

**AN INTERLOCAL AGREEMENT PROVIDING FOR THE  
SOLID WASTE DISPOSAL AND RECYCLABLE MATERIALS PROCESSING  
AUTHORITY OF BROWARD COUNTY, FLORIDA**

This Agreement dated for convenience on \_\_\_\_\_, 2022 (the “Agreement”), is 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 “Municipalities” (collectively, the “Parties” and each individually a “Party”).

**ARTICLE I – RECITALS; FINDINGS OF FACT**

1.1 Mission Statement. To protect the long-term public health, safety and welfare, the Parties commit to working together collaboratively through the creation of the Authority. The Authority will develop and implement a long-term, environmentally sustainable, transparent, innovative, and economically efficient plan and approach to ~~disposing~~disposal, reduction, recycling, and reuse of and recycling Solid Waste generated in Broward County.

1.2 Goals of the Authority. The Authority will (a) encourage recycling, reduction, and reuse, diverting Solid Waste from landfills, to ultimately reach zero waste, (b) support regional solutions with other counties with priority being given to the needs and goals of the Parties, (c) conduct public education campaigns, and (d) engage in and/or support research and development into disposal, reduction, recycling, reuse, and utilization of the latest technology to create a sustainable and resilient Solid Waste disposal system. The Authority may elect to offer participating communities collection and hauling services for Solid Waste and Recyclable Materials, however, ultimate responsibility for providing such services shall remain with each local government in Broward County. The Authority will not be involved in the collection and

~~hauling of Solid Waste and Recyclable Materials, which. Solid Waste and Recyclable Materials collection and hauling services shall remain the responsibility of each local government in Broward County; provided, however, the Authority may consider offering such services.~~

~~:[HM1][KN2]-~~

1.3 Reservation of Powers. The Parties find that no municipal or County powers or functions are being transferred by this Agreement. Each Party retains ultimate responsibility within its jurisdiction for supervising Solid Waste and Recyclable Materials as appropriate provided under law. Consequently, the Parties find that it serves a limited government function: to operate a Solid Waste Disposal and Recyclable Materials Processing System. The Parties further find that the Authority is not a mere instrumentality of County or of the Municipalities. Neither County nor the Municipalities will maintain operational control that might hinder the Authority's ability to remain an independent entity.

## [ARTICLE II – DEFINITIONS WILL BE INSERTED LATER]

### ARTICLE III – DURATION

3.1 Initial Term. This Agreement shall be effective on \_\_\_\_\_, 202\_ (“Effective Date”), and shall continue thereafter for a period that ends ~~thirty~~ forty (~~30~~) years after the Effective Date (“Initial Term”). Except as expressly provided in this Agreement, nNo Party may terminate or otherwise exit this Agreement during the Initial Term.

**3.2** Renewal Terms. This Agreement may be renewed for up to two (2) consecutive ten (10) year terms by the approval of the Parties (each a “Renewal Term”). Such renewal shall only be effective for Parties who consent to the renewal.<sup>[MA3]</sup> The Initial Term and all Renewal Terms are collectively referred to as the “Term.”

**3.3** Milestone Opt-In. Prior to \_\_\_\_\_, upon the satisfaction of all the

Milestones (defined below), the Authority shall deliver a letter (“Opt-In Letter”) to each of the Parties. The Opt-In Letter shall state that all of the Milestones are complete and request that the recipient execute and return the Opt-In Letter to the Authority. This agreement shall automatically terminate if, on or before [January 31, 2024], the Authority has not received Opt-In Letters, duly executed by [municipalities representing eighty percent of the tonnage] and the County. The following are the milestones (“Milestones”) of the Authority:

(a) All steps necessary or desirable to levy an assessment on the residents of Broward County to fund the operation of the Authority are complete.

(b) The Authority has appointed an executive director.

(c) All members of the governing board, executive board, and TAC have been duly appointed by the Parties.

(d) The Authority has delivered a Master Plan of Operations and Solid Waste Plan to all Parties and answered any questions of the Parties relating to same.

~~(e) The authority has the capability to fulfill its obligations under this Agreement. the Authority adopting a Master Plan of Operations provided in Section 6.1.1, each Party shall have a period of \_\_\_\_\_ (\_\_\_\_) days to review the Master Plan and may, within that time, elect to withdraw from this Agreement. Any Party that elects to withdraw from this Agreement during that period shall have no further duties or obligations hereunder and shall, upon withdrawal, no longer have any representative serve on the Governing Board or Executive Board. Any Party that withdraws from this Agreement shall not be permitted to rejoin for a period of \_\_\_\_\_. [KN4] Opt-out. Upon completion of the Master Plan . . . ] [HM5]~~

#### ARTICLE IV - MEMBERSHIP

4.1 Eligibility for Membership. The County and ~~eachany~~ municipal corporation located within Broward County ~~areis~~ eligible to be a member of the Authority.

4.2 Subsequent Joinder by Municipalities. After \_\_\_\_\_, 202\_\_, and throughout the ~~Tterm of this Agreement~~, any eligible municipality ~~that, which~~ is not already a member of the Authority may become a member by agreeing to all the terms and ~~conditions, and conditions~~ and paying all pro rata shares of expenses as established by resolution of the Governing Board. ~~at the time the municipality requests entry.~~

4.3 Dissolution or Merger of Municipalities. ~~For aAny~~ Municipality that becomes unincorporated, ~~it~~ shall lose its representative on the Governing Board. The tonnage attributed to any such Municipality shall be transferred to County for the purposes of voting under Section 5.4.6 below. ~~Multiple~~ Municipalities that merge shall retain only a single representative on the Governing Board ~~and .T~~ the tonnage attributed to the ~~merged remaining~~ Municipality shall be the combined tonnage of the merged Municipalities for the purposes of voting under Section ~~5.5~~4.6 below.

#### **ARTICLE V - BROWARD SOLID WASTE DISPOSAL AND RECYCLING PROCESSING AUTHORITY ~~—~~ FORMATION; GOVERNANCE**

5.1 By this Agreement, the Parties are coordinating a joint Solid Waste and Recyclable Materials management program and hereby create an independent entity known as the “[INSERT NAME]” (the “Authority”) pursuant to, and consistent with, Sections 163.01, 189.4041, 403.706(11), (12), (15), and (19), and 403.713, Florida Statutes, and this Agreement.

5.2 The Authority shall have the authority and duty to establish, operate, and maintain the System. The contractual arrangement contemplated ~~by this Agreement herein~~ does not divest any Party of its ultimate authority to supervise the provision of Solid Waste or Recyclable Materials processing services within its jurisdiction, nor do any of the powers granted the

Authority constitute a transfer of powers or functions as addressed under the Florida Constitution.

5.25.3 The Authority shall be overseen and managed by a Governing Board, Executive Committee, and Executive Director, all as comprised and with such powers and authority as set forth herein.

5.35.4 Governing Board.

5.3.15.4.1 Membership: ~~Each Party Each Municipality shall each y shall~~ appoint one (1) of their elected officials to serve as a representative to the Governing Board. ~~County shall also appoint one (1) representative. All appointed representatives shall be elected officials within the appointing jurisdiction.~~ The appointment by each Party shall be made according to the rules and procedures within the appointing entity. Should a representative on the Governing Board cease to be a duly qualified elected official ~~for of the appointing Party for whatever any~~ reason ~~(including expiration or term, resignation, or removal from office)~~, the ~~appointing~~ Party ~~that appointed such individual to the Governing Board~~ shall select a successor to serve for the remaining term of the original appointment.

5.3.25.4.2 Terms of service on Governing Board. Terms of appointed representatives shall be so long as their appointment from the respective elected bodies remains in effect.

5.3.35.4.3 Meetings. The Governing Board shall meet at least twice per year, at such dates and times as ~~may be~~ determined to be necessary by the Chair of the Governing Board, the Executive Committee, or the Executive Director ~~to~~ conduct the business of the Authority.

5.3.45.4.4 Quorum. A quorum of the Governing Board shall be one (1) more than the number that would constitute fifty percent (50%) of the total membership. A quorum must be in physical attendance at the meeting location, unless the Governing Board adopts rules of procedures permitting fewer physically present members and allowing that would permit less than a quorum to be physically present at the meeting location but would also permit members to attendance attend via Communications Media Technology. Once the quorum requirements are met, all appointed representatives can vote regardless of whether they are attending the meeting in-person or through Communications Media Technology.

5.3.55.4.5 Chair and Vice Chair. The Governing Board shall select one of its members as Chair and shall select another member as Vice Chair who shall serve as the Chair of the Governing Board when the Chair is not physically present at a meeting.

[KN7]

5.3.65.4.6 Approvals. Except as specifically provided in this Agreement hereinafter, the Governing Board may approve any action only if a quorum exists and the action is supported by an affirmative vote of a majority of the representatives present at the meeting and eligible to vote, ~~(provided a quorum is also present)~~ and further provided that such affirmative vote of members representing a majority of tonnage based upon the total Solid Waste data from the previous completed Fiscal Year (including Solid Waste from the Unincorporated Area). The actions listed in Sections [ ] will require approval by a Super-Majority (66.6%) of the quorum and tonnage.

5.3.75.4.7 Rules of Procedure. The Governing Board may approve Rules of Procedure for the conduct of Authority business by the Governing Board. [KN8]

5.3.85.4.8 Authority of the Governing Board. The Governing Board shall have the powers, duties, and responsibilities provided in Section 6.2 herein.

5.3.95.4.9 Executive Director. An Executive Director shall be appointed and may be removed by the Governing Board and have the powers as provided in Section 6.4 herein.

5.45.5 Executive Committee.

5.4.15.5.1 Membership: The Executive Committee shall be comprised of eleven (11) members of the Governing Board, appointed as follows:

5.4.1.15.5.1.1 One (1) member appointed by County.

5.4.1.25.5.1.2 Ten (10) members from Municipalities, which shall be selected as follows:

5.4.1.2.15.5.1.2.1 Large Municipalities. Five members shall be Governing Board members representing municipalities in the highest third (1/3) of population in Broward County, to be the 1/3 of the Municipalities with the largest populations, selected by the members of the Governing Board representing those Municipalities ~~1/3 of the Municipalities with the largest populations.~~

5.4.1.2.25.5.1.2.2 Medium Municipalities. Three members shall be Governing Board members representing municipalities in the next third (1/3) of population in Broward County, to be the 1/3 of the Municipalities with the next largest populations, selected by the members of the Governing Board representing those ~~1/3 of the Municipalities with the next largest populations.~~

5.4.1.2.35.5.1.2.3 Small Municipalities. Two members shall be Governing Board members representing municipalities in the smallest third (1/3) the 1/3 of the Municipalities with the smallest population in Broward County, selected by the members of the Governing Board representing those Municipalities the 1/3 of the Municipalities with the smallest populations.

5.4.1.35.5.1.3 ~~If the number of member Municipalities is not divisible by three (3), then the Large Municipalities category shall include the first extra municipality and, if necessary, the Medium Municipalities category shall include the second extra municipality.~~ Should a municipal corporation join after the assignment of municipalities into categories, that Municipality shall be accounted for in the categories at the next re-assignment under 5.65.1.4. hereinunder. [KN9]

5.4.1.45.5.1.4 Population figures to assign municipalities into each of the categories shall be from the most recent Bureau of Economic and Business Research – University of Florida report, and the assignments [HM10] of Mmunicipalities into the categories shall be reviewed and if necessary, adjusted on January 1, 2030, and every ten years thereafter.

5.4.1.55.5.1.5 Terms of service on Executive Committee. Terms of appointed members shall be two (2) years. Should a member of the Executive Committee cease to be a duly qualified elected official for whatever any reason or no longer the representative on the Governing Board from their Municipality ~~(including expiration or term, resignation, or removal from~~

office), a successor from the category of Municipality from which the originally appointed member was appointed shall be selected in the same manner as the appointment of members to the Executive Committee, to serve for the remaining term of the original appointment.

5.4.25.5.2 Alternate Members.

5.4.2.15.5.2.1 There shall be one (1) alternate member from each of the three (3) municipal categories, selected in the same manner as members as described in subsections 5.5.1.2.1 through 5.5.1.2.3. There shall be one (1) alternate member from County, appointed by County.

5.4.2.25.5.2.2 Alternate members shall vote only in the absence of the ~~appointed member~~ municipal category for which they serve as the alternate. Alternates may participate during discussion in all meetings but shall vote only when ~~the an~~ appointed member from the municipal category for ~~whom which~~ they serve as the alternate is absent or unable to vote on an item.

5.4.2.35.5.2.3 Alternates shall count towards the quorum only when they are serving as voting members.

5.4.35.5.3 Meetings. The Executive Committee shall meet regularly at such dates and times as may be necessary to conduct the business of the Authority. Meetings may be scheduled by the Governing Board or, the Executive Committee<sup>[KN11]</sup> and pursuant to Rules of Procedure adopted by the Executive Committee; such rules will include a process for the Executive Director to request a meeting.

5.4.45.5.4 Quorum. A quorum of the Executive Committee shall be six (6) members. A quorum must be in physical attendance at the meeting location, unless the Governing Board adopts rules of procedures that would permit the Executive Committee to conduct a meeting with less than a quorum to be physically present at the meeting location, but also to attend via Communications Media Technology, ~~consistent with Florida law.~~ Once the quorum requirements are met, all members can vote (subject to Section 5.5.2.3 above) regardless of whether they are attending the meeting in-person or through Communications Media Technology. [KN12]

5.4.55.5.5 Chair and Vice Chair. The Executive Committee shall select from among its members a Chair, as well as a Vice Chair who shall serve as the Chair of the Executive Committee when the Chair is not present. [KN13]

5.4.65.5.6 Approval. Approval of any item shall require a minimum of a majority of the members of the Executive Committee present at the meeting and eligible to vote.

5.4.75.5.7 Rules of Procedure. The Executive Committee shall adopt Rules of Procedure for the conduct of Authority business by the Executive Committee. [KN14]

5.4.85.5.8 Authority of the Executive Committee. The Executive Committee shall have the powers, duties, and responsibilities provided in Section 6.3, herein.

5.5.6 Technical Advisory Committee (TAC). The Technical Advisory Committee shall be composed of representatives of each Municipality and County as follows:

5.5.15.6.1 Each Party may [KN15] appoint a representative to the TAC, ~~who shall serve until replaced by the appointing entity,~~ from that Party's the solid waste, public works, utilities, or such other department which performs similar functions for the Party.

In addition to the regular TAC representative, the appointing entity may also designate an alternate representative, who performs any above referenced function for the Party, who shall also serve until replaced by the appointing entity. 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 for which they serve as alternate. TAC members and alternates shall serve at the pleasure of their appointing Party.

5.5.25.6.2 Each Party, in appointing a member of representative to the TAC, ~~shall be~~ shall consider the technical or professional experience in and knowledge of the individual in the solid waste industry or a related profession, which may include engineering, solid waste management, or other related professions.

5.5.35.6.3 Regular meetings of the TAC shall be held in accordance with a schedule approved by the TAC, or as directed by the Governing Board, Executive Committee, or Executive Director.

5.5.45.6.4 The TAC shall adopt its Rules of Procedure for the conduct of its business.

5.5.55.6.5 The TAC shall select from among its members a Chair and a Vice Chair. [KN16]

5.5.65.6.6 The TAC may appoint subcommittees as it may deem appropriate to conduct its business, pursuant to its Rules of Procedure.

5.5.75.6.7 The role of the TAC and any TAC subcommittees will be to provide technical advice, guidance, recommendations, and counsel to the Governing Board, Executive Committee, and Executive Director on any matter relevant to the System.

5.5.85.6.8 The TAC shall serve in an advisory capacity to the Governing Board, Executive Committee, and Executive Director in technical matters of integrated solid waste planning, including environmental issues and educational programs, as well as providing a forum for the exchange of ideas among ~~municipal Party~~ representatives, the public, and the private sector.

5.65.7 Ethics.

5.7.1 Members of the Governing Board and TAC as well as the Executive Director shall be subject to County's Ethics Ordinance [KN17] and all applicable state ethics laws. The Governing Board may adopt additional ethics requirements for itself, the Executive Committee, the TAC, and the Executive Director as it deems appropriate.

5.6.15.7.2 ~~Members of the Governing Board and Executive Board shall neither participate in discussion on nor vote on any item that relates to an agreement or contract where the member's respective appointing Municipality or County is a party. [KN18] [HM19]. This provision does not prohibit the recused member may vote on the agreement or contract as part of their appointing board or commission.~~

## ARTICLE VI - POWERS OF AUTHORITY

6.1 The Authority shall have the following general powers:

6.1.1 ~~Adopt and implement a Master Plan of Operations ("Master Plan") that is consistent with the powers of the Authority, as described in this Article 6, and that encourages the reuse and reduction of Solid Waste as well as the recycling of Recyclable Materials and Recovered Materials. [KN20]~~

6.1.1.1 The Master Plan ~~of Operations~~ shall provide for, among

other things, the following<sup>[HM21]</sup>:

- a. ~~r~~Revenues necessary to operate the Authority;
- b. ~~s~~Storage, separation, processing, recovery, reuse, and identification of diversion sites and disposal sites for Solid Waste, Recyclable Materials, and Recovered Materials, as appropriate, that is generated in each Party's jurisdiction;
- c. ~~s~~Strategies, services, and programs to address Recyclable Materials and Recovered Materials processing, as well as any public education regarding the same;
- d. ~~a~~Alternative and contingency facilities;
- e. ~~Any~~additional goals~~s~~ identified by the Governing Board not inconsistent with applicable law or with County's exercise of its statutorily granted powers and obligations; and
- f. ~~t~~The modification or update of any of the above as may be required or allowed by applicable law.

6.1.2 Develop an annual revenue and expense budget sufficient for the operation of the Authority.

6.1.3 Establish such rates, fees, and other charges and revenue sources allowed by law, including special assessments and tipping fees, to sufficiently fund and operate the System, which fees shall be applied uniformly<sup>[HM22]</sup> to each Party, shall be set at no higher an amount that is reasonably required to accomplish the authorized purposes of the Authority, and shall be competitive with similar fees established by other market participants, whether private or public.

- 6.1.4 Provide for the processing of Recyclable Materials and Recovered Materials generated in each Party's jurisdiction.
- 6.1.5 Develop, implement, operate, and manage facilities and programs concerning the processing of Recyclable Materials and Recovered Materials and to make same available to each Party on uniform terms. Nothing herein shall prevent any Party from developing, implementing, operating, or managing programs concerning the processing of Recyclable Materials or Recovered Materials that do not conflict with the minimum standards set by the Authority.
- 6.1.6 ~~May~~<sup>HM23</sup> Operate services for the collection and transportation of Solid Waste, Recyclable Materials, and Recovered Materials and make said optional services available to each Party on uniform terms<sup>HM24</sup>.
- 6.1.7 To the extent permissible under applicable law and provided it does not interfere with County's ability to fulfill its obligation under Section 403.706(1), Fla. Stat. (2021), the Authority shall have the power to provide Solid Waste disposal for Solid Waste generated in the Parties' jurisdictions. The Authority may only own or operate a Solid Waste disposal facility, as that term is defined in Section 403.703, Fla. Stat. (2021), with the formal concurrence of all Parties, as demonstrated by an affirmative vote of each Party's elected body.
- 6.1.8 Conduct studies and research on strategies to improve the management of Solid Waste, Recyclable Materials, and Recovered Materials.
- 6.1.9 Provide monitoring of projects, programs, and facilities concerning Solid Waste, Recyclable Materials, and Recovered Materials that directly or indirectly affect the System.

- 6.1.10 Provide education, outreach, and public information programs to increase the percentage of Recyclable Materials and Recovered Materials that are successfully recycled, to promote the reduction and reuse of Solid Waste within the Parties' jurisdictions, and to increase public understanding of, and engagement with, the Authority's work.
- 6.1.11 Issue bonds or other instruments related to short- or long-term borrowing, and letters of credit or debt that relate to the System. All such bonds shall be the sole obligation of the Authority. [HM25]
- 6.1.12 Sue and be sued, implead, and be impleaded in all courts.
- 6.1.13 Consistent with the powers described in this Article 6, the requirements of Chapter 403, Florida Statutes, and other applicable law, the Authority shall have the power to contract with governmental agencies, individuals, public or private corporations, municipalities, or any other person.
- 6.2 Powers of the Governing Board.
- 6.2.1 Unless provided otherwise within this Agreement, ~~all~~the powers of the Authority in Section 6.1 shall be exercised by the Governing Board.
- 6.2.2 Approval of Annual Budgets as described in Article VII.
- 6.2.3 Approval and levy of special assessments as described in Article VII.
- 6.2.4 Approval of all Revenue Bonds, as well as any financing where the principal exceeds \$5,000,000.00 [MA26]
- 6.2.5 Approval of and amendments to the Master Plan ~~of Operations for the Authority.~~
- 6.2.6 Appointment of an Authority ~~c~~Counsel who shall act as the general counsel and advisor to the Authority. The Authority ~~c~~Counsel shall have such duties as

prescribed by the Governing Board and serve at the pleasure of same.

- 6.2.7 Approval of the annual tipping fee established by the Executive Board to be charged to Municipalities<sup>[KN27]</sup><sup>[KN28]</sup>
- 6.2.8 Approval of a fictitious name or marketing name for the Authority.
- 6.2.9 Approval of bBylaws for the Authority.
- 6.3 The Executive Committee shall have the following powers:
  - 6.3.1 Overseeing the operation and management of the Authority ~~in the manner it deems appropriate.~~
  - 6.3.2 Establishing surety bond requirements for any of the Authority's officers and employees in such amounts as it deems necessary. The premiums for the bonds shall be paid by the Authority in the same manner as any other operating expense.
  - 6.3.3 Approval of Operational Policies <sup>[KN29]</sup> for the Authority.
  - 6.3.4 Approval of an Annual Plan of Operations for the Authority.
  - 6.3.5 ~~Subject to approval by the Governing Board, Develop and recommend to the Governing Board~~ establish<sup>[KN30]</sup> tipping fees, rates, and other charges and revenue sources to sufficiently fund the System and the maintenance of the Authority, which shall be approved by the Governing Board.
  - 6.3.6 Develop and recommend to the Governing Board the Annual Budget as provided in Article VII, which shall be approved by the Governing Board.
  - 6.3.7 Enforce the Solid Waste flow control ordinances and the flow control provisions of hauler contracts, as the agent for the Municipalities and County, if and to the extent such action is necessary to comply with the Authority's obligations under this Agreement and the service agreements.

- 6.3.8 Approval of any agreement for contractual services where the contract does not exceed \$5,000,000.00 per year.
- 6.3.9 Purchase/Sale/Lease of Goods and materials where the individual transaction does not exceed \$5,000,000.00. [MA31][KN32]
- 6.3.10 Approval of settlements of legal claims and litigation against the Authority where the ~~sum~~ total out-of-pocket costs to the Authority, including attorney's fees and costs, exceeds \$100,000.00. [KN33]
- 6.3.11 Appointment of an Executive Director to be responsible for the operation of the Authority in accordance with the policies and decisions of the Governing Board and conduct annual reviews of the Executive Director.
- 6.3.12 Draft and recommend ~~b~~Bylaws to the Governing Board for Governing Board approval.
- 6.4 The Executive Director shall serve as the Chief Executive Officer of the Authority, and shall have the following duties and responsibilities:
- 6.4.1 Hire such employees as authorized by the Governing Board as being necessary for the operation of the Authority.
- 6.4.2 Handle all personnel issues with employees of the Authority, including setting salaries and benefits, annual reviews, hiring, discipline and firing.
- 6.4.3 Approve and execute ~~Enter into~~ agreements for contractual services that where ~~the contract does~~do not individually exceed \$500,000.00 per year.
- 6.4.4 ~~Purchase/Sale/Lease of Goods and materials where the individual transaction does not exceed \$500,000.00.~~ [MA34]
- 6.4.5 Approval of settlement where the sum total out of pocket to the Authority,

including attorney's fees, is \$100,000.00 or less. [KN35]

- 6.4.6 Serve as Registered Agent for all service of process on the Authority.
- 6.4.7 Provide recommendations, assistance, and support as necessary for the Governing Board's approval of the Master Plan of Operations.
- 6.4.8 Provide recommendations, assistance, and support as necessary for the Executive Committee's approvals of Operational Policies for the Authority and Annual Plan of Operations for the Authority.

SWWG REVISED 2-16-22