

**SECOND AMENDMENT TO AGREEMENT FOR SOLID WASTE DISPOSAL SERVICES
BETWEEN BROWARD COUNTY AND WHEELABRATOR ENVIRONMENTAL SERVICES INC.**

This Second Amendment to the Agreement for Solid Waste Disposal Services Between Broward County, a political subdivision of the State of Florida (“County”), and Wheelabrator Environmental Services Inc., a Delaware corporation (“Wheelabrator”) (collectively, the “Parties”), is entered into effective as of the date fully executed by the Parties (“Effective Date”).

RECITALS

A. County and Wheelabrator are parties to an Agreement for Solid Waste Disposal Services, dated June 26, 2012, which was subsequently amended by a Global Amendment, dated May 19, 2015 (as amended, the “Current Disposal Agreement”).

B. Following execution of, and in connection with, the Current Disposal Agreement, certain Broward municipalities (the “Participating Communities”) entered into an Interlocal Agreement for Solid Waste Disposal Support Services, dated September 1, 2012, which was subsequently amended by a February 27, 2018, First Amendment (as amended, the “Interlocal Agreement”).

C. Pursuant to the Current Disposal Agreement and the Interlocal Agreement, County and the Participating Communities agreed to deliver to Wheelabrator, and Wheelabrator agreed to accept from County and the Participating Communities, solid waste generated within Broward County.

D. The Current Disposal Agreement requires Wheelabrator to accept all Broward Waste, including Additional Waste (e.g., yard waste, bulk waste, and construction and demolition debris), at the appropriate Disposal Facility(ies), which the Current Disposal Agreement defines as either the North Disposal Facility located at 2600 Wiles Road, Pompano Beach, Florida, or the South Disposal Facility located at 4400 South State Road 7, Davie, Florida. With limited exception not applicable here, the Current Disposal Agreement prohibits Wheelabrator from disposing of Broward Waste, including all Additional Waste, at a different disposal facility without approval of the County in its sole and absolute discretion.

E. The Parties desire to amend the Current Disposal Agreement to allow for the delivery of Additional Waste from County and the Participating Communities in the form of yard waste, bulk waste, and/or construction and demolition debris (hereinafter referred to as “yard waste, bulk waste, and/or construction and demolition debris”) that is collected within Broward County to a facility other than the North Disposal Facility or the South Disposal Facility so that such material can be recycled.

NOW, THEREFORE, for good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties amend the Current Disposal Agreement as follows:

1. The foregoing recitals are true and correct, and are incorporated herein by reference.

2. Wheelabrator may direct County and each of the Participating Communities to deliver their yard waste, bulk waste, and/or construction and demolition debris to an alternative facility other than the North Disposal Facility or the South Disposal Facility, provided that such materials are recycled to the extent possible, that the alternative facility is approved in advance, in writing, by the County Administrator or designee, and that the alternative facility utilizes and maintains certified scales for weighing such materials.
3. Wheelabrator shall reimburse County and each of the Participating Communities for any and all additional cost incurred by County and such Participating Communities in connection with delivering yard waste, bulk waste, and/or construction and demolition debris to any approved alternative facility that Wheelabrator would otherwise have been required to accept at either the North Disposal Facility or the South Disposal Facility. Under no circumstances shall Wheelabrator fail to reimburse County or any Participating Community for any additional cost incurred as a result of delivering yard waste, bulk waste, and/or construction and demolition debris to an approved alternative facility for recycling. Any determination of reimbursements owed by Wheelabrator shall be based on consideration of the current (nonalternative) Disposal Facility that is closest in distance to the relevant unincorporated area of Broward County or Participating Community.
4. Wheelabrator shall monitor all yard waste, bulk waste, and construction and demolition debris that is delivered to any approved alternative facility consistent with the terms hereof for recycling. Wheelabrator shall provide a monthly report to County within sixty (60) days after the end of each calendar month that includes, for each approved alternative facility and each category of yard waste, bulk waste, and construction and demolition debris, the following information: the number of tons actually delivered pursuant to this Second Amendment; the number of those tons of delivered waste that is recycled; the total number of transactions; the name of the delivering party per transaction; and the Participating Community whose yard waste, bulk waste, and/or construction and demolition debris was delivered. Upon request, Wheelabrator shall provide either County or Participating Community with weight tickets for materials delivered to each approved alternative facility. Upon request, Wheelabrator shall also provide monthly reports to a requesting Participating Community detailing deliveries of yard waste, bulk waste, and/or construction and demolition debris made by or on behalf of such Participating Community.
5. Capitalized terms not otherwise defined herein shall have the meanings set forth in the Current Disposal Agreement.
6. In the event of any conflict or ambiguity between this Second Amendment and the Current Disposal Agreement, the Parties agree that this Second Amendment shall control.
7. The Current Disposal Agreement, as amended hereby, incorporates and includes all prior negotiations, correspondence, conversations, agreements, and understandings applicable to the matters contained herein, and the Parties agree that there are no commitments, agreements, or understandings concerning the subject matter hereof that

are not contained in the Current Disposal Agreement and this Second Amendment to the Current Disposal Agreement. Accordingly, the Parties agree that no deviation from the terms of this Second Amendment shall be predicated upon any prior representations or agreements, whether oral or written.

8. Preparation of this Second Amendment has been a joint effort of the Parties, and the resulting document shall not, solely as a matter of judicial construction, be construed more strictly against one of the Parties than the other.
9. Except as modified herein, all terms and conditions of the Current Disposal Agreement shall remain in full force and effect.
10. This Second Amendment may be executed in multiple originals, and may be executed in counterparts, each of which shall be deemed to be an original, but all of which, taken together, shall constitute one and the same agreement.
11. County may unilaterally terminate this Second Amendment within six (6) months of the Effective Date for any reason. If the County wishes to exercise its right to terminate this Second Amendment, County shall provide written notice thereof to Wheelabrator, and this Second Amendment shall be deemed terminated sixty (60) days from the date of such notice. If this Second Amendment is terminated, the Current Disposal Agreement unmodified by this Second Amendment shall remain in full force and effect.

[REMAINDER OF PAGE INTENTIONALLY LEFT BLANK]

IN WITNESS WHEREOF, the Parties hereto have made and executed this Second Amendment: BROWARD COUNTY, through its BOARD OF COUNTY COMMISSIONERS, signing by and through its Mayor or Vice-Mayor, authorized to execute same by Board action on the _____ day of _____, 2018, and Wheelabrator Environmental Services Inc., signing by and through its _____, duly authorized to execute same.

COUNTY

ATTEST:

BROWARD COUNTY, by and through its Board of County Commissioners

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

By _____
Mayor
____ day of _____, 2018

Insurance requirements
approved by Broward County
Risk Management Division

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 _____
Tracy Meyer, Esq. (Date)
Risk Insurance and Contracts Manager

By _____
Keoki M. Baron (Date)
Assistant County Attorney

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

KMB/AFB
Wheelabrator – 2nd Amdmt
04/26/18

SECOND AMENDMENT TO AGREEMENT FOR SOLID WASTE DISPOSAL SERVICES BETWEEN BROWARD COUNTY AND WHEELABRATOR ENVIRONMENTAL SERVICES INC.

WHEELABRATOR ENVIRONMENTAL SERVICES INC.

WITNESSES:

WHEELABRATOR ENVIRONMENTAL SERVICES INC.

Signature

By: _____
Authorized Signor

Print Name of Witness above

Print Name and Title

Signature

____ day of _____, 2018

Print Name of Witness above

ATTEST:

Corporate Secretary or other person
authorized to attest

(CORPORATE SEAL OR NOTARY)