

## **County Items for Discussion – SWWG 4/27/22**

### **ITEMS TO BE ADDRESSED.**

- Costs of closure for Authority's facilities.
- Liabilities that might be imposed on County because of Authority's facilities and how the Authority or underlying parties will be responsible for those costs.
- Authority set-aside of reserve funds for long-term maintenance and closure of any of the Authority's facilities.
- Plans for funding sources if County will be expected to operate facilities or provide services in circumstances where Authority is dissolved (e.g., Parties' agreement to allow the County or successor dependent district to continue assessment on residents, etc.).

### **DISPUTE RESOLUTION BETWEEN PARTIES (Tentative inclusion in Article 17)**

- Requires mediation for any dispute between a Party and the Authority.
- If mediation fails, parties may litigate.
- Court may order any legal or equitable remedy, but may only dissolve the Authority if:
  - the Authority is incapable of performing the services for which it was created, or
  - the actions or inactions of the Authority have prevented County from performing its statutory obligations.

### **DISPOSITION OF ASSETS (Tentative inclusion in Article 17)**

- Assumption of Assets and Performance of Services by County: If the Authority is terminated, County has the option, but not obligation, to perform the Authority's services for the good of all Broward residents. If exercised, Authority transfers assets and all reserve funds (maintenance, closure, etc.) to County at no cost. Goal is that residents should not pay twice for the same assets.
- Reduction in Services: If the Authority ceases operating or reduces disposal capacity at any of the Authority's facilities, regardless of whether Authority is terminated, County has the option to lease and operate that facility if it determines the disposal capacity is needed for Broward residents. The Authority retains ownership and all liability for the assets and must continue to set aside reserves, etc.
- Right of First Refusal: If the Authority plans to sell or dispose of an asset, the County may acquire that asset by matching the offer. Applies whether Authority is terminated or not.
- Capacity Improvements Required by Florida Law: Based on section 403.706(1), Fla. Stat. If Authority closes a facility and that means County is forced to make a capital expansion at the County's own facility (unrelated to the Authority) in order to meet the Parties' capacity needs, then the Authority has to pay the costs borne by the County (in the same manner as a municipality would if it had a disposal facility and closed it). If the closure is due to the dissolution/termination of the Authority, then the Parties to the ILA must reimburse the County for these expansion costs on a pro rata basis (either based on population or their tonnage).