

RESOLUTION NO. 2011 – 012

A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF SOUTHWEST RANCHES, FLORIDA, APPROVING AN INTER-LOCAL AGREEMENT BETWEEN THE TOWN OF SOUTHWEST RANCHES, BROWARD COUNTY, AND THE OTHER CONTRACT COMMUNITIES PROVIDING FOR THE RESOURCE RECOVERY SYSTEM WITHIN BROWARD COUNTY AND FOR THE BROWARD SOLID WASTE DISPOSAL DISTRICT; AUTHORIZING THE MAYOR, TOWN ADMINISTRATOR, AND TOWN ATTORNEY TO ENTER INTO THE INTER-LOCAL AGREEMENT; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, because of the low elevation and high ground water level of Broward County, Florida (the "County"), disposal of solid waste through means other than landfills has been encouraged; and

WHEREAS, the Legislature of the State of Florida has discouraged the dumping or burying of solid waste matter and the use of sanitary landfills as the sole method of disposal of solid waste; and

WHEREAS, because of environmental concerns with utilizing landfilling as the sole method of disposal of solid waste generated by the residents and visitors of the County, certain municipalities within the county and the COUNTY have sought a joint solution to such concerns; and

WHEREAS, Section 403.713, Florida Statutes, provides that (a.) "any local government that undertakes resource recovery from solid waste pursuant to general law or special act may control the collection and disposal of solid waste, as defined by general law or such special act, which is generated within the territorial boundaries of such local government and other local governments which enter into interlocal agreements for the disposal of solid waste with the local government sponsoring the resource recovery" ...facilities, (b) "any local government which undertakes resource recovery of solid waste pursuant to general law or special act may institute a flow control ordinance for the purpose of ensuring that the resource recovery facility receives an adequate quantity of solid waste from solid waste generated within its jurisdiction," and (c) "such solid waste will not include recovered materials, whether separated at the point of generation or after collection, that are intended to be held for purposes of recycling... however, the handling of such materials shall be subject to applicable state and local public health and safety laws;" and

WHEREAS, consistent with Chapter 403, Part IV, Florida Statutes, and in furtherance of addressing the problems created by the disposal of solid waste, certain municipalities within the County (the "Contract Communities") have entered into an Interlocal Agreement (the "Interlocal Agreement"), which provides for, among other things, the disposal of solid waste generated within the CONTRACT COMMUNITIES and the unincorporated area of the County; and

WHEREAS, the Town Council believes that entering into the Interlocal Agreement is in the best interest of the health, safety, and welfare of its residents;

NOW, THEREFORE, BE IT RESOLVED by the Town Council of the Town of Southwest Ranches, Florida:

Section 1. The above-referenced recitals are true and correct and are incorporated herein by reference.

Section 2. The Town Council hereby agrees to enter into an Interlocal Agreement, in substantially the same form as that attached hereto as Exhibit "A", with Broward County and the Contract Communities providing for the resource recovery system within Broward County and for the Broward Solid Waste Disposal District.

Section 3: The Town Council of the Town of Southwest Ranches hereby authorizes the Mayor, Town Administrator, and Town Attorney to enter into the Interlocal Agreement in substantially the same form as that attached hereto as Exhibit "A" and to make such modifications, additions and/or deletions which they deem necessary and proper to effectuate the intent of this Resolution.

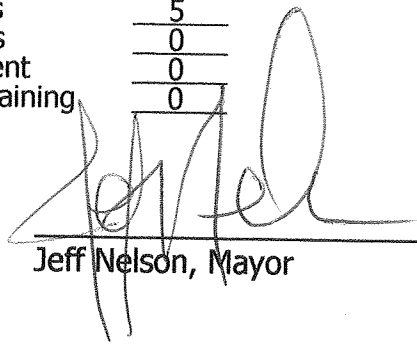
Section 4: This Resolution shall become effective immediately upon its adoption.

PASSED AND ADOPTED by the Town Council of the Town of Southwest Ranches, Florida, this 16th day of November, 2010, on a motion by Council Member McKay, seconded by Council Member Jablonski.


[Signatures on next page]

Nelson AYE
Fisikelli AYE
Breitkreuz AYE
Jablonski AYE
McKay AYE

Ayes 5
Nays 0
Absent 0
Abstaining 0



Jeff Nelson, Mayor

ATTEST:


Debra Doré-Thomas, CMC, Town Clerk

Approved as to Form and Correctness:



Keith M. Poliakoff, Town Attorney
ACTIVE: 3142442_1

AN
INTERLOCAL AGREEMENT
PROVIDING FOR
THE RESOURCE RECOVERY SYSTEM WITHIN BROWARD COUNTY
AND FOR THE BROWARD SOLID WASTE DISPOSAL DISTRICT

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AGREEMENT

This Agreement dated for convenience December 31, 2010, 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 “CONTRACT COMMUNITIES”:

ARTICLE 1 BACKGROUND

1.1 General Statement

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 CONTRACT 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 Historical Background and Findings

During the 1980s, the State of Florida and the federal government began discouraging the use of landfills as the sole method of disposal for solid waste, and encouraged the development of alternative energy resources. In response, Broward County and 22 of its municipalities sought a joint solution through the execution of an Interlocal Agreement (ILA). On November 25, 1986, the COUNTY and participating municipalities executed an ILA for solid waste services, which created an integrated waste management system (Resource Recovery System) and a special district known as the Broward Solid Waste Disposal District. (This 1986 ILA will hereinafter be referred to as the Predecessor Agreement). In keeping with the legislation and environmental policies outlined below, the Predecessor Agreement focused on waste-to-energy as the major element of the original Resource Recovery System. Over time, three new cities were formed as a result of incorporation and they executed the Predecessor Agreement.

Since 1986, the Resource Recovery System has expanded to include a Materials Recovery Facility for processing of recyclables, a Household Hazardous Waste Program, an Electronics Recycling Program, and other elements in addition to the two waste-to-energy plants that were constructed following the execution of the Predecessor Agreement.

Each of the parties to this new Interlocal Agreement wishes to continue the existence of the integrated solid waste management system for Broward County, which is the Broward Resource Recovery System, and agrees to have the Broward Resource Recovery System

maintained, funded and run by the Broward Solid Waste Disposal District in the form and manner provided for herein.

The findings made by the COUNTY and municipalities that signed the Predecessor Agreement are outlined below:

Because of Broward County's contour, elevation and high ground water, disposal of solid waste through landfills has been discouraged. The United States Congress and Legislature of the State of Florida (the "State") have discouraged the dumping or burying of solid waste matter and the use of sanitary landfills as the sole method of disposal of solid waste.

The County and the Contract Communities, therefore, make the following findings:

- (a) Because of environmental concerns with utilization of landfilling as the sole method of disposal of solid waste generated by the residents and businesses of and visitors to Broward County, Florida, the Contract Communities have sought a joint solution to such concerns.
- (b) The Contract Communities and the County have found and determined that the policy of the United States Congress regarding the elimination of solid waste as provided in 42 U.S.C. Section 6901 is toward recovery of resources from such waste.
- (c) The United States Congress has found with respect to energy that:
 - 1. Waste represents a potential source of solid fuel, oil, or gas that can be converted into energy.

2. The need exists to develop alternative energy sources for public and private consumption in order to reduce the nation's dependence on such sources as petroleum products, natural gas, nuclear and hydro-electric generation; and
3. Technology exists to produce energy from solid waste.

(d) Chapter 403, Part IV, Florida Statutes, sets forth the State of Florida Resource Recovery Management Act. The act's purpose is to require plans and regulations for the storage, collection, transportation, separation, processing, recycling, and disposal of solid waste to protect the public's health, safety, and welfare. Likewise, such Act has deemed it a public purpose to establish and maintain a state program for the planning and technical assistance of resource recovery and management through, among other things, the promotion of recycling, reuse or treatment of solid waste, including recycling of solid waste to produce electric power.

(e) Additionally, Section 403.713, Florida Statutes, provides that local governments undertaking resource recovery of solid waste pursuant to general law or special law may control the collection and disposal of solid waste for the purpose of insuring that resource recovery facilities receive an adequate quantity of waste from solid waste generated within the boundaries of the local governmental jurisdiction.

(f) The State Comprehensive Plan (Chapter 187, F.S.) establishes a number of policies regarding energy production and the reduction of solid waste landfilling including:

1. Energy Policy No. 5 - Reduce the need for new power plants by encouraging end-use efficiency, reducing peak demand and using cost-effective alternatives.
2. Energy Policy No. 9 – Promote the use and development of renewable energy resources and low-carbon-emitting electrical power plants.

3. Waste Policy No. 9 – Encourage the research, development and implementation of recycling, resource recovery, energy recovery, and other methods of using garbage, trash, sewage, slime, sludge, hazardous waste, and other waste.

1.3 Pursuant to F.S. 163.01 and F.S. 403.706(19), Broward County determines that it is in the best interest of the residents of Broward County to grant to the Broward Solid Waste Disposal District its power to manage solid waste, to the extent provided in this Interlocal Agreement.

1.4 It is recognized by Contract Communities and County that the Resource Recovery System will be operated, maintained and repaired by the DISTRICT or full service contractors retained by the DISTRICT in reliance upon the existence and delivery of the solid waste generated in the Contract Communities and unincorporated County, except solid waste which is transported outside the State of Florida, and the revenue generating capabilities of the special district provided for herein.

1.5 It is further recognized by CONTRACT COMMUNITIES and COUNTY that the 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.

1.6 Interlocal Agreement

(a) This Agreement is an interlocal agreement entered into pursuant to Section 163.01, Florida Statutes, the Florida Interlocal Cooperation Act of 1969, as amended.

(b) 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.

1.7 Construction of Interlocal Agreement

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 Inter Local Agreement (ILA) between the County and Contract 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 CONTRACT COMMUNITY. The term "CONTRACT COMMUNITY" OR "CONTRACT 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 Disposal Facility(ies). The term "Disposal facility(ies)" means that portion of the Resource Recovery System where solid waste will be disposed of pursuant to this Agreement within the Resource Recovery System.
- 2.7 Disposal Obligation. The term "disposal obligation" shall mean the obligation of the DISTRICT to provide for the disposal of all solid waste that is generated in each CONTRACT COMMUNITY and in the unincorporated County and delivered to a Resource Recovery System facility or transfer station designated pursuant to the Plan of Operations.
- 2.8 District. The term "District" shall mean the Broward Solid Waste Disposal District, an independent special district formed pursuant to this Interlocal Agreement, and state law. The geographic boundaries of the DISTRICT shall include and be coterminous with the geographic boundaries of the CONTRACT COMMUNITIES that have executed this agreement and unincorporated Broward County.
- 2.9 Facility Operator. The term "facility operator" shall mean full service contractors or other operators of a part of the Resource Recovery System, including the District or County.
- 2.10 Fiscal Year. The term "fiscal year" shall mean October 1 to September 30 of the following year.
- 2.11 Full Service Contractor(s). The term "full service" contractor(s)" shall mean a person, firm or corporation that has entered into an agreement or agreements with the DISTRICT to design, construct , test, maintain, repair and operate Resource Recovery System facilities.
- 2.12 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 CONTRACT COMMUNITY(IES) or the

unincorporated County, or provide for the transportation and delivery of such solid waste to facilities inside or outside the District.

- 2.13 **Materials Recovery Facility.** The term “Materials Recovery Facility” or “MRF” shall mean the facility or facilities constructed, operated, maintained and repaired or caused to be constructed, operated, maintained, and repaired by DISTRICT pursuant to this Agreement for the purposes of receiving, processing, transferring, and shipping materials that are intended for reuse or recycling. The Materials Recovery Facilities shall be deemed to be a part of the Resource Recovery System for the term of the Materials Recovery Facility Contract with the District.
- 2.14 **Materials Recovery Facility Contract.** The term “Materials Recovery Facility Contract” or MRF Contract shall mean the contract(s) entered into between COUNTY, DISTRICT and full service contractor(s), for the purpose of designing, constructing, testing, operating, maintaining, and repairing a Materials Recovery Facility as part of the Resource Recovery System.
- 2.15 **North Facility.** The term “North Facility” shall mean the waste to energy plant operated by Wheelabrator North Broward, Inc., located at 2600 NW 48th Street in Pompano Beach, Florida, which is part of the Resource Recovery System serving the CONTRACT COMMUNITIES and the unincorporated County located in the northern part of the COUNTY, as directed in the Plan of Operations.
- 2.16 **Plan of Operations.** The term “Plan of Operations” shall mean the plan for the operation of the Resource Recovery System that is adopted, amended or revised by the Resource Recovery Board in the manner set forth in Section 5.4 hereof.
- 2.17 **Predecessor Agreement.** The term “Predecessor Agreement” means the interlocal agreement which created the Resource Recovery System within Broward County and the Broward Solid

Waste Disposal District, a dependent special district. The term of the Predecessor Agreement is from 1986 to 2013 (except as modified by this Agreement). As of January 1, 2010, the Predecessor Agreement was executed by the County and the following Contract Communities: Coconut Creek, Cooper City, Coral Springs, Davie, Deerfield Beach, Fort Lauderdale, Hillsboro Beach, Hollywood, Lauderdale Lakes, Lauderdale-by-the-Sea, Lauderhill, Lazy Lake, Lighthouse Point, Margate, Miramar, North Lauderdale, Oakland Park, Pembroke Park, Plantation, Sea Ranch Lakes, Sunrise, Southwest Ranches, Tamarac, West Park, Weston and Wilton Manors.

- 2.18 Processable Waste. The term “processable waste” shall mean that portion of the waste stream which is capable of being processed of the North Facility or the South Facility, including but not limited to, all forms of household and other garbage, trash, rubbish, and refuse, as well as combustible agricultural, commercial and light industrial waste, the combustible portion of construction and demolition debris, leaves and brush, paper and cardboard, plastics, wood and lumber, rags, carpeting, tires, wood furniture, mattresses, stumps, wood pallets, timber, tree limbs, ties, and logs. Processable Waste does not include any recyclable material that is source separated (i.e., removed from the waste stream at the point of generation) and recycled. However, Processable Waste includes the non-recyclable waste that remains after recyclable materials have been removed from the waste stream, regardless of whether the recyclable materials are source separated or removed from the waste stream at another location. Processable Waste does not include Unacceptable Waste, except to the extent consistent with the regulatory and permit requirements applicable of processing of waste by the North Facility and South Facility, and to the extent that minor amounts of Unacceptable Waste or Unprocessable Waste may be contained lawfully in Processable Waste.

- 2.19 Recovered Materials. The term “recovered materials” shall have the meaning provided in F.S. 403.703(24).
- 2.20 Resource Recovery Board. The term “Resource Recovery Board” or “RRB” shall mean the governing Board of the District, which shall be established by this Agreement and which shall perform the tasks set forth in this Agreement. The Resource Recovery Board shall be composed of both the full Resource Recovery Board as provided in Section 3.2 of this Agreement and its Executive Board as provided in Section 3.3 of this Agreement. Reference to “the Resource Recovery Board” or “governing body of the District” in this Agreement shall be a general reference to both the full Resource Recovery Board and the Executive Board, unless specified as a power, duty, or function of the “full Resource Recovery Board” or the “Executive Board of the Resource Recovery Board” or “Executive Board.”
- 2.21 Resource Recovery System. The term “Resource Recovery System” shall mean the facilities which are constructed, operated, maintained and repaired pursuant to this Agreement or within the regulatory jurisdiction of the District for the purpose of transfer, recycling, or disposal of solid waste, Recovered Materials, or other materials designated by the RRB, the CONTRACT COMMUNITIES and the unincorporated County, and the recovery and sale of materials and energy, therefrom, including all landfills, contingency landfills, transfer stations, treatment facilities and electrical generation facilities, attendant to the Resource Recovery System.
- 2.22 Service Agreement (s). The term “service agreement” shall mean the agreements entered into between the District and (a). Wheelabrator South Broward, Inc. and Wheelabrator North Broward, Inc., respectively, for the purpose of operating, maintaining and repairing the South waste to energy facility and North waste to energy facility, respectively, or (b). any other full

2.29 Unincorporated County. The term “unincorporated County” shall mean the geographical areas of the 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 CONTRACT COMMUNITY.

2.30 Unprocessable Waste. The term “unprocessable waste” shall mean that portion of the District’s waste stream that is predominantly noncombustible and therefore should not be processed in the North Facility or the South facility. Unprocessable Waste shall include, but not be 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 other item exceeding six feet in any one of its dimensions or being in whole or in part of 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, and Processable Waste (to the extent that it is contained in the normal Unprocessable Waste stream). Unprocessable Waste includes the noncombustible portion of construction and demolition debris, as defined in Section 403.706(6), Florida Statutes (2009). Unprocessable Waste also includes all other items of Solid Waste, the acceptance and disposal of which, in the judgment of the North Facility or South Facility, reasonable exercised, would be likely to (a) pose an unacceptable risk to health or safety, (b) cause damage to the Facility, or (c) be in violation of an applicable judicial decision, permit, authorization, license, approval, law or regulation. Unprocessable Waste does not include Unacceptable Waste, which the District shall not knowingly deliver to the North and South Facility, and each of the Facilities shall not knowingly accept and shall have the right to exclude.

service contractor for the purpose of operating, maintaining, and repairing a part of the Resource Recovery System.

- 2.23 Solid Waste. The term "solid waste" shall be as provided in F.S. 403.703.
- 2.24 South Facility. The term "South Facility" shall mean the waste to energy plant and the ash monofill that are operated by Wheelabrator South Broward, Inc., located at 4400 South State Road 7 in Fort Lauderdale, Florida and are part of the Resource Recovery System serving the CONTRACT COMMUNITIES and the portions of the unincorporated County located in the southern part of the COUNTY, as directed in the Plan of Operations.
- 2.25 Tipping Fee. The term "tipping fee" shall mean the fees imposed on haulers pursuant to this Agreement for the delivery of solid waste to the Resource Recovery System.
- 2.26 Ton. The term "ton" is used to express a unit of weight equal to two thousand (2,000) pounds or .907 metric tons.
- 2.27 Transfer Stations. The term "transfer stations" means the sites and receiving facilities constructed, operated, maintained and repaired by the DISTRICT or a full service contractor or a facility operator retained by the DISTRICT for the acceptance of solid waste for transfer to Resource Recovery System disposal facilities.
- 2.28 Unacceptable Waste. The term "unacceptable waste" shall mean motor vehicles, trailers, comparable bulky items of machinery or equipment, highly flammable substances, hazardous waste, sludges, pathological and biomedical waste, biological wastes, liquid wastes, sewage, manure, explosives and ordinance materials, radioactive materials, and any material that cannot lawfully be accepted for disposal in the North Facility or the South Facility

ARTICLE 3
BROWARD SOLID WASTE DISPOSAL DISTRICT/
RESOURCE RECOVERY BOARD/EXECUTIVE BOARD

3.1 The CONTRACT COMMUNITIES and COUNTY agree that there shall be created an independent special district to be known as the "Broward Solid Waste Disposal District" pursuant to and consistent with Sections 163.01, 189.4041, 403.706(12)(15), and (19) and 403.713 of the Florida Statutes, and this Agreement. The District shall have the authority and duty to establish, operate and maintain the Resource Recovery System as described in this agreement.

(a). The Powers of District

The governing body of the District shall have the following general powers. Such general powers shall be exercised by the Executive Board of the Resource Recovery Board unless they are specifically provided to be exercised by the full Resource Recovery Board in Section 3.2.

(1). Adopt, alter, rescind, modify, or amend rules, guidelines, and orders necessary for the operation of the Broward Solid Waste Disposal District and the Resource Recovery System within the District in accordance with Chapter 403, Florida Statutes and all other applicable law.

(2). Adopt and implement a resource recovery and waste management program for the District that shall provide for the transportation, storage, separation, processing, recovery, recycling, or disposal of solid waste and recovered materials generated or existing within the District and modify and update such program or plan as may be required or allowed by law. Specifically, the District shall have the authority to provide solid waste reduction, education and public

information programs, e-waste recycling, regional yard waste processing, household hazardous waste drop-off facilities, recycled material processing programs, research and development activities and emergency debris processing and disposal.

(3). Acquire, at its discretion, personal or real property or any interest therein by gifts, lease, eminent domain, or purchase.

(4). Appoint a District Counsel who shall act as the general counsel and advisor to the Resource Recovery Board, the Executive Board, and the District. The District Counsel shall have such duties as prescribed by the governing body of the District and serve at the pleasure of same.

(5). Appoint an executive director to be responsible for the operation of the DISTRICT in accordance with the policies and decisions of the governing body of the District and who shall serve at the pleasure of the governing body of the District.

(6). Authorize the operation and management of the District in the manner it deems appropriate, including but not limited to, the employment of personnel and/or the contracting for services. Personnel shall be appointed or removed by the executive director. Employees shall report to and serve at the direction of the executive director.

(7). Require surety bonds for any of the District's officers and employees in such amounts as the governing body deems necessary. The premiums for the bonds shall be paid by the District in the same manner as any other operating expense.

(8). Sue and be sued, implead and be impleaded, and complain and defend in all courts.

(9). Adopt, use, and alter a corporate seal.

(10). Acquire, construct, reconstruct, improve, maintain, equip, furnish, and operate at its discretion such resource recovery and waste management facilities as are required to carry out the purposes and intent of this Agreement and to meet the requirements of Chapter 403, Florida Statutes, and other applicable law.

(11). Conduct studies, develop programs, provide continuing management and monitoring of waste and recovered materials projects, programs, and facilities directly or indirectly affecting the Resource Recovery System or the District and contract with governmental agencies, individuals, public or private corporations, municipalities, districts or any other person to achieve the purposes of this Agreement and the requirements of Chapter 403, Florida Statutes, and other applicable law.

(12). Establish such reasonable rates, fees and other charges and revenue sources allowed by law to sufficiently fund the Resource Recovery System and the maintenance of the District, including but not limited to its administration, management, operation, enforcement, debt service, reserve accounts or any other obligations or services necessary or convenient for the operation of the Resource Recovery System in compliance with this Interlocal Agreement and applicable law.

(13). Develop, approve and manage an annual revenue and expense budget sufficient for the operation of the District.

(14). Issue any bonds or other instruments related to short or long term borrowing, and letters of credit or debt that relate to the Resource Recovery System, which it deems necessary or convenient for the operation of the District.

(15). Enforce waste flow control ordinances and flow control provisions of hauler contracts as the agent for Contract Communities and the County.

(b). The Duties of District.

The governing body of the District shall have the following duties which shall at a minimum be performed. Such duties shall be exercised by the Executive Board of the Resource Recovery

Board unless they are specifically provided to be exercised by the full Resource Recovery Board in Section 3.2.

(1). Adopt a Plan of Operations for the District;

(2). Establish tipping fees, rates, and other charges and revenue sources to sufficiently fund the Resource Recovery System and the maintenance of the District. All fees, rates and other charges shall be approved by resolution of the Resource Recovery Board. Tipping fees for processable waste shall be calculated and established by the Resource Recovery Board at least 120 days preceding the beginning of each fiscal year and shall be effective for the next ensuing fiscal year, unless amended in compliance within the provisions in this Agreement;

(3). Develop, approve and manage an annual revenue and expense budget;

(4). Enforce the solid waste flow control ordinances and the flow control provisions of hauler contracts, as the agent for the Contract Communities and the County, if and to the extent such action is necessary to comply with the District's obligations under this Agreement and the service agreements.

3.2 Composition, Powers and Meetings of the Full Resource Recovery Board.

(a). The full Resource Recovery Board shall be comprised of one County Commissioner appointed by the Broward County Commission and one member of the governing body of each Contract Community appointed by the governing body of that Contract Community. The full Resource Recovery Board shall have the following duties and responsibilities:

(1). Selection of the Executive Board, as provided in Section 3.3.

(2). Selection of a Chair of the full Resource Recovery Board, who shall serve also as the Chair of the Executive Board.

(3). Selection of a Vice Chair of the full Resource Recovery Board, who shall serve as the Chair of the full Resource Recovery Board and Executive Board when the Chair is not physically present at a meeting of either body.

(4). Approval of the annual budget of the District.

(5). Approval of the annual tipping fee charged to Contract Communities.

(6). Adoption annually of the Plan of Operations.

(7). Approval of any new service agreements with Wheelabrator North and South, or any amendments to same.

(8). Approval of the engagement of the Executive Director of the District.

(9). Approval of the engagement of the District Counsel.

(10). Approval of any bonds as defined in F.S. 166.101(1).

(11). Approval of any agreement for contractual services to the District for \$100,00.00 or more, or where contractual services shall be supplied to the District in excess of 12 months .

(12.) Approval of such rules as are necessary and convenient for the conduct of its meetings.

A quorum at any meeting of the full Resource Recovery Board shall be those members physically present equal to one-third (1/3) of all Resource Recovery Board members appointed pursuant to 3.2(a).

(b). The full Resource Recovery Board shall meet twice yearly: at 2:00 p.m. on the third Thursday of September and at 2:00 p.m. on the third Thursday of March, of each year. However, the full Resource Recovery Board may meet more often than twice annually when the Executive Board or the Executive Director has requested a meeting of the full Resource Recovery Board.

(c). No action of the full Resource Recovery Board shall be determined to be approved unless:

(1). The action is approved by a majority of the members physically present at a full Resource Recovery Board meeting; and

(2). The action is approved by the full Resource Recovery Board members representing CONTRACT COMMUNITIES and County evidencing a majority of the average tonnage remitted to the North Facility and South Facility among the members physically present, at a full Resource Recovery Board meeting.

Board Calculations utilized shall be for the last full fiscal year prior to the action of the Resource Recovery Board voted on.

3.3 Composition, Powers and Meetings of the Executive Board.

(a). There is hereby created an Executive Board of the Resource Recovery Board. The Executive Board shall be chosen as follows:

The Executive Board shall be comprised of 11 members.

(1). One (1) member shall be appointed by the County Commission.

(2). At the first full Resource Recovery Board meeting subsequent to August 4, 2011, and every two years thereafter, 10 members of the Executive Board shall be appointed as follows:

Based upon population figures contained in the latest estimate of population published by the University of Florida Bureau of Economics and Business, Contract Communities shall be separated in 3 parts of equal member Communities based upon population. These shall be: 1/3 of the Communities with the largest populations; 1/3 of the Communities with the next largest populations; 1/3 of the Communities with the smallest populations. (Where the number of Contract Communities is not evenly divisible by 3, the extra Community(ies) shall be deemed a part of the largest 1/3 of Communities.

i). Five members shall be selected by the full Resource Recovery Board from among members from the 1/3 of the Contract Communities with the largest populations.

ii). Three members shall be selected by the full Resource Recovery Board from among members from the 1/3 of the Contract Communities with the next largest populations.

iii). Two members shall be selected by the full Resource Recovery Board from among members from the 1/3 of the Contract Communities with the smallest populations.

(b). The Executive Board shall meet at least quarterly. The Executive Board shall have all powers and responsibilities provided in Section 3.1 of this agreement except for those specifically

reserved for the full Resource Recovery Board as provided in Section 3.2 of this agreement. The Executive Board shall have the power to amend the annually approved Plan of Operations, which shall be operative until further action of the full Resource Recovery Board.

A quorum of the Resource Recovery Board shall be five (5) members. Actions of the Executive Board shall be determined to be approved by a majority vote of the members physically present. The Executive Board shall approve such rules as are necessary and convenient for the conduct of its meetings.

(c). Each member of both the full Resource Recovery Board and the Executive Board shall serve a term of two years. All members appointed by the Contract Communities or the County, shall be elected officials of their respective Contract Communities or County Commission, as the case may be. Should a member cease to be a duly qualified elected official, the appointing authority which appointed such individual to the Resource Recovery Board shall select a successor to serve for the remaining term of the original appointment.

3.4 Technical Advisory Committee. There is hereby created a Technical Advisory Committee composed of representatives of each CONTRACT COMMUNITY and unincorporated County as follows:

(a) The chief administrative officer of each CONTRACT COMMUNITY and COUNTY shall appoint a representative who shall serve until replaced from the public works, utilities or such other department which performs similar functions for the CONTRACT COMMUNITY and unincorporated County. In addition to the regular TAC representative, the chief administrative officer may also designate an alternate representative, who performs similar functions for the CONTRACT COMMUNITY, who shall also serve until replaced. Alternate representatives may attend and participate in the TAC meetings or

TAC subcommittee meetings, but may only be counted toward a quorum and vote in the absence of the appointed representative. The Resource Recovery Board shall appoint for two (2) year terms up to five (5) additional members representing waste generators, recycling or environmental interests and private waste collection companies.

- (b) Each member of the Technical Advisory Committee shall be appointed on the basis of his or her technical or professional background or knowledge of the solid waste industry or a related profession, which may include engineering, solid waste management or other related activities.
- (c) Regular meetings of the Technical Advisory Committee shall be held in accordance with a schedule approved by the committee but not less than at least once per quarter and not less than a total of four (4) times per year.
- (d) Any member of the TAC having four (4) or more unexcused absences from the TAC meetings within a fiscal year will be reported to the CONTRACT COMMUNITY by the TAC chair.
- (e) At the first meeting of the new calendar year, the TAC members will elect a chair or vice chair to serve for one (1) year in that capacity or until their successors are elected. The Chair shall appoint standing or special subcommittees as the Chair deems necessary. The role of the TAC and TAC Subcommittees will be to provide technical advice, guidance and counsel to the Resource Recovery Board on any matter relevant to the Resource Recovery System.
- (f) The Technical Advisory Committee shall serve in an advisory capacity to the Resource Recovery Board in technical matters of integrated solid waste planning, including

environmental concerns and educational programs, as well as providing a forum for the exchange of ideas among municipal representatives and the private sector.

ARTICLE 4
FACILITIES AND COMMITMENT OF WASTE STREAM

- 4.1 The DISTRICT shall cause to be constructed, operated, maintained and repaired a Resource Recovery System located within the County for the disposal of all solid waste that is collected in each CONTRACT COMMUNITY and unincorporated County and delivered to the Resource Recovery System.
- 4.2 During the duration of this Agreement as defined in Article 14 hereof, the CONTRACT COMMUNITIES and the COUNTY for the unincorporated area shall cause all of the solid waste generated within each of their respective boundaries to be collected, transported, delivered and deposited at the designated receiving facilities of the DISTRICT's Resource Recovery System pursuant to the Plan of Operations for system facilities as approved by the Resource Recovery Board except for solid waste which is transported outside the State of Florida.
- 4.3 (a) Each CONTRACT COMMUNITY and COUNTY for the unincorporated area agrees to enact prior to August 4, 2011 and thereafter maintain in effect a solid waste flow control ordinance pursuant to Section 403.713, Florida Statutes, directing that all solid waste generated within their respective geographic boundaries be delivered to the Resource Recovery System transfer or disposal facility or facilities designated in the Plan of Operations, except for solid waste which is to be transported outside the State of Florida. The solid waste flow control ordinance shall be substantially in the form of Exhibit C attached hereto and made a part hereof. Each party agrees to include in any

contracts or contract amendments with haulers executed after December 31, 2010, a provision that all solid waste shall be delivered to the Resource Recovery System transfer or disposal facility or facilities designated in the Plan of Operations and to enforce such provision, with an exception for any waste generated in the DISTRICT which is shown to be destined for recycling or disposal outside the State of Florida. In each such contract and contract amendments, the District shall be (a) expressly identified as a third party beneficiary of such provision; and (b) given the right to enforce such provision, if enforcement is necessary to ensure the delivery of solid waste to the Resource Recovery System transfer or disposal facility or facilities.

(b) Each Contract Community and County for the unincorporated area agrees to enact prior to August 4, 2011, and thereafter maintain in effect, a solid waste reporting ordinance pursuant to Section 403.713 Florida Statutes, directing that each hauler shall report the following information to each Contract Community and County for the unincorporated areas on a monthly basis:

- 1). The amount of processable solid waste collected in the Contract Community and unincorporated County in cubic yards and tons.
- 2). Where the processable solid waste collected by the hauler within each Contract Community and unincorporated County has been transported. Identification shall be by the name of the facility and address of same.
- 3). The quantity (either by volume, weight, or number and size of all trucks or containers) of unprocessable solid waste which has been collected by the hauler within

the Contract Community and unincorporated County and which is to be transported outside the State of Florida.

4).Where the unprocessable solid waste generated within each Contract Community and unincorporated County has been transported outside of the State of Florida.

Identification shall be by the name of the facility and address of same.

The preceding described ordinance shall be substantially in the form of Exhibit D, which is attached hereto and made a part hereof.

Each Contract Community and the County for the unincorporated areas agrees that the reports required pursuant to this subsection shall be sent to the Executive Director, Resource Recovery Board, c/o Waste and Recycling Services, 1 University Drive, Plantation, Florida 33324, or to any other address as determined by the Executive Director upon reasonable notice.

(c). Each Contract Community and the County for the unincorporated area agrees to include the requirements of the solid waste flow control ordinance and the solid waste reporting ordinance required by subsections 4(a) and (b), respectively, in agreements, licenses, permits, franchises or other arrangements with Haulers entered into on or after December 31, 2010. Each CONTRACT COMMUNITY and the COUNTY for the unincorporated area hereby appoints the DISTRICT as its agent for the enforcement of obligations in any agreement, license, permit, franchise or other arrangement found in the solid waste flow control ordinance and/or the solid waste reporting ordinance. Each CONTRACT COMMUNITY and the COUNTY for the unincorporated area further agrees to include a requirement that Haulers consent to inspection of loads by the District in any

agreements, licenses, permits, franchises or other arrangements with Haulers entered into on or after December 31, 2010. The District may enforce such obligations through civil action, including the right to pursue any and all legal and equitable remedies, in the appropriate forum.

(d). Each Contract Community and the County for the unincorporated area hereby agrees to have the ordinances each has enacted pursuant to this section enforced pursuant to an ordinance enacted by the County in conformity with Chapter 162 of the Florida Statutes or any other system of Code Enforcement authorized to the County or District by either special act or the general laws of the State of Florida. Said system shall specifically include, but not be limited to the appointment of Code Enforcement officers who shall have jurisdiction to issue citations within the Contract Community and the unincorporated areas, a magistrate or magistrates authorized to determine fines and liens and foreclosure of properties as provided in 162 of the Florida Statutes, or such other similar quasi-judicial proceedings for code enforcement as authorized pursuant to general or special law. By approving this Interlocal Agreement, each Contract Community and County hereby appoints and authorizes such agents designated by either the County or the District or both, as Code Enforcement Officers for the purpose of enforcing the ordinances adopted by said municipality or County pursuant to this Agreement. The County agrees to enact and maintain such an ordinance providing for the institution of a code enforcement system as described in this paragraph.

(e). Each Contract Community, and the County for the unincorporated area, appoints the District as its agent and authorizes the District to enforce any and all provisions of any franchises and other agreements the Contract Community and County may have

with haulers concerning the delivery of processable waste to the Resource Recovery System. The District shall exercise this authority whenever and to the extent the District deems necessary to ensure that the District complies with its obligations under this Agreement and the service agreements to deliver processable waste to the Resource Recovery System.

(f). All costs and expenses of the code enforcement system above described shall be borne by the District. All costs and fines derived from said enforcement system shall be the property of the DISTRICT.

A Memorandum of Understanding or other agreement shall be approved by both the Resource Recovery Board and the County providing for the implementation of this subsection.

4.4 A Resource Recovery System disposal facility may burn processable waste to produce electrical energy to be sold to purchasers of electrical energy. Such facility may also provide for the separation and sale of ferrous and nonferrous metals and other materials which may be separated either prior to or subsequent to the burning of processable waste necessary to produce electrical energy. Upon delivery to the Resource Recovery System, neither the unincorporated County nor any CONTRACT COMMUNITIES, shall have any interest in ferrous and nonferrous metals and other materials contained in the solid waste delivered.

4.5 The DISTRICT hereby assumes responsibility for the disposal of all solid waste delivered to the Resource Recovery System by each or on behalf of each CONTRACT COMMUNITY and unincorporated County during the duration of this Agreement consistent with its rights and obligations under the service agreements.

- 4.6 Transfer stations and contingency landfills may be required in the event that one or more of the resource recovery facilities are not operational. Consequently, the costs of construction, operation, maintenance and repair of the transfer stations and contingency landfills shall be part of the overall cost of the Resource Recovery System.

ARTICLE 5
OBLIGATIONS RELATING TO OPERATIONS

- 5.1 Delivery and Acceptance of Waste. Each CONTRACT COMMUNITY and COUNTY for the unincorporated area agrees that all of the solid waste collected within its respective territorial boundaries shall be delivered to a Resource Recovery System facility designated pursuant to the Plan of Operations. It is the understanding of each of the parties to this Agreement that the transportation of solid waste should be minimized to the greatest extent possible consistent with the obligations of the DISTRICT to make deliveries under the service agreement. In determining the Resource Recovery System facility to which solid waste shall be delivered, the Resource Recovery Board shall make every reasonable effort consistent with the DISTRICT rights and obligations under the service agreements to minimize the cost of transportation for CONTRACT COMMUNITIES and unincorporated County or their haulers. The provisions in this paragraph do not apply to solid waste which is to be transported outside the State of Florida.
- 5.2 The DISTRICT shall provide for the construction, operation, maintenance and repair of transfer stations, contingency landfills or other facilities utilized for the purpose of receiving solid waste that are a part of the Resource Recovery System.
- 5.3 In order to provide for the testing and startup of any new facility of the Resource Recovery System upon not less than thirty (30) days notice by the DISTRICT, each of the CONTRACT

COMMUNITIES and unincorporated County shall deliver or cause to be delivered processable waste to such facility in amounts and at the times and in the manner designated in said notice. The notice from the DISTRICT shall also state the estimated amount of processable waste to be delivered by each CONTRACT COMMUNITY and unincorporated County and the estimated length of time for which such deliveries are required. In order to facilitate CONTRACT COMMUNITY planning, the DISTRICT will share information with the CONTRACT COMMUNITIES and County as to the progress of construction of all Resource Recovery System facilities.

5.4 Plan of Operations. The DISTRICT, COUNTY and the CONTRACT COMMUNITIES agree there presently is in place a Plan of Operations for the Resource Recovery System, developed to meet the DISTRICT's obligations under this Agreement. The Plan of Operations will be maintained and amended by the Resource Recovery Board, consistent with this Agreement and all contracts for District facilities. The Plan of Operations shall delineate matters relating to the operation, management and administration of the Resource Recovery System including but not limited to: hours of operations; schedule and routing of deliveries; regulation of delivery vehicles; measurements of quantity, quality and other waste characteristics; billing; rules and regulations relating to the use of the Resource Recovery System; inspection of Resource Recovery System facilities; and such other items as may be deemed appropriate by the Resource Recovery Board.

5.5 Title To and Interest in Products. The CONTRACT COMMUNITIES and unincorporated County shall relinquish any and all title and interest in the solid waste collected within their respective boundaries upon delivery of the solid waste to the Resource Recovery System.

5.6 Manner of Delivery. Each CONTRACT COMMUNITY and unincorporated County shall provide the DISTRICT with the following information about each hauler delivering solid waste on its behalf to the Resource Recovery System: hauler name and address; make, body type and motor

vehicle registration number of each vehicle used; area of collection; and status as municipal vehicle operator or contract hauler.

5.7 Solid Waste Segregation Programs. The CONTRACT COMMUNITIES, unincorporated County and DISTRICT agree that no provisions of this Agreement shall be read or construed to discourage or prohibit either voluntary or locally ordained programs for segregating new or used materials at the point of generation for reuse or recycling.

5.8 Other Contracts for Waste Delivery. The DISTRICT agrees, to the extent consistent with the service agreements, that neither the District nor any operator of Resource Recovery System facilities may enter into any agreement for the disposition of solid waste with other persons, firms or corporations that materially impairs the ability of the DISTRICT to perform its obligations to the CONTRACT COMMUNITIES and unincorporated County under this Agreement.

5.9 It is recognized by the Contract Communities and County that Processable Waste will be delivered to the North Facility and South Facility as defined in this agreement. Processable Waste delivered to the North and South Facilities shall be processed pursuant to a Solid Waste Disposal Service Agreement between the District and Wheelabrator South Broward, Inc. and Wheelabrator North Broward, Inc. A copy of the aforesaid agreement is attached hereto and made a part of this Interlocal Agreement.

ARTICLE 6 ANNUAL AUDIT

The DISTRICT shall secure an annual external audit, consistent with the terms of the service agreements, of the solid waste disposal and Resource Recovery System by a qualified certified

public accountant. Copies of the audit reports are to be made available to all CONTRACT COMMUNITIES, County, and the Resource Recovery Board and, if requested, to private entities utilizing the system. The DISTRICT shall maintain separate accounts and records for each of the facilities in the Resource Recovery System.

ARTICLE 7
ASSETS AND LIABILITIES OF THE DISTRICT

7.1 All assets, properties, liabilities, agreements and responsibilities of the District and the Broward Resource Recovery Board existing on the date of termination of the Predecessor Agreement as provided in Article 15, shall continue to be held in the name of the Broward Solid Waste Disposal District.

7.2 All assets, properties, liabilities, and responsibilities of the Resource Recovery System held in the name of the County, as determined by the Resource Recovery Board, shall be transferred to the District and held in the name of the District. All agreements regarding the Resource Recovery System, shall be transferred into the name of the District upon assent of all parties to said agreement.

Excepted from the preceding shall be the real property and all improvements at the Broward County Interim Contingency Landfill located at US 27 and Sheridan Street which asset shall remain the property of Broward County; provided further, that the County and District agree that the County shall make available to the Resource Recovery System its landfill capacity and landfill facilities as may be reasonably required by the Resource Recovery System.

Further excepted from the preceding transfer of assets and properties, shall be the property on which the South Facility is situated, which shall also remain the property of Broward County. However, all rental income received from the Second Amended and Restated Facility Site Lease

Agreement dated December 31, 2010, between Broward County and Wheelabrator South Broward Inc., by Broward County during the term of this Interlocal Agreement, shall be the property of the District.

ARTICLE 8
OBLIGATIONS UNDER THIS AGREEMENT ARE NOT INDEBTEDNESS
OF ANY CONTRACT COMMUNITY OR COUNTY

The respective obligations of each CONTRACT COMMUNITY and County under this Agreement shall not be an indebtedness of such CONTRACT COMMUNITY or County within the meaning of any constitutional, statutory, charter or ordinance provision or limitation of such CONTRACT COMMUNITY or County. Neither is obligated to pay or cause to be paid any amounts due under this Agreement except in the manner provided herein, and the faith and credit of such CONTRACT COMMUNITY and COUNTY are not pledged to the payment of any amounts due under this Agreement.

ARTICLE 9
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 CONTRACT COMMUNITIES and COUNTY.

ARTICLE 10
MISCELLANEOUS

- 10.1 To the extent set forth in this Agreement, COUNTY does hereby grant its power to manage solid waste to the Broward Solid Waste Disposal District pursuant to F.S. 163.01 and F.S. 403.706(19).
- 10.2 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. The parties agree, however, that the DISTRICT may assign rights and obligations under this Agreement as is necessary by the DISTRICT for the provision of solid waste services under this Agreement.
- 10.3 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.
- 10.4 The DISTRICT agrees to maintain and cause its full service contractors to maintain complete and accurate accounting records for solid waste transfer or disposal services provided to the CONTRACT COMMUNITIES and unincorporated County. The DISTRICT agrees to maintain, or cause to be maintained information in sufficient detail to permit each CONTRACT COMMUNITY and County to ascertain the cost of solid waste services provided pursuant to this Agreement, separate and apart from the cost of other services of the DISTRICT. Upon reasonable notice given by any CONTRACT COMMUNITY or County, the DISTRICT shall make available or have made available to such CONTRACT COMMUNITY or County all books, records, computer programs, printouts, memoranda of any kind whatsoever regarding all of the operations of the Resource Recovery System. Such materials may be inspected and copied at the expense of the party seeking such information.

- 10.5 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 CONTRACT 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.
- 10.6 Grant Information. The CONTRACT COMMUNITIES and County agree to provide the Resource Recovery Board with all relevant information that (a). any federal, state or local agencies may require for any application for financial assistance in the acquisition or construction of the Resource Recovery System and (b). the Resource Recovery Board reasonably needs for the provision of solid waste disposal services to them. The parties agree to adopt such regulations, execute such agreements and do such work as may be required by federal, state, or local agencies as part of any such application for financial assistance.
- 10.7 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 (a). majority of

the governing bodies of the CONTRACT COMMUNITIES and County and (b). those CONTRACT COMMUNITIES and County containing at least 51 percent of the population of all CONTRACT COMMUNITIES and the unincorporated County; however, County must consent to same. No modification or alteration shall be adopted with respect to any of the rights and obligations of the parties as to Section 4.3 of this Agreement, unless said alteration is adopted by the CONTRACT COMMUNITIES containing at least 51 percent of the population, the District and the County. No modification or alteration shall be adopted which reduces the term of this Agreement.

10.8 Additional CONTRACT COMMUNITIES. After December 31, 2010 and 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 CONTRACT COMMUNITY may become a CONTRACT COMMUNITY by agreeing to all of the terms and conditions established by resolution of the Resource Recovery Board at the time the community requests entry.

10.9 Confidentiality. Each CONTRACT COMMUNITY and County acknowledges that information DISTRICT obtains from a full service contractor may be subject to confidentiality restrictions under the construction contracts and service agreements to the extent consistent with applicable law.

10.10 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.

10.11 Representations and Warranties: Legal Opinions. Each of the CONTRACT COMMUNITIES and County hereby represents and warrant as to itself as follows, and each CONTRACT COMMUNITY and County hereby agrees to provide to the DISTRICT counsel a favorable opinion of its Counsel dated as of such date as the DISTRICT may request and on which the DISTRICT may rely, to the following effect:

- (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);
- (c) Neither the execution nor delivery of this Agreement, nor the performance of its obligations hereunder nor the fulfillment of the terms herein: (i) conflicts with, violates or results in a breach of the Constitution, any law or government regulation of the State of Florida, or any other local law or ordinance; or (ii) conflicts with, violates or results in any breach of any term or condition of any judgment or decree, or any agreement or instrument to which it is a party or by which it or any of its properties or assets are bound, or constitutes a default thereunder;

- (d) Except for the procedures provided under Chapter 163 and Chapter 75 of the Florida Statutes, and such action as has already been taken, no approval authorization, or order of, or any consent or declaration, registration of filing with, any governmental authority of the State of Florida or any referendum or other action of voters by election, action by town or city council or otherwise) is required for the valid execution, delivery and performance of this Agreement by it;
- (e) Except as disclosed in writing to the other parties prior to its execution and delivery of this Agreement, to its best knowledge, there is no action, suit or proceeding, at law or in equity, or any official investigation before any court or governmental authority nor any referendum or other voters' initiative pending or, to its best knowledge, threatened against it which might materially adversely affect the taking or exercise by the District or the Resource Recovery Board of the actions to be taken by either of them or the Agreement, or the performance by either of them or it of challenges, or if adversely determined might materially adversely affect, the validity, legality or enforceability of this Agreement.

10.12 The applicable financial disclosure, noticing and reporting requirements of the District shall be those provided by general law.

10.13 The creation of the District is consistent with the Broward County Comprehensive Plan.

ARTICLE 11
INDEMNIFICATION

To the maximum extent permitted by law, the DISTRICT, County and each CONTRACT 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 the District, County, and each Contract Community, except the same shall not include punitive damages or prejudgment interest.

ARTICLE 12
CONTRACTS WITH HAULERS

Each party to this Agreement agrees to cause the terms and conditions of any agreement that it may have with a hauler of solid waste to conform with the terms and conditions of this Agreement by August 4, 2011.

ARTICLE 13
CESSATION

- 13.1 If any CONTRACT COMMUNITY, County or DISTRICT shall fail to perform or observe any of the material terms and conditions of this Agreement for a period of sixty (60) days after receipt of notice of such default from another party or Resource Recovery Board, the party giving the notice of default may be entitled, but not required, to seek specific performance of this Agreement. The parties acknowledge that money damages may be an inadequate remedy for the failure to perform and that the party giving notice is entitled to obtain an order requiring specific performance by the other party. Failure of any party to exercise its rights in the event of

any breach by another party shall not constitute a waiver of such rights. No party shall be deemed to have waived any failure to perform by another party unless such waiver is in writing and signed by the waiving party. Such waiver shall be limited to the terms specifically contained therein. This paragraph shall be without prejudice to the right of any party to seek such just legal remedy for any breach of the other as may be available to it.

13.2 (a) On or before the date of termination of the Predecessor Agreement, as provided in Article 15 of this Agreement, the Resource Recovery Board shall provide for the equitable distribution of the District's assets to the COUNTY AND municipalities which were CONTRACT COMMUNITIES pursuant to the Predecessor Agreement prior to January 1, 2010, and after all outstanding liabilities of the predecessor agreement have been provided for, and which the Resource Recovery Board determines are not necessary for the maintenance and continuation of the District and the maintenance of the Resource Recovery System pursuant to this Agreement.

(b) At the end of this Agreement, or at the end of all renewal terms (if any), whichever occurs later, the Resource Recovery Board shall provide for the equitable distribution of the District's assets and liabilities to the CONTRACT COMMUNITIES, unincorporated County and COUNTY. The Resource Recovery Board shall consider any perpetual maintenance responsibilities of the COUNTY in making such distributions.

ARTICLE 14 DURATION

This Agreement shall be effective for each CONTRACT COMMUNITY and County on August 4, 2011 and for a period of ten (10) years from said date. This Agreement may be renewed up to

one additional ten (10) year period; however, the County, and any Contract Community which is a party to this Agreement shall have the option at the end of the initial ten (10) year period not to renew this Agreement.

ARTICLE 15
RATIFICATION OF INTERLOCAL AGREEMENT

This Interlocal Agreement shall have the following effect upon the County and each Contract Community that executes this Agreement by December 31, 2010:

1). Should County and all Contract Communities to the Predecessor Agreement execute this Agreement, this Agreement shall be in full force and effect on August 4, 2011.

2). Should less than all Contract Communities to the Predecessor Agreement and County execute this Agreement, but should County and Contract Communities representing 80 percent of the processable waste delivered to the North and South facilities during the 2009 calendar year, execute this Agreement:

a) Notwithstanding anything to the contrary in Article 14, this Agreement shall be deemed the Eleventh Amendment to the Predecessor Agreement, and this Agreement shall govern Predecessor Agreement from August 4, 2011 to July 13, 2013, for Contract Communities of the Predecessor Agreement, and County, and additional Contract Communities which have executed this Agreement; and

b) Notwithstanding anything to the contrary in Article 14, the initial term of this Agreement shall be eight years beginning July 13, 2013 for all Contract Communities and County, which have executed this Agreement.

3). Should the Contract Communities to the Predecessor Agreement representing less than 51 percent of the population of all Contract Communities of the Predecessor Agreement, execute this Agreement, or should County not execute this Agreement, this Agreement shall be of no force and effect.

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 Chairman, authorized to execute same by Board action on the _____ day of _____, 20____, and each CONTRACT COMMUNITY, signing by and through officers duly authorized to execute same.

COUNTY

ATTEST:

BROWARD COUNTY, through its
BOARD OF COUNTY COMMISSIONERS

County Administrator and Ex-
Officio Clerk of the Board of
County Commissioners of
Broward County, Florida

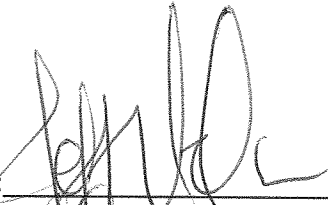
By _____
Chair
_____ day of _____ 20____.

Approved as to form and legality by
the Office of County Attorney for
Broward County, Florida

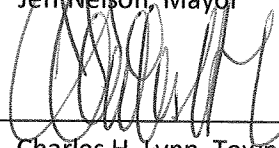
County Attorney
Governmental Center, Suite 423
115 South Andrews Avenue
Fort Lauderdale, Florida 33301
Telephone: _____

Assistant County Attorney

CONTRACT COMMUNITY
TOWN OF SOUTHWEST RANCHES

By: 

Jeff Nelson, Mayor

By: 

Charles H. Lynn, Town Administrator

17th day of ~~December~~, 2010
November

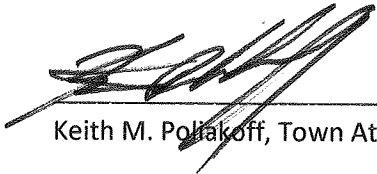
ATTEST:



Debra Doré-Thomas, Town Clerk

(CORPORATE SEAL)

APPROVED AS TO FORM:



Keith M. Pollakoff, Town Attorney

EXHIBIT A
NAMES OF CONTRACT COMMUNITIES

EXHIBIT B
NAMES TO WHOM NOTICES ARE TO BE DIRECTED

EXHIBIT C
ORDINANCE NO. _____

AN ORDINANCE ESTABLISHING SOLID WASTE FLOW CONTROL PURSUANT TO SECTION 403.713, FLORIDA STATUTES AND SECTION 4.3 OF THE INTERLOCAL AGREEMENT DATED DECEMBER 31, 2010 BY AND BETWEEN THE CONTRACT COMMUNITIES AND BROWARD COUNTY, FLORIDA, PROVIDING FOR THE BROWARD SOLID WASTE DISPOSAL DISTRICT; DIRECTING THE DELIVERY OF ALL SOLID WASTE GENERATED WITHIN _____ TO THE RESOURCE RECOVERY SYSTEM DESCRIBED HEREIN; RELINQUISHING TITLE TO SOLID WASTE COLLECTED OR GENERATED WITHIN _____ UPON DELIVERY OF SUCH SOLID WASTE TO SAID RESOURCE RECOVERY SYSTEM; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, because of the low elevation and high ground water level of Broward County, Florida (the "County"), disposal of solid waste through means other than landfills has been encouraged; and

WHEREAS, the Legislature of the State of Florida has discouraged the dumping or burying of solid waste matter and the use of sanitary landfills as the sole method of disposal of solid waste; and

WHEREAS, because of environmental concerns with utilizing landfilling as the sole method of disposal of solid waste generated by the residents and visitors of the County, certain municipalities within the county and the COUNTY have sought a joint solution to such concerns; and

WHEREAS, Section 403.713, Florida Statutes, provides that (a.) "any local government that undertakes resource recovery from solid waste pursuant to general law or special act may control the collection and disposal of solid waste, as defined by general law or such special act, which is generated within the territorial boundaries of such local government and other local governments which enter into interlocal agreements for the disposal of solid waste with the

Recovery System facilities designated in the Plan of Operations developed pursuant to the Interlocal Agreement;

NOW, THEREFORE, be it ordained by the (governing body of Contract Community or Board of Commissioners of Broward County), Florida, that:

Section 1. Findings.

The findings set forth in the foregoing preamble to this Ordinance are hereby approved and confirmed.

Section 2. Definitions.

For the purpose of this Ordinance, the definitions contained in the Interlocal Agreement dated December 31, 2010 shall apply unless otherwise specifically stated in this Section. When not inconsistent with the context, words used in the present tense include the future, words in the plural number include the singular and words in the singular number include the plural. The word "shall" is always mandatory and not merely directory.

- (a) Contract Communities. The term "Contract Communities" shall refer to the municipal corporation or corporations existing under the laws of the State of Florida located within the county that from time to time enter into the Interlocal Agreement.
- (b) 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.
- (c) District. The term "District" shall mean the Broward Solid Waste Disposal District formed pursuant to the Interlocal Agreement and state law. The geographic

local government sponsoring the resource recovery” ...facilities, (b) “any local government which undertakes resource recovery of solid waste pursuant to general law or special act may institute a flow control ordinance for the purpose of ensuring that the resource recovery facility receives an adequate quantity of solid waste from solid waste generated within its jurisdiction,” and (c) “such solid waste will not include recovered materials, whether separated at the point of generation or after collection, that are intended to be held for purposes of recycling... however, the handling of such materials shall be subject to applicable state and local public health and safety laws;” and

WHEREAS, consistent with Chapter 403, Part IV, Florida Statutes, and in furtherance of addressing the problems created by the disposal of solid waste, certain municipalities within the County (the “Contract Communities”) have entered into an Interlocal Agreement (the “Interlocal Agreement”), which provides for, among other things, the disposal of solid waste generated within the CONTRACT COMMUNITIES and the unincorporated area of the County; and

WHEREAS, Section 4.3(a) of the Interlocal Agreement provides that each Contract Community and the County shall enact a waste flow control ordinance pursuant to Section 403.713 of the Florida Statutes directing that solid waste generated within each Contract Community and the unincorporated area of the County be delivered to the designated Resource Recovery System transfer or disposal facility or facilities except for solid waste which is to be transported outside the State of Florida; and

WHEREAS, each Contract Community and the County further agreed in the Interlocal Agreement to include in any contract arrangements with haulers including any agreements, licenses, permits or franchises a provision that all solid waste shall be delivered to the Resource

boundaries of the DISTRICT shall be coterminous with the geographic boundaries of the CONTRACT COMMUNITIES that have executed this Agreement and unincorporated Broward County.

- (d) Haulers. The term "haulers" shall mean those persons, firms or corporations or governmental agencies which collect solid waste (either under oral or written contract, license, permit or otherwise) within the geographic boundaries of the CONTRACT COMMUNITY(IES) or the unincorporated County, or provide for the transportation or delivery of such solid waste to facilities inside or outside the District.
- (e) Interlocal Agreement. The term "Interlocal Agreement" shall refer to that certain Interlocal Agreement dated December 31, 2010, by and among the County and the Contract Communities, providing for the Broward Solid Waste Disposal District, as amended or supplemented from time to time pursuant to the provisions of the Interlocal Agreement.
- (f) Resource Recovery System. The term "resource recovery system" shall refer to the resource recovery facilities which are constructed, operated, and maintained pursuant to the Interlocal Agreement.
- (g) Solid Waste. The term "solid waste" shall have the meaning set forth in Chapter 403, Part IV, Florida Statutes.

Section 3. Waste Flow Control.

- (a) It is the purpose of this Ordinance to require all inhabitants and persons within the (_____ of _____ or unincorporated area of the County), Florida, to use exclusively the Resource Recovery System identified in the Interlocal Agreement for

the disposal of all solid waste generated within the (_____ of _____ or the unincorporated area of the County. This ordinance is intended to ensure that the Resource Recovery System receives an adequate quantity of solid waste from the solid waste generated within the boundaries of _____.

(b)The (_____ of _____ , or the County on behalf of the unincorporated area of Broward County) hereby directs that all solid waste generated within (its geographic boundaries or the unincorporated area of the County) be delivered to the Resource Recovery System facilities designated in the Plan of Operations under the Interlocal Agreement. Further, the _____ of _____ hereby relinquishes any and all title and interest in such solid waste upon delivery of such solid waste to the Resource Recovery System facilities designated in said Plan of Operations.

(c) Waste generated in the _____ is not subject to the requirements in paragraph (b) if it is shown to be destined for disposal or recycling at any facility located outside the State of Florida. To make such a showing, a hauler shall execute a form approved by the Broward Resource Recovery Board and the form shall be delivered to the Broward Solid Waste Disposal District. In the form, the hauler shall recite facts which demonstrate the solid waste shall be transported and disposed outside the State of Florida.

(d) The (_____ of _____ , or the Board of Commissioners of Broward County, Florida) shall conform the terms and conditions of any agreement that it may have with a hauler of solid waste to the terms and conditions of the Interlocal Agreement.

(e) Nothing herein shall be read or construed to discourage or prohibit either voluntary or locally ordained programs segregating new or used materials at the point of generation for reuse or recycling.

Section 4. Effective Date. This Ordinance shall become effective immediately upon compliance with any statutory requirements relating to notice and publication hereof.

DONE AND ADOPTED in regular session this _____ day of _____, 20__.

(GOVERNING BODY)

By: _____

Title:

EXHIBIT D
REPORTING REQUIREMENTS

AN ORDINANCE ESTABLISHING SOLID WASTE FLOW CONTROL REPORTING REQUIREMENTS PURSUANT TO SECTION 403.713, FLORIDA STATUTES AND SECTION 4.3 OF THE INTERLOCAL AGREEMENT DATED DECEMBER 31, 2010 BY AND BETWEEN THE CONTRACT COMMUNITIES AND BROWARD COUNTY, FLORIDA, PROVIDING FOR THE BROWARD SOLID WASTE DISPOSAL DISTRICT; REQUIRING THE REPORTING OF ALL SOLID WASTE COLLECTED WITHIN THE BOUNDARIES OF _____ PROVIDING FOR REMITTANCE; PROVIDING AN EFFECTIVE DATE.

WHEREAS, because of the elevation and high ground water level of Broward County, Florida, (the "County"), disposal of solid waste through means other than landfills has been encouraged; and

WHEREAS, the Legislature of the State of Florida has discouraged the dumping or burying of solid waste matter and the use of sanitary landfills as the sole method of disposal of solid waste; and

WHEREAS, because of environmental concerns with utilizing landfilling as the sole method of disposal of solid waste generated by the residents and visitors of the County, certain municipalities within the County and the County have sought a joint solution to such concerns; and

WHEREAS, Section 403.713, Florida Statutes, provides that (a) "any local government that undertakes resource recovery from solid waste pursuant to general law or special act may control the collection and disposal of solid waste, as defined by general law or such special act, which is generated within the territorial boundaries of such local government and other local governments which enter into interlocal agreements for the disposal of solid waste with local government sponsoring the resource recovery" facilities (b) "any local government which undertakes resource recovery of solid waste pursuant to general law or special act may institute a flow control ordinance for the purpose of ensuring that the resource recovery facility receives an adequate quantity of solid waste from solid waste

generated within its jurisdiction”; and (c) “such solid waste will not include recovered materials, whether separated at the point of generation or after collection, that are intended to be held for purposes of recycling ...”; however, the handling of such materials shall be subject to applicable state and local public health and safety laws; and

WHEREAS, consistent with Chapter 403, Part IV, Florida Statutes and in furtherance of addressing the problems created by the disposal of solid waste, certain municipalities within the County (the “Contract Communities”) have entered into an Interlocal Agreement (the “Interlocal Agreement”) which provides for, among other things, the disposal of solid waste generated within the Contract Communities and the unincorporated area of the County; and

WHEREAS, Section 4.3(a) of the Interlocal Agreement provides that each Contract Community and the County shall enact waste flow control ordinances pursuant to Section 403.713 of the Florida Statutes, directing that solid waste generated within each Contract Community and the unincorporated area of the County be delivered to the designated Resource Recovery System facilities, except for solid waste which is to be transported outside the State of Florida; and

WHEREAS, each Contract Community and the County agreed in the Interlocal Agreement to enact an ordinance in furtherance of flow control, as authorized by F.S. 403.713, and agreed to require reporting by all haulers collecting solid waste generated within the boundaries of the communities;

NOW, THEREFORE, be it ordained by the (governing body of Contract Community or Board of Commissioners of Broward County), Florida, that:

Section 1. Findings. The findings set forth in the foregoing preamble to this Ordinance are hereby approved and confirmed.

Section 2. Definitions. For the purpose of this Ordinance, the definitions contained in the Interlocal Agreement dated December 31, 2010 shall apply unless otherwise specifically stated. When not inconsistent with the context, words used in the present tense include the future, words in the plural number include the singular and words in the singular number include the plural. The word "shall" is always mandatory and not merely directory.

- (a) Contract Communities. The term "Contract Communities" shall refer to the municipal corporation or corporations existing under the laws of the State of Florida located within the County that from time to time enter into the Interlocal Agreement.
- (b) 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.
- (c) District. The term "District" shall mean the Broward Solid Waste Disposal District formed pursuant to the Interlocal Agreement and state law. The geographic boundaries of the DISTRICT shall be coterminous with the geographic boundaries of the CONTRACT COMMUNITIES which have executed this agreement and unincorporated Broward County.
- (d) Haulers. The term "haulers" shall mean those persons, firms or corporations or governmental agencies which collect solid waste (either under oral or written contract, license, permit or otherwise) within the geographic boundaries of the CONTRACT COMMUNITY(IES) or the unincorporated County, or provide for the transportation or delivery of such solid waste to facilities inside or outside the District.

- (e) Interlocal Agreement. The term “Interlocal Agreement” shall refer to that certain Interlocal Agreement, dated December 31, 2010, by and among the County and the Contract Communities, providing for the Broward Solid Waste Disposal District, as amended or supplemented from time to time pursuant to the provisions of the Interlocal Agreement.
- (f) Resource Recovery System. The term “resource recovery system” shall refer to the resource recovery facilities which are constructed, operated and maintained pursuant to the Interlocal Agreement.
- (g) Solid Waste. The term “solid waste” shall have the meaning set forth in Chapter 403, Part IV, Florida Statutes.
- (h) Processable Waste. The term “processable waste” shall mean that portion of the solid waste stream which is capable of being processed in the mass burn resource recovery facilities used by the District, including, but not limited to, all forms of household and other garbage, trash, rubbish, refuse, combustible agricultural, commercial and light industrial waste, 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, not separated and recycled at the source of generation. Processable waste does not include unacceptable waste and unprocessable waste, except, to the extent consistent with the regulatory and permit requirements applicable to the processing of waste by the District’s mass burn resource recovery facilities and to the extent that minor amounts of unacceptable waste may be contained lawfully in the processable waste.

Recovery Board. Said reports shall provide the following information about the hauler's activities during the prior month:

- (1) The amount/quantity (in tons or cubic yards) of processable solid waste collected by the hauler that has been generated within _____, with regard to each facility identified in (2).
- (2) The name, address and contact person of each facility where the processable solid waste has been transported/delivered by the hauler.
- (3) A summary table of delivery tickets information from each facility must be attached to the monthly report.

The above described reports shall be remitted to the Executive Director of the Broward Resource Recovery Board no later than the fifteenth (15th) day of each succeeding month.

Section 4. Reports. Each hauler that collects unprocessable solid waste generated within the boundaries of _____ where said solid waste is to be transported outside the State of Florida, shall file monthly reports on forms approved by the Broward Resource Recovery Board. Said reports shall require the following information:

- (1) The quantity (either by volume, weight, or number and size of all trucks or containers) of unprocessable solid waste which has been collected by the hauler within the Contract Communities and unincorporated County which is to be transported outside the State of Florida.
- (2) The name, address and contact person of each facility where the unprocessable waste has been transported/delivered.

- (i) Unacceptable Waste. The term “unacceptable waste” shall mean motor vehicles, trailers, comparable bulky items of machinery of equipment, highly flammable substances, hazardous waste, sludges, pathological and untreated biological wastes, liquid wastes, sewage, manure, explosives and ordinance materials, and radioactive materials. Unacceptable waste shall also include any other material not permitted by law or regulation to be disposed of at a Class 1 landfill. None of such material shall constitute either processable waste or unprocessable waste. Haulers shall not knowingly deliver such unacceptable waste to and the DISTRICT and full service contractors shall have the right to exclude such unacceptable waste from the Resource Recovery System.
- (j) Unprocessable Waste. The term “unprocessable waste” shall mean that portion of the solid waste stream that is predominately noncombustible and therefore, should not be processed in the mass burn facilities used by the Resource Recovery System. Unprocessable waste shall include, but not be 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 or being in whole or in part of 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, and processable waste (to the extent that it is contained in the normal unprocessable waste stream). Unprocessable waste includes construction and demolition debris as defined in F.S. 403.703(6).

Section 3. Reports. Each hauler that collects processable solid waste generated within the boundaries of _____ shall file monthly reports on forms approved by the Broward Resource

(3) A summary table of delivery tickets information from each facility must be attached to the monthly report.

The above described reports shall be remitted to the Executive Director of the Broward Resource Recovery Board no later than the fifteenth (15th) day of each succeeding month.

Section 5. Effective Date. This Ordinance shall become effective immediately upon compliance with any statutory requirements relating to notice and publication hereof.

DONE AND ADOPTED in regular session this _____ day of _____ 20__ .

(GOVERNING BODY)

By: _____

Titles:

ACTIVE: 3142319_1