated September 10, 1996, as amended.

"Licensed County Waste Haulers" shall refer to Licensed Commercial Waste Haulers and Licensed Residential Waste Haulers.

"Licensed Commercial Waste Hauler(s)" shall refer to the private haulers that are permitted to conduct collection and hauling of Commercial Waste generated from non-residential property within the Participating Communities and to deliver the Commercial Waste to the Waste Processing Facility(ies).

"Licensed Residential Waste Hauler(s)" shall refer to the private haulers that are permitted to conduct collection and hauling of Residential Waste within the Participating Communities and that are directed to dispose of Residential Waste pursuant to this Agreement.

“Person” means any individual or business entity, including, without limitation, any corporation, limited liability companies, partnership, business trust or partnership.

“Residential Waste” shall refer to all waste, refuse, garbage, trash and rubbish generated within the unincorporated portions of the County and governmental entities listed on Exhibit “D” from residential property and that is capable of being processed at the Waste Processing Facility(ies), but shall not include construction and demolition debris, tropical storm or hurricane related debris, recyclable material that is source separated (removed from the waste stream at the point of generation) and recycled, or Unacceptable Waste.

“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; (d) all large household appliances, commonly referred to as “white goods” including, without limitation, refrigerators, stoves, washing machines, drying machines, water heaters, and the like; (e) any controlled substances regulated under the Controlled Substances Act, 21 USC 801 et seq., or any equivalent state law; (f) small appliances containing chlorofluorocarbons (CFCs) including, without limitation, air conditioners, water coolers, and dehumidifiers; and (g) all other items of waste which a Company 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 Waste Processing Facility(ies) 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. For purposes of the disposal of Bulk Waste as provided for in Article 3 of this Agreement, any solid waste that otherwise meets the definition of Bulk Waste, may be delivered to Contractor even if it would be otherwise classified as Unacceptable Waste.

“Waste Processing Facility(ies)” shall refer to the facilities set forth on Exhibit “B” attached hereto and made a part hereof.

“Yard Trash” shall refer to any waste, substance, object or material deemed yard trash under Section 403.703, Florida Statutes or applicable regulations promulgated thereunder, including vegetative matter resulting from landscaping maintenance and land clearing operations and includes associated rocks and soils.

ARTICLE 2

DISPOSAL SERVICES FOR COUNTY WASTE

[Subject to revision by the parties based on ILA format]

2.1 Contractor Services for County Waste. Contractor shall provide solid waste Disposal Services to the County and Participating Communities and shall accept and weigh all County Waste delivered by the County, Participating Communities, and the Licensed County Waste Haulers for processing at the Waste Processing Facility(ies) and disposal at the Solid

Waste Disposal Facility(ies) during the Initial Term or any Renewal Term of, and in accordance with, this Agreement.

2.2 Delivery of County Waste. County and Participating Communities shall deliver or caused to be delivered to the Waste Processing Facility(ies) all County Waste collected by the County, Participating Communities, and the Licensed County Waste Hauler(s).

2.2.1 Residential Waste delivered by County and Participating Communities. If County and/or Participating Communities collect the Residential Waste and haul the Residential Waste to Contractor, County and/or Participating Communities, respectively, shall be responsible for Unacceptable Waste brought to the Waste Processing Facility(ies).

2.2.2 Residential Waste delivered by Licensed Residential Waste Hauler. Waste hauling contracts for the collection of Residential Waste, including any renewal of existing waste hauling contracts, entered into by the County or Participating Communities and a Licensed Residential Waste Hauler after the Effective Date of this Agreement shall include the following: (a) the definition of Residential Waste set forth in this Agreement, (b) Licensed Residential Waste Hauler's obligation to be responsible for Unacceptable Waste brought to Waste Processing Facility(ies), (c) 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 County or Participating Communities, (d) a requirement for the Licensed Residential Waste Hauler(s) to deliver all collected Residential Waste to the Waste Processing Facility(ies) or as otherwise provided pursuant to Section 7.3, and (e) hours of operation for the Waste Processing Facility(ies) during which the Licensed Residential Waste Hauler shall be authorized to deliver County Waste to the Waste Processing Facility(ies).

2.2.3 Commercial Waste delivered by Licensed Commercial Waste Haulers. The County and/or Participating Communities shall require Licensed Commercial Waste Haulers to execute a License Agreement with the County and/or Participating Communities that (a) sets forth the payment procedure Article 6 for Commercial Waste Disposal Services, (b) requires the Licensed Commercial Waste Hauler(s) to deliver all collected Commercial Waste to be processed at the appropriate Waste Processing Facility(ies) or as otherwise provided pursuant to Section 7.3, and (c) requires the Licensed Commercial Waste Hauler(s) to provide a performance and payment bond (in a form and from an issuer reasonably acceptable to Contractor) in favor of Contractor in an amount that covers a 90 day Disposal Services Fee payment period for Commercial Waste Disposal Services calculated pursuant to Article 6 and based on the 60 day average tonnage of Commercial Waste delivered by the Licensed Commercial Waste Hauler(s) to Contractor during the 12 month period immediately preceding the execution of the License Agreement between County and/or Participating Communities and Licensed Commercial Waste Hauler(s) entered into after the Effective Date of this Agreement. The sufficiency of the value of the performance and payment 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 hereunder.

2.2.4 For purposes of enforcing the obligations of the Licensed Residential Waste Hauler(s) and Licensed Commercial Waste Hauler(s) in Sections 2.2.2 and 2.2.3 of the Agreement, Contractor shall be considered a third party beneficiary as to any of the Participating Communities.

2.3 Weighing Waste. Contractor shall utilize and maintain motor truck scales at the Waste Processing Facility(ies) to weigh the Licensed County Waste Haulers' vehicles delivering County Waste to the Waste Processing Facility(ies). Contractor shall weigh the Licensed County Waste Haulers' vehicles upon entering and exiting the Waste Processing Facility(ies) site, with the weight difference resulting in the tons of County Waste actually delivered. Contractor will keep and regularly maintain accurate and calibrated motor truck scales for the weighing of all County Waste. The motor truck scales shall be recalibrated from time to time during the Initial Term and any Renewal Term(s) of this Agreement, in accordance with the requirements of the Florida Department of Agriculture.

2.4 Monthly Reports. Contractor shall provide monthly reports to the County, within ten (10) days after the end of the subject month, that include the number of tons of County Waste actually delivered to the Waste Processing Facility(ies) for the subject month listing the delivering party's name (County or Licensed County Waste Hauler(s)) and the number of transactions for each delivering party. Such reports shall be provided in a form reasonably acceptable to the County which form shall be agreed upon by the County and Contractor prior to the Commencement Date. Upon request, Contractor shall provide monthly reports to Participating Communities detailing deliveries of County Waste made by or on behalf of such Participating Communities.

ARTICLE 3

DISPOSAL SERVICES FOR BULK, YARD, AND C&D (ADDITIONAL WASTE)

3.1 *Contractor Services for Additional Waste.* Contractor may, at the option of County or Participating Communities, as the case may be, provide solid waste disposal services for Bulk Waste, Yard Trash, or Construction and Demolition Debris (C&D) (collectively "Additional Waste"), to the County or Participating Communities and shall accept and weigh all Additional Waste delivered by the County, Participating Communities, or the Licensed County Waste Haulers for processing at the Additional Waste Processing Facility(ies) during the Initial Term or any Renewal Term of, and in accordance with, this Agreement.

3.2 Delivery of Additional Waste. County or Participating Communities may deliver or cause to be delivered to the Materials Recovery Facility(ies) Additional Waste collected by the County, Participating Communities, or the Licensed County Waste Hauler(s).

3.2.1 If County or Participating Communities collects the Additional Waste and hauls the Additional Waste to Contractor, County or Participating Communities shall be responsible for Unacceptable Waste brought to the Materials Recovery Facility(ies).

3.2.2 Additional Waste by Licensed Residential Haulers. Should the County or Participating Communities desire to use Contractor for solid waste disposal services for Additional Waste, then County's or Participating Communities' waste hauling contracts for the collection of Residential Additional Waste, including any renewal of existing Class III waste hauling contracts, entered into by the County or Participating Communities and a Licensed Residential Waste Hauler after the Effective Date of this Agreement shall include the following: (a) the definition of Additional Waste set forth in this Agreement, (b) Licensed Residential Waste Hauler's obligation to be responsible for Unacceptable Waste brought to Additional Waste Processing Facility(ies), (c) 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 Additional Waste on behalf of the County or Participating Communities, (d) a requirement for the Licensed Residential Waste Hauler(s) to deliver all collected Additional Waste to the Materials Recovery Facility(ies) or as otherwise provided pursuant to Section 7.2, and (e) hours of operation for the Materials Recovery Facility(ies) during which the Licensed Residential Waste Hauler shall be authorized to deliver Additional Waste to the Materials Recovery Facility(ies).

3.2.3 Additional Waste. Should the County or Participating Communities desire to use Contractor solid waste disposal services for Additional Waste, then County shall require Licensed Commercial Waste Haulers to execute a License Agreement with the County or Participating Communities that (a) sets forth the payment procedure in Section 6.5 for Additional Waste Disposal Services, (b) requires the Licensed Commercial Waste Hauler(s) to deliver all collected Additional Waste to the appropriate Materials Recovery Facility(ies) or as otherwise provided pursuant to Section 7.2, and (c) requires the Licensed Commercial Waste Hauler(s) to provide a performance and payment 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 calculated pursuant to Article 6 and based on the sixty (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 execution of the License Agreement between County or Participating Communities and Licensed Commercial Waste Hauler(s) entered into after the Effective Date of this Agreement. The sufficiency of the value of the performance and payment 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 hereunder.

3.2.4 For purposes of enforcing the obligations of the Licensed Residential Waste Hauler(s) and Licensed Commercial Waste Hauler(s) in Sections 3.2.2 and 3.2.3 of the Agreement, Contractor shall be considered a third party beneficiary as to any of the Participating Communities.

3.3 Weighing or Measuring Waste. Contractor shall utilize and maintain motor truck scales at the Materials Recovery Facility(ies) to weigh the Licensed County Waste Haulers' vehicles delivering Class III to the Materials Recovery Facility(ies). Contractor shall weigh (or measure, if appropriate) the Licensed County Waste Haulers' vehicles upon entering and exiting the Materials Recovery Facility(ies) site, with the weight difference resulting in the tons (or

cubic yards, if appropriate) of Additional Waste actually delivered. Contractor will keep and regularly maintain accurate and calibrated motor truck scales for the weighing of all County Waste. The motor truck scales shall be recalibrated from time to time during the Initial Term and any Renewal Terms of this Agreement, in accordance with the requirements of the Florida Department of Agriculture.

3.4 Monthly Reports. Contractor shall provide monthly reports to the County, within ten (10) days after the end of the subject month, that include the number of tons (or cubic yards, if appropriate) of each category of Additional Waste actually delivered to the Materials Recovery Facility(ies) for the subject month listing the delivering party's name (County or Licensed County Waste Hauler(s)) and the number of transactions for each delivering party. Such reports shall be provided in a form reasonably acceptable to the County which form shall be agreed upon by the County and Contractor prior to the Commencement Date. Upon request, Contractor shall provide monthly reports to a Participating Communities detailing deliveries of County Waste and/or Additional Waste made by or on behalf of such Participating Communities.

ARTICLE 4

RECYCLING PERCENTAGES

4.1 The State of Florida has established a statewide goal to recycle at least 75% of all solid waste that would otherwise be disposed of in waste management facilities, landfills, or incineration facilities. As the State recognizes that it will take a comprehensive program to achieve the 75% recycling goal by 2020, the County or Participating Communities may use the disposal services of Contractor for some or all of the disposal services for solid waste under this Agreement, including for County Waste, Bulk Waste, Yard Trash, or Construction and Demolition Debris.

4.2 Contractor guarantees that it shall achieve an annual recycling rate for all Solid Waste, including County Waste and Additional Waste, in excess of 75 percent as defined by Chapter 403, Florida Statutes and its applicable regulations promulgated thereunder. Such recycling rate shall be verified based upon the policies and procedures of the State of Florida Department of Environmental Protection.

4.3 Contractor shall provided evidence of such recycling rate monthly by providing copies of materials required to be submitted to the State of Florida Department of Environmental Protection for such purposes. Should Contractor fail to comply with this recycling guarantee of 75 percent of Contractor's operations on an annual basis, then it shall pay an annual penalty of \$250,000 within 30 days of the end of the applicable 12 month period, regardless of the number of municipalities or other government entities that may participate under this Agreement. This amount shall not increase based on the participation of other municipalities to this Agreement.

ARTICLE 5

TERM OF AGREEMENT

5.1 *Initial Term.* This Agreement shall take effect upon the Effective Date, and the term of the Agreement shall begin upon the Commencement Date and continue for a five (5) year period of time (“Initial Term”), unless renewed pursuant to Section 5.2 or terminated pursuant to Section 7.

5.2 *Renewals.* This Agreement may be renewed for up to three (3) additional five (5) year terms (each renewal is a “Renewal Term”) upon mutual written consent by the County and Contractor at least 8 months prior to the expiration of the Initial Term or subsequent Renewal Term.

5.3 *Termination and extension.* This Agreement shall only be terminated as provided in Section 5.4 of this Agreement. In the event that this Agreement is terminated as a result of Contractor’s material breach or County’s material breach not due to County’s non-payment, County shall have the right to an extension of Disposal Services for up to twelve (12) months provided that the County specifies the desired length of the extension in the termination letter, or extension request letter, transmitted to Contractor. In the event County exercises its right to an extension, this Agreement shall be deemed automatically extended for the period specified in the notice transmitted to Contractor. The remunerations to be paid to the Contractor during this extension period shall be based upon the Disposal Services Fees in effect at the time of such termination. County shall not be entitled to an extension of Disposal Services if Contractor terminates this Agreement due to County’s material breach for failure to make payment to Contractor in accordance with this Agreement. Notwithstanding any language herein to the contrary, County and Contractor retain their rights during any such extension to seek damages for material breach of this Agreement by either party.

5.4 *Material Breach.* 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 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; provided that if such breach is not a payment breach and can be cured, and the party in breach shall have commenced to take reasonably appropriate steps to cure such breach within a reasonable period of time, the same shall not give rise to a right of termination on behalf of the non-breaching party for so long as the breaching party is continuing to take reasonable steps to cure such breach.

ARTICLE 6

SERVICE FEE

6.1 *Disposal Services Fee.* Ten (10) days after the last day of each operating month, the Contractor shall invoice the County for Residential Waste Disposal Services and the County or the Licensed Commercial Waste Hauler(s) for Commercial Waste Disposal Services based upon the per ton (or per cubic yard, as appropriate) Disposal Services Fee, as set forth in attached **Exhibit “A”**.

6.2 *Disposal Services Fee Adjustment Factor.* On the first March 1 after the one year anniversary of the Commencement Date of this Agreement and on each March 1 thereafter, the Disposal Services Fee shall be subject to adjustment effective the following October 1, by multiplying the Disposal Services Fee by the Disposal Services Fee Adjustment Factor as set forth in this Section 6.2 [check]. The result of the calculation shall become the maximum Disposal Services Fee permitted to be charged by Contractor to County for the twelve (12) months following the Disposal Services Fee adjustment. The twelve (12) month change (using the month of the Commencement Date of each year as the base month) in the Bureau of Labor Statistics Index Series ID CWUR0300SA0, Consumer Price Index – Urban Wage Earners and Clerical Workers, shall be used to calculate the Disposal Services Fee Adjustment Factor.

6.3 *Disposal Services Fee Adjustments for Fuel Fluctuations.* In the event that the price of fuel deviates from the threshold price per gallon, a fuel surcharge shall be applied on a per ton basis, but only to the Disposal Service Fee for County Waste. There shall be no adjustment for fuel fluctuations for disposal of Additional Waste, as defined herein. The surcharge will increase or decrease by forty cents (\$0.40) per ton for every ten cent \$(0.10) increase or decrease in the price of diesel fuel above the threshold price of \$3.82 per gallon (index as of November 7, 2011). Calculations shall be made the first day of each month based upon the United States Department of Energy PADD 1C (Lower Atlantic) price for “No 2 Diesel (On Highway) - All Types Retail Sales by All Sellers” for the previous Monday (or the following day if a Federal holiday). [Procedure and administration for payment may be subject to revision based on preference of Participating Communities.]

6.4 Most Favored Price Provision.

6.4.1 In the event that Contractor subsequently enters into an agreement for a term of more than 12 months (including renewal and option periods) for the disposal of solid waste generated anywhere within Broward, Miami-Dade or Palm Beach County (an “Eligible Agreement”), Contractor shall provide the County or Participating Communities with a copy of the Eligible Agreement within 60 days of execution thereof. If the County or Participating Communities determines that the contract includes a net disposal fee that is less than the Disposal Services Fee set forth herein, the County or Participating Communities may provide written notice to Contractor of such determination, and, if the County or Participating Communities does so, the Disposal Services Fee shall automatically be reduced to the net disposal fee set forth in the Eligible Agreement, such change to be effective retroactively as of the effective date of Eligible Agreement. Thereafter, the parties shall proceed under this

Agreement in accordance with the lower net disposal fee (subject to annual adjustments as provided in Section 6.2).

6.4.2 For the purposes of clarification, the “net disposal fee” offered under the Eligible Agreement will be the actual per-ton cost to the counterparty to the Eligible Agreement, and shall be determined net of any costs (e.g., pass-throughs etc.) paid by such counterparty or economic benefits (e.g., signing bonus, revenue sharing, other credits etc.) received by such counterparty.

6.4.3 Discriminatory Tax Adjustments. If the State of Florida, Broward County, or any City within Broward County, enacts a tax or fee applicable only to solid waste, or specifically targets Contractor as the owner or operator of one of its Facilities being used under this Agreement, then the Disposal Services Fee shall be increased by the pro-rata amount (or the “net disposal fee” shall be increased, if applicable) (based upon the amount of County Waste or Additional Waste as a proportion of all waste delivered to the Facility) of the tax or fee attributable to the disposal of solid waste pursuant to this Agreement. No adjustments shall be made under this Section for any County or City wide ad valorem real or personal property taxes.

6.5 Payment procedure. **[Subject to revision based on terms of ILA]**

6.5.1 County shall pay Contractor, on a monthly basis, commencing on the 25th day of the month following the first full month of the Initial Term, and the 25th day of each month, the Disposal Services Fee for Residential Waste (based on actual weights from certified scales) for all Residential Waste that passes over the certified scales during the immediately preceding month.

6.5.2 On the 10th day of each month commencing the month following the first full month of the Initial Term, Contractor shall deliver to County a Disposal Services Fee invoice together with a monthly report reflecting the tonnage of Residential Waste for the immediately preceding month. The report shall cover (for each month) from the first day of the month to the last day of the month. The monthly report and the monthly invoices shall be delivered to County on the 10th day of each month. All payments due hereunder shall be paid to Contractor without demand, offset or deduction by the (25th) day of each month.

6.5.3 Any monthly payment or other payments shown to be due and owing to Contractor in the monthly invoices described herein, shall be paid on the 25th day of such monthly invoice to County. County shall pay interest on untimely monthly payments consistent with the Florida Prompt Payment Act, Florida Statutes 218.70-218.80.

6.5.4 On a bi-weekly basis, Contractor shall calculate the amount of Disposal Services Fee owed to the Contractor by the Licensed Commercial Waste Hauler(s) for Commercial Waste Disposal Services, based on the provisions of this Agreement, and shall submit an invoice to the Licensed Commercial Waste Hauler(s) for payment. The invoice to the Licensed Commercial Waste Hauler(s) shall be due within fifteen (15) days of receipt.

6.5.5 *Residential Waste Disposal Services.* If the County disagrees with the amount stated in the invoice for Residential Waste Disposal Services, the County shall notify the

Contractor of such dispute. The County shall make payment to Contractor of undisputed invoiced amounts within thirty (30) 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 before a mutually acceptable mediator. In the event that the parties are not able to resolve the dispute through mediation within 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 Contractor, or relieve Contractor of its obligations to County under this Agreement.

6.5.6 *Commercial Waste Disposal Services.* If the Licensed Commercial Waste Hauler(s) disagrees with the amount stated in the invoice for Commercial Waste Disposal Services, the Licensed Commercial Waste Hauler(s) shall notify the Contractor of such dispute. The Licensed Commercial Waste Hauler(s) shall make payment to Contractor of undisputed invoiced amounts within thirty (30) 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 by mediation under the Commercial Mediation Rules of the American Arbitration Association and appoint a mutually acceptable mediator. In the event that the parties are not able to resolve the dispute through mediation, 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 Contractor, or, except as set forth herein, relieve Contractor of its obligations to County under this Agreement. In the event the Licensed Commercial Waste Hauler(s) fails to make payment to Contractor for Commercial Waste Disposal Services as required by this Agreement, Contractor shall notify the County of such non-payment and Contractor shall have the right to make a claim for payment under the performance and payment bond (required by Article 2.2.3(c)) for the properly invoiced outstanding amounts due for Commercial Waste Disposal Services pursuant to this Agreement. If the unpaid amount exceeds 80% of the performance and payment bond provided by the Licensed Commercial Hauler pursuant to Section 2.2.3 and then available to Contractor, Contractor shall be entitled to reject any Commercial Waste delivered by such Licensed Commercial Waste Hauler until such time as all unpaid amounts have been received by Contractor and the Contractor is in possession of a performance and payment bond meeting the requirements of Section 2.2.3.

ARTICLE 7

OPERATION OF WASTE PROCESSING AND MATERIALS RECOVERY FACILITY(IES)

7.1 *Personnel and equipment requirement.* Contractor shall provide, at its sole expense, all necessary personnel, materials and equipment for the operation, maintenance and repair of the Waste Processing and Materials Recovery Facility(ies).

7.2 *Alternative Waste Processing or Materials Recovery Facility(ies).* It is the intent of this Agreement that County Waste and Additional Waste shall be disposed at the most

conveniently located Waste Processing or Materials Recovery Facility(ies) of Contractor as identified in Exhibit “B” so as to reduce transportation costs for County. In the event that any of these Waste Processing or Materials Recovery Facility(ies) are rendered incapable, for any reason, to receive the County Waste or Additional Waste that is to be delivered under this Agreement for any length of time, the Contractor must identify an alternative Waste Process or Materials Recovery Facility for the disposal of County Waste or Additional Waste (the “Alternative Waste Processing or Materials Recovery Facility”). At the option of the County, rather than deliver its County Waste or Additional Waste to an Alternative Waste Processing or Materials Recovery Facility, the County may deliver County Waste or Additional Waste to another facility that is more conveniently located than such Alternative Facility. Reimbursements for any incremental tipping fee amount paid that exceeds the Disposal Services Fee and for any actual reasonable documented incremental cost for transportation of the County Waste or Additional Waste necessitated by the incapacity of any of the Waste Processing or Materials Recovery Facility shall be determined in accordance with Section 7.3 below.

7.3 Alternative Waste Processing or Materials Recovery Facility Associate Costs.

7.3.1 In the event that any designated Waste Processing or Materials Recovery Facility is rendered incapable to receive County Waste or Additional Waste for any length of time for any reason except for Force Majeure or the negligence or intentional misconduct of County or County’s Licensed Waste Hauler, Contractor shall reimburse the County or the County’s Licensed Waste Hauler, as applicable, for any incremental tipping fee amount paid at the Alternate Waste Processing or Materials Recovery designated by Contractor pursuant to Section 6.2 that exceeds the Disposal Services Fee, and for any actual and reasonable documented incremental cost for transportation of the County’s Waste or Additional Waste to such facility necessitated by the incapacity of Contractor’s Waste Processing or Materials Recovery Facility.

7.3.2 In the event that the designated Waste Processing or Materials Recovery Facility is rendered incapable to receive the County Waste or Additional Waste for any length of time for any reason due to Force Majeure or the negligence or intentional misconduct of County or County’s Licensed Waste Hauler, the County and the County’s Licensed Waste Hauler shall not receive any reimbursement for any additional tipping fee paid at the Alternate Waste Processing or Materials Recovery Facility or transportation costs necessitated by the incapacity of Contractor’s Waste Processing or Materials Recovery Facility.

7.4 *Solid Waste Disposal Facility(ies)*. Contractor shall utilize any of the Solid Waste Disposal Facility(ies) set forth on Exhibit “C” to this Agreement. Further, Contractor shall be able to add any other legally permitted Solid Waste Disposal Facility to Exhibit C during the Initial Term and any Renewal Term of this Agreement with the consent of the County, which may not be unreasonably withheld or delayed.

7.5 *Dates and Hours of Operation*. Contractor shall keep its Waste Processing Facility and Materials Recovery Facility(ies) open for the receipt of County Waste and Additional Waste from the County and/or Licensed County Waste Hauler from 6:00 a.m. to 6:00 p.m., Monday through Friday, and from 6:00 a.m. to 4:00 p.m. on Saturday, during every day of the year, excluding Christmas and Sundays. To the extent permitted by law and to the extent that

capacity is available, Contractor shall use all reasonable efforts to keep the Waste Processing and Material Recovery Facility(ies) open for additional hours to accept County Waste or Additional Waste.

7.6 *Good working order requirement.* Contractor shall operate and maintain its Waste Processing and Additional Waste Facility(ies) in good working order, and shall timely make all necessary repairs and replacements, consistent with the prevailing practices and standards in waste disposal industry and consistent with all applicable laws.

7.7 Unacceptable Waste.

7.7.1 The County shall institute all reasonable procedures to prevent the delivery to the Waste Processing or Materials Recovery Facility(ies) of Unacceptable Waste by the County, or its agents or contractors. To the extent such procedures would affect the operation of the Waste Processing or Material Recovery Facility(ies), such procedures shall be reasonably acceptable to the Contractor.

7.7.2 The Contractor shall cooperate with the County in connection with all matters regarding Unacceptable Waste under this Agreement. The Contractor shall use all reasonable efforts to identify the source of any Unacceptable Waste delivered to the Waste Processing or Materials Recovery Facility(ies).

7.7.3 Should any Unacceptable Waste be delivered to a Waste Processing or Materials Recovery Facility(ies), such Unacceptable Waste shall be removed, transported and disposed of by the Contractor in accordance with applicable law governing such wastes, and the Contractor shall clean up the Waste Processing or Materials Recovery Facility(ies) to the extent required as a result of any such delivery of Unacceptable Waste. The costs of such removal, transport, disposal and clean-up shall be allocated in the following manner:

(a) Should the Person delivering such Unacceptable Waste be known or identified, and should such Person be a Person delivering waste to the Waste Processing or Materials Recovery Facility(ies) by or on behalf of the County, the costs associated with such removal, transport, disposal, and Waste Processing or Materials Recovery Facility(ies) clean-up shall be borne by the County, provided that Contractor shall use all commercially reasonable efforts to collect such amounts from the Person delivering Unacceptable Waste to the Waste Processing or Materials Recovery Facility(ies) before seeking recovery from the County.

(b) Should the Person delivering such Unacceptable Waste be known or identified, and should such Person be a Person delivering waste to the Waste Processing or Materials Recovery Facility(ies) other than by or on behalf of the County, the costs associated with such removal, transport, disposal and Waste Processing or Materials Recovery Facility(ies) clean-up shall be borne by Contractor.

(c) Should the Person delivering such Unacceptable Waste be unknown or unidentifiable, the costs associated with such removal, transport, disposal and Waste Processing or Materials Recovery Facility(ies) clean-up shall be borne by the Contractor.

ARTICLE 8

CONDITIONS PRECEDENT

8.1 The Contractor will deliver on or before December 31, 2012, to County, the following documents. If Contractor fails to timely comply, then the County may terminate this Agreement without any further rights or obligations as to either party:

8.1.1 The Project Guarantee Agreement in a form reasonably acceptable to County executed by Southern Waste Holdings Management, LLC and Southern Waste Systems Holdings, LP and Bergeron Land Development, Inc., the parent companies of Sun Recycling, LLC and Bergeron Environmental and Recycling, LLC, respectively, guaranteeing the performance and obligations of this Agreement.

8.1.2 A fully executed Irrevocable Letter of Credit in a form reasonably acceptable to County in the amount equal to six (6) months of Disposal Services Fees based on the tonnages of County Waste.

8.1.3 Evidence acceptable to the County of all rights and approvals that are necessary for the operation of the Solid Waste Management Facility known as Sun Recycling 12 – 2380 College Avenue Materials Recovery Facility for the receipt of 750 tons per day of municipal solid waste (with a pending permit modification to accept up to 2,000 tons per day), as identified on Exhibit “B”. The parties recognize that as of the execution of this Agreement several of Contractor’s other Waste Processing Facilities are not operational and in the permitting process. Contractor shall timely advise County of the status of each Facility, including the amount of County Waste that it is ready to accept, so that other municipalities may determine whether to participate in this Agreement.

ARTICLE 9

INSURANCE

9.1 *Policy limits.* Contractor shall not commence performance under this Agreement until Contractor has obtained all insurance required under this Section 9 and such Certificates of Insurance reflecting evidence of the required insurance have been filed with the County Administrator. Contractor shall maintain insurance with minimum policy limits for each coverage as scheduled below, with such coverage per occurrence, single limit, and commencing prior to the commencement of the work and continuing to provide coverage for claims based on occurrences during the Initial Term and any Renewal Term(s) of this Agreement for a minimum of three years from the date of termination or expiration of this Agreement:

General Liability	\$1,000,000/\$2,000,000
Automobile Liability	\$1,000,000/\$2,000,000
Pollution Liability	\$25,000,000/\$50,000,000
Commercial Umbrella	\$25,000,000
Worker’s Compensation	Statutory Amount
Employers’ Liability	\$1,000,000

9.2 County as additional insured. The County shall be named as an additional insured on all insurance policies required under this Agreement, except Workers Compensation.

9.3 Insurance company standards. Policies required under this Agreement shall be issued by companies authorized to do business under the laws of the State of Florida with a minimum rating from AM Best Company of A- Excellent; F.S.C. VII.

9.4 Notice of cancellation. Contractor agrees to furnish County with at least thirty (30) days prior written notice of any cancellation of any insurance policy required under this Agreement. In the event the insurance certificate provided indicates that the insurance shall terminate and lapse during the period of this Agreement, then in that event, Contractor shall furnish, at least ten (10) days prior to the expiration of the date of such insurance, a renewed certificate of insurance as proof that equal and like coverage for the balance of the period of the Agreement and extension there under is in effect. Contractor shall not continue to work pursuant to this Agreement unless all required insurance remains in full force and effect.

9.5 Minimum level of coverage. To ensure an adequate level of outstanding insurance coverage for claims that arise from Contractor's performance under this Agreement, Contractor shall maintain a minimum outstanding level of insurance coverage during the Term of this Agreement in the amount of \$25,000,000 after deducting the amount of any claims filed or made against any policy required under this Agreement during the Term of this Agreement and the three year period set forth in Article 9.1 of this Agreement.

9.6 Premium payment responsibility. Contractor shall be solely responsible for payment of all premiums for insurance contributing to the satisfaction of this Agreement and shall be solely responsible for the payment of all deductibles and retentions to which such policies are subject.

ARTICLE 10

LIABILITY

10.1 The County and the Contractor shall each be separately liable and responsible for the actions of their respective officers, agents and employees in the performance of their respective obligations under this Agreement.

10.2 The Contractor shall protect, indemnify and hold the County, its officials, agents, servants and employees, harmless from and against all liabilities, damages, claims, demands, judgments, losses, costs, expenses, suits, or actions and reasonable attorneys' fees, and shall defend the County in any suit, including appeals, for personal injury to or death of any person(s), or loss or damage to property, or pollution or environmental contamination arising out of the operation of Contractor's Waste Processing Facility(ies), or the performance (or non-performance) of Contractor of its obligations under this Agreement. Contractor is not, however, required by this Article 9.2 to reimburse or indemnify County for loss or claim due to the negligence or willful misconduct of County.

10.3 To the extent that the Joint Venture is liable to the County under this Agreement, in addition to the liability of the Joint Venture itself and the liability under the Project Guarantee Agreement, each of the Joint Venturers shall be jointly and severally liable to the County.

ARTICLE 11

MISCELLANEOUS

11.1 Joint preparation. The preparation of this Agreement has been a joint effort of the parties hereto 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.

11.2 Merger/Amendment. This Agreement incorporates and includes all prior negotiations, correspondence, agreements or understandings applicable to the matters contained herein; and the parties agree that there are no commitments, agreements or understandings concerning the subject matter of this Agreement that are not contained in this document. Accordingly, the parties agree 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 change, amendment, alteration or modification in the terms and conditions contained herein shall be effective unless contained in a written document executed with the same formality and of equal dignity herewith by all parties to this Agreement.

11.3 Assignment. Except as provided herein, the Contractor may not assign its obligations as set forth in this Agreement without the prior written consent of the County. The Contractor may (i) without the consent of the County, (a) transfer, assign or pledge Contractor's interest in this Agreement in connection with any financing or re-financing activity or (b) assign this Agreement and performance bond to another affiliate of Contractor (provided that the Project Guarantee Agreement and letter of credit remains in place); and (ii) with the consent of the County, which may not be unreasonably withheld or delayed, assign this Agreement in connection with a sale or assignment of its interest in the Waste Processing or Materials Recovery Facility(ies), provided that Contractor can reasonably demonstrate that the assignee has sufficient financial strength and operating experience reasonably satisfactory to County at the time of the proposed assignment. This Agreement shall be binding on any and all successors to Contractor.

11.4 Records. Except as otherwise provided herein, the County and Contractor shall each maintain their own respective records and documents associated with this Agreement in accordance with the requirements for records retention set forth in Chapter 119, Florida Statutes.

11.5 Audit and inspection rights and retention of records. Authorized representatives of County, which may also include any municipality which is a third party beneficiary to this Agreement, shall have the right to audit the books, records and accounts of Contractor reasonably required to document and substantiate Contractor's performance under this Agreement, including, but not limited to, records concerning calibration of the motor truck scales and the monthly reports required under Article 2.4 [check] during normal business hours, upon County giving reasonable advance notice to Contractor, provided that each representative shall

comply with all reasonable safety rules and regulations adopted by Contractor and shall not interfere with Contractor's options. Contractor agrees to keep and maintain records relating to evidence of each of its Waste Processing Facility(ies) environmental compliance and evidence of final disposal of County Waste or Additional Waste at the Solid Waste Disposal Facility(ies) used under this Agreement for a period of twenty (20) years. As an alternative to the 20 year requirement, Contractor may delivery to the County copies of the above records upon the termination of this Agreement.

11.6 Access. Authorized representatives of County, which may also include any municipality which is a third party beneficiary to this Agreement, shall have access and the ability to inspect the Waste Processing or Materials Recovery Facilities during normal business hours, upon County giving reasonable advance notice to Contractor, provided that each representative shall comply with all reasonable safety rules and regulations adopted by Contractor and shall not interfere with Contractor's options.

11.7 Permits and Licenses. Contractor shall be responsible for the maintenance of all permits and licenses associated with the operations of the Waste Processing or Materials Recovery Facilities. Contractor shall at its sole cost and expense conduct such tests at such Facilities from time to time as shall be required by such permits and licenses, and shall send copies of the test results to County, when the test results are submitted to the state or federal regulatory agencies. Contractor also shall make such test results available for review and copying by County during normal business hours. Contractor shall not be deemed to have breached its obligations under the two preceding sentences in respect of any period during which it may in good faith be contesting the necessity of obtaining any such permit or license, or the validity or application of any requirement of or condition contained in any such permit or license, provided that during such period Contractor shall not otherwise be relieved from performing its obligations under this Agreement. Contractor also shall promptly furnish to County copies of any complaint, notice of violation or regulatory action upon receipt by Contractor regarding any permit, license or relating in any manner to Contractor's operations or Waste Processing or Materials Recovery Facilities pursuant to this Agreement.

11.8 Contractor shall preserve and make available, at reasonable times for examination and audit by County, all financial records, supporting documents, statistical records, and any other documents pertinent to this Agreement for the required retention period of the Florida Public Records Act (Chapter 119, Fla. Stat.), if applicable, or, if the Florida Public Records Act is not applicable, for a minimum period of three (3) years after termination of this Agreement, unless Contractor is notified in writing by County of the need to extend the retention period. Such retention of such records and documents shall be at Contractor's expense. If any audit has been initiated and audit findings have not been resolved at the end of the retention period or three (3) years, whichever is longer, the books, records, and accounts shall be retained until resolution of the audit findings. Any incomplete or incorrect entry in such books, records, and accounts shall be a basis for disallowance and recovery of any payment upon such entry.

11.9 Governing law and venue. This Agreement shall be governed, construed and controlled according to the laws of the State of Florida. Any claim, objection or dispute arising out of the terms of this Agreement shall be litigated in the Seventeenth Judicial Circuit in and for Broward County, Florida. The parties expressly waive all rights to trial by jury for any disputes

arising from or in any way connected with this Agreement. The parties understand and agree that this waiver is a material contract term. If either party is required to enforce this Agreement by court proceedings or otherwise, whether or not formal action is required, each party shall pay its own attorney's fees and costs.

11.10 Severability. In the event a non-material portion of this Agreement is found by a court of competent jurisdiction to be invalid, the remaining provision shall continue to be effective.

11.11 Independent contractor. Contractor is an independent contractor under this Agreement. Services provided by Contractor pursuant to this Agreement shall be subject to the supervision of Contractor. In providing such services, neither Contractor nor its agents shall act as officers, employees or agents of the County. This Agreement shall not constitute or make the parties a partnership or joint venture.

11.12 Notices. Whenever either party desires to give notice to the other, such notice must be in writing and sent by United States mail, return receipt requested, courier, evidenced by a delivery receipt or by an overnight express delivery service addressed to the party for whom it is intended at the place last specified; and the place for giving of notice shall remain such until it shall have been changed by written notice in compliance with the provisions of this paragraph. For the present, the parties designate the following as the respective places for giving of notice. Notice shall be effective upon delivery.

FOR CONTRACTOR

Sun-Bergeron Solid Waste Services (Sun-Bergeron) JV
c/o Sun Recycling, LLC
3251 SW 26th Terrace
Dania Beach, FL 33312
Attention: Anthony Lomangino;
Charlie Gusmano; Philip T. Medico, Jr.

FOR THE COUNTY

Broward County

Governmental Center, Room ____
115 South Andrews Avenue,
Fort Lauderdale, FL 33301

With a copy to:

Sun-Bergeron Solid Waste Services (Sun-Bergeron) JV
c/o Bergeron Environmental and Recycling, LLC
19612 SW 69th Place
Pembroke Pines, FL 33332
Attention: Ronald M. Bergeron, Sr.; Ronald M. Bergeron, Jr; and Lonnie Bergeron

11.13 Third party beneficiaries. Neither the County nor Contractor intends that any person shall have a cause of action against either of them as a third party beneficiary under this Agreement. Therefore, the parties agree that there are no third party beneficiaries to this Agreement and that no third party shall be entitled to assert a claim against either of them based upon this Agreement unless as provided herein. The parties expressly acknowledge that is not their intent to create any rights or obligations in any third person or entity under this Agreement.

Notwithstanding the foregoing, any Participating Communities under this Agreement shall have the same rights of that of the County, unless otherwise stated herein.

11.14 Priority of provision. If there is a conflict or inconsistency between any term, statement, requirement, or provision of any exhibit attached hereto, any document or events referred to herein, or any document incorporated into this Agreement by reference and a term, statement, requirement, or provision of this Agreement, the term, statement, requirement, or provision contained in Articles 1 through 11 of this Agreement shall prevail and be given effect.

11.15 Compliance with laws. The parties shall comply with all federal, state, and local laws, codes, ordinances, rules, and regulations in performing their duties, responsibilities, and obligations pursuant to this Agreement.

11.16 Further Assurances. The County and the Contractor agree to execute and deliver any instruments and perform any acts that may be reasonably necessary or reasonably requested in order to give full effect to this Agreement.

11.17 Multiple Originals. This Agreement may be fully executed in five (5) copies by all parties, each of which, bearing original signatures, shall have the force and effect of an original document.

ARTICLE 12

PIGGYBACK

12.1 Those municipalities listed on Exhibit "E," attached hereto, and made part hereof, have elected to piggyback on in this Agreement upon the written consent of the Contractor. The Contractor acknowledges that this Agreement is the result of a noncompetitive process initiated at the request of the Broward County Board of Commissioners on March 27, 2012 where it directed County Staff to negotiate an agreement for solid waste disposal services with Sun-Bergeron and Wheelabrator. Those municipalities listed on Exhibit "E" shall not be deemed 3rd Party Beneficiaries to this Agreement or have any rights hereunder. Those municipalities shall have first party rights under such independent piggyback contracts.

ARTICLE 13

REPRESENTATIONS

13.1 County is duly organized and valid 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; and County is further duly authorized to execute and deliver this Agreement without further approval or authorizations.

13.2 Contractor is duly organized and validly existing under the laws of the State of Florida, with full legal right, power and authority to enter into and perform its obligations hereunder; and Contractor is further duly authorized to execute and deliver this Agreement without further approval or authorizations.

IN WITNESS WHEREOF, the parties have made and executed this Agreement: 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 _____ date of _____, 2012, and CONTRACTOR, signing by and through its _____, duly authorized to execute same.

BROWARD COUNTY, by and through its Board of County Commissioners

ATTEST:

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

By: _____
John E. Rodstrom, Mayor
____ day of _____, 2012

Insurance requirements
approved by Broward County
Risk Management Division

Approved as to form by
Office of the County Attorney
for Broward County, Florida
JONI ARMSTRONG COFFEY, County Attorney
Governmental Center, Suite 423
115 South Andrews Avenue
Fort Lauderdale, Florida 33301
Telephone: (954) 357-7600
Telecopier: (954) 357-6968

By _____
(Date)

By _____
Purvi A. Bhogaita (Date)
Assistant County Attorney

By _____
Noel M. Pfeffer (Date)
Deputy County Attorney

AGREEMENT BY AND BETWEEN SUN-BERGERON SOLID WASTE SERVICES (SUN-BERGERON) JV, A FLORIDA JOINT VENTURE AND BROWARD COUNTY FOR SOLID WASTE DISPOSAL SERVICES

CONTRACTOR

SUN-BERGERON SOLID WASTE SERVICES (Sun-Bergeron) JV, a Florida Joint Venture

ATTEST:

Secretary

(SEAL)

By:_____

Printed Name:_____

Title:_____

_____ day of _____, 20____.

OR

WITNESSES:

Witness 1 Signature

Witness 1 Print/Type Name

Witness 2 Signature

Witness 2 Print/Type Name

INDEX OF EXHIBITS

Exhibit A – Disposal Services Fee

Exhibit B – Waste Processing and Materials Recovery Facility(ies)

Exhibit C – Solid Waste Disposal Facility(ies)

Exhibit D – Participating Communities

Exhibit E – Piggyback Contracts

EXHIBIT “A”

DISPOSAL SERVICES FEE

INITIAL TERM

Municipal Solid Waste

County Solid Waste on a per ton basis at \$45.25 per ton.

County Solid Waste revenue share of \$2.00 on a per ton basis with no minimum annual guarantee.

Additional Waste

Bulk Waste on a per ton basis at \$52.00 per ton.

Revenue share for Bulk Waste of \$0.50 on a per ton basis with no minimum annual guarantee.

Construction and Demolition Debris on a per cubic yard basis at \$8.75 per cubic yard.

Revenue share for Construction and Demolition Debris of \$0.25 on a per cubic yard basis with no minimum annual guarantee.

Yard Trash on a per cubic yard basis at \$6.00 per cubic yard.

Revenue share for Yard Trash \$0.25 on a per cubic yard basis with no minimum annual guarantee.

County, Participating Communities or Piggyback Communities may select any or all of these disposal services under this Agreement.

EXHIBIT "B"**WASTE PROCESSING FACILITY(IES)**

<p style="text-align: center;">Sun 12 College Avenue Waste Processing Facility 2380 College Avenue, Davie, FL 33317 Currently Permitted</p>
<p style="text-align: center;">Sun 11 1750 SW 43rd Terrace, Deerfield Beach, FL 33442 Permit Pending</p>
<p style="text-align: center;">Bergeron Park of Commerce & Industry - North 5904 SW 202 Avenue Pembroke Pines Permit Pending</p>

MATERIALS RECOVERY FACILITY(IES)

<p style="text-align: center;">Sun 1 2241 NW 15TH Court Dania Beach, Fl 33069 Currently permitted and operational for Construction and Demolition Debris, but in process of converting to a Dedicated Metal Processing Facility</p>
<p style="text-align: center;">Sun 2 2281 NW 16TH Street Pompano Beach, FL 33069 Currently permitted and operational for Construction and Demolition Debris</p>
<p style="text-align: center;">Sun 3 3251 SW 26th Terrace, Dania Beach, Fl 33312 Currently permitted and operational for Construction and Demolition Debris and Yard Trash</p>
<p style="text-align: center;">Sun 7 1850 S. Powerline Road Deerfield Beach, FL 33462 Currently permitted and operational for Yard Trash and Bulk Waste</p>
<p style="text-align: center;">Bergeron Park of Commerce - South 19820 Sylvan Pass Pembroke Pines, FL 33332 Currently permitted and operational for Yard Trash</p>

EXHIBIT “C”

SOLID WASTE DISPOSAL FACILITY(IES)

- Monarch Hill Landfill (Central Landfill), 2700 Wiles Road, Pompano Beach, Florida 33073 (Owner: Waste Management Inc. of Florida)
- Okeechobee Landfill Facility, 10800 N.E. 128th Avenue, Okeechobee, Florida 33972 (Owner: Okeechobee Landfill, Inc.)
- The Solid Waste Authority of Palm Beach County (landfill/waste to energy facility), 7501 North Jog Road, West Palm Beach, Florida 33416 (Owner: Solid Waste Authority)
- J.E.D. Landfill, 1501 Omni Way, St. Cloud, Florida 34773 (Owner: Omni Waste of Osceola County, LLC)
- Resources Recovery Center operated by Covanta, 6990 NW 97th Avenue, Doral, Florida 33178 (Owner: Miami-Dade County)
- Wheelabrator North, 2600 NW 48th Street, Pompano Beach, FL 33073 (Owner: Wheelabrator North Broward, Inc., a Waste Management Company)
- Wheelabrator South, 4400 South State Road 7, Fort Lauderdale, FL 33073 (Owner: Wheelabrator South Broward, Inc., a Waste Management Company)
- Glades County Landfill, 1940 E State Road 78 NW, Moore Haven, FL 33471

EXHIBIT "D"
PARTICIPATING COMMUNITIES

EXHIBIT "E"
PIGGYBACK CONTRACTS

FTLDOCS 5934558 9
DRAFT 5/3/12