

Memorandum



Date: September 4, 2024

To: Honorable Chairman Oliver G. Gilbert, III
and Members, Board of County Commissioners

Agenda Item No. 8(M)(2)

From: Daniella Levine Cava
Mayor

A handwritten signature in blue ink that reads "Daniella Levine Cava".

Subject: Third Amended and Restated Non-Exclusive Agreement between Miami-Dade County, Florida and Waste Management Inc. of Florida for Provision of Municipal Solid Waste Disposal Services

Executive Summary

The purpose of this item is to seek approval by the Board of County Commissioners ("Board") for the Provision of Municipal Solid Waste Disposal Services ("Agreement") between Miami-Dade County ("County"), Florida, and Waste Management Inc. of Florida ("WMI" or "WM") until September 30, 2035, with two (2) subsequent ten (10) year renewal periods.

Recommendation

It is recommended that the Board adopt the accompanying resolution authorizing the County Mayor or the County Mayor's designee to execute the Third Amended and Restated Non-Exclusive Agreement, Attachment 1, between the County and WM for Provision of Municipal Solid Waste Disposal Services. Approval of the amendment provides additional disposal capacity to meet concurrency requirements since the closure of the Resources Recovery Facility. It also ensures the County remains in compliance with the Comprehensive Development Master Plan ("CDMP") requirements and avoids the need for a building moratorium.

Scope

The WMI Medley Landfill, owned and operated by WMI, located in the Town of Medley, Florida ("Medley Landfill"), as well as WM's owned and operated Okeechobee Landfill, located in Okeechobee County, Florida ("Okeechobee Landfill") are contracted components of the County solid waste management system ("System"). The County relies on these landfills for its day-to-day solid waste management operations and to meet the solid waste concurrency requirements of the State of Florida Comprehensive Planning and Land Development Regulation Act (Chapter 163, Part II, Fla. Stat.). The adopted level-of-service standard for solid waste contained in the Solid Waste Sub-element of the Comprehensive Development Master Plan ("CDMP"), requires the County to maintain disposal capacity sufficient to accommodate waste flows committed to the System through long-term interlocal agreements or contracts with municipalities and private waste haulers, and anticipated non-committed waste flows, for a minimum of five (5) years. The County provides solid waste Concurrency for: (1) the unincorporated municipal service area; (2) municipalities included in the Solid Waste Collection Service Area (i.e., Aventura, Cutler Bay, Doral, Miami Gardens, Miami Lakes, Opa-Locka, Palmetto Bay, Pinecrest, and Sunny Isles Beach); and (3) municipalities that contract with the County for waste disposal services (i.e., Bal Harbour, Bay Harbor Islands, Coral Gables, Homestead, Miami, Miami Beach, Miami Shores, Miami Springs, North Bay Village, North Miami, North Miami Beach, South Miami, Surfside, Sweetwater, and West Miami).

Fiscal Impact

The Agreement generates disposal revenue and provides low-cost waste disposal that helps preserve County-owned landfill capacity. All revenues and expenses related to the Agreement are proprietary to

the Department of Solid Waste Management (“DSWM” or “Department”); no General Fund revenues or expenses are involved in this Agreement.

The Agreement requires WMI to deliver a minimum of 100,000 tons of waste to the System each year, at the County’s contract disposal rate, which provides gross revenues of approximately \$7.15 million to DSWM. The Agreement also requires WMI to pay the County a surcharge on waste it delivers to the Medley Landfill. The minimum tonnage subject to the surcharge is 230,000 tons per year, which equates to approximately \$637,100.00 annually at the fiscal year (“FY”) 2023-24 rate of \$2.77 per ton (subject to annual Consumer Price Index (“CPI”) adjustment).

Over the thirty-one-year term of the Agreement (until 2055), WMI must annually provide up to 700,000 tons of waste disposal capacity at the Medley Landfill and 2 million tons of capacity at the Okeechobee Landfill. The proposed per-ton disposal rates at these facilities are \$45.41 at the Medley Landfill and \$37.98 at Okeechobee, respectively (subject to annual CPI adjustment beginning October 1, 2025). Comparatively, the per-ton fee for disposal at County facilities for FY 2023-24 is \$71.53. The large difference between the WMI and County disposal fee per ton allows the County to utilize the lower cost disposal with WMI to decrease its internal disposal rate and, at the same time, preserve County-owned disposal capacity.

DSWM will also have an annual 550,000 tons waste delivery guarantee at WMI’s WM/Florida East Coast Railway (“FEC”) Intermodal Facility located at 7300 NW 69th Avenue, Miami, Florida. However, at such time as the County’s new waste-to-energy (“WTE”) facility becomes operational, this waste delivery guarantee will be reduced to meet the County’s waste delivery obligation at the new WTE, provided the waste delivery guarantee to WMI does not fall below 250,000 tons annually.

Track Record/Monitor

WMI waste deliveries to DSWM and DSWM waste deliveries to WMI are tracked by DSWM operations staff under the direction of Achaya Kelapanda, Deputy Director for Waste Operations.

Social Equity Statement

The proposed resolution is not anticipated to have any measurable social equity benefit or burden because all customers will be impacted equally.

Delegation of Authority

This item authorizes the County Mayor or the County Mayor’s designee to execute the Agreement and to exercise all provisions contained in the Agreement, including renewal and termination.

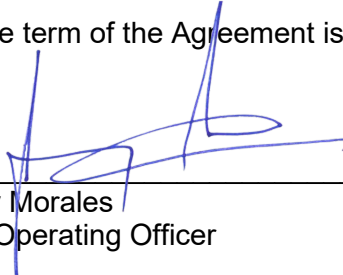
Background

The County began using the WMI Medley Landfill under a 1995 waste disposal agreement (“Waste Disposal Agreement”). In 1998, the Waste Disposal Agreement was amended to combine elements of that agreement with a prior phase-out agreement. This was done in order to incorporate the Medley Landfill as a “Contracted Component” of the System and to mitigate any adverse impacts to the System from continued operation of the Medley Landfill, as required by Section 15-18 of the Code of Miami-Dade County, Fla., Resource Recovery and Management Facility Permitting (also known as Ordinance 92-155), and to address Bond Ordinance 96-168, which prohibits the County from allowing the operation of private disposal facilities that may compete or tend to compete with the System. The 1998 agreement also provided consistency with Policy SW-5B of the CDMP, which discourages the establishment of disposal facilities that are not integrated into the System and was further supported by Article 1, Section 1.01(9) of the County Charter, which empowers the Board to regulate waste collection and disposal in the County.

The Department's Bond Engineer has found this Agreement reasonable and consistent with the County's goals of maintaining the operations of its System and meeting concurrency requirements in the wake of the closure of the Resources Recovery Facility in Doral (see Attachment 2, letter dated May 14, 2024). The proposed Agreement continues the process of integrating the Medley Landfill and now other WMI Transfer Stations: Reuter Recycling of Florida (20701 Pembroke Road, Pembroke Pines, Florida); WM Recycling Oakes Road (3250 SW 50th Avenue, Davie, Florida); WM Davie Transfer Station (2380 College Avenue, Davie, Florida); WM Miami Transfer Station (2120 NW 11th Avenue, Miami, Florida); WM/FEC Intermodal Facility (7300 NW 69th Avenue, Miami, Florida); and other such facilities as may be added to or deleted from this listing from time to time, by the County Mayor or his/her designee at his/her sole discretion.

Highlights of the Agreement are as follows:

- The annual tonnage commitment to the County by WMI remains at 100,000 tons per year (approximately \$7.15 million in gross revenues).
- WMI must annually deliver at least 230,000 tons of waste to the Medley Landfill and pay a per-ton surcharge of \$2.77 per ton (\$637,100.00 minimum revenues), subject to CPI adjustment each year.
- Increased capacity commitment by WMI at the Medley Landfill (from 500,000 tons to 700,000 tons), increased capacity commitment at the Okeechobee County Landfill (from 500,000 tons to 2,000,000 tons), and the 250,000 capacity at WMI's Monarch Landfill in Broward County goes away. The total annual capacity commitment under the Agreement is increased from 1.25 million tons to 2.7 million tons.
- There is no waste delivery guarantee for the County at either the Medley Landfill or Okeechobee Landfill, however, the County must deliver 550,000 annual tons to the WM/FEC Intermodal Facility until such time as the County's WTE facility becomes operational. At that time, the waste delivery guarantee will be reduced to meet the County's waste delivery obligation at the WTE, provided the waste delivery guarantee to WMI does not fall below 250,000 tons annually.
- The term of the Agreement is through September 30, 2035, plus two (2) 10-year options-to-renew.



Jimmy Morales
Chief Operating Officer

ATTACHMENT 1

**THIRD AMENDED AND RESTATED NON-EXCLUSIVE AGREEMENT BETWEEN
MIAMI-DADE COUNTY, FLORIDA AND WASTE MANAGEMENT INC. OF
FLORIDA FOR PROVISION OF MUNICIPAL SOLID WASTE DISPOSAL SERVICES**

This third amended and restated non-exclusive agreement for provision of municipal solid waste disposal services ("Agreement"), is made this day of , 2024, by and between WASTE MANAGEMENT INC. OF FLORIDA, a Florida corporation ("Waste Management"), and MIAMI-DADE COUNTY, a political subdivision of the State of Florida, by and through its Board of County Commissioners, (the "County").

WITNESSETH:

BACKGROUND RECITALS

Whereas, the Miami-Dade County Board of County Commissioners (the "Board"), hereby finds and declares that it is necessary to the health, safety, and welfare of the citizens of Miami-Dade County to provide for solid waste disposal and management facilities and services (the "Solid Waste Management System"); and

Whereas, the County desires to maximize the use of contracted components of the Solid Waste Management System to extend the life of County landfills; and

Whereas, the County and Waste Management acknowledge that preservation of airspace in the Landfill through greater reliance on the Alternate Landfill (as defined below), notwithstanding the solid waste delivery and capacity guarantees set forth in this Agreement, is in the long-term mutual best interests of the parties; and

Whereas, the Contract Cities and Contract Haulers (as defined below), desire to use the Solid Waste Management System for their solid waste disposal needs (and transfer needs, as applicable), at an agreed-upon disposal fee rate (and transfer fee rate as applicable); and

Whereas, the Contract Cities, desire to continue their reliance on the Solid Waste Management System to satisfy concurrency requirements of the Local Government Comprehensive Planning and Land Development Regulation Act (Chapter 163, Part II, Fla. Stat.), only as it applies to solid waste disposal capacity for the solid waste which each Contract City collects for disposal, or that which is collected for it by third parties under contract with the Contract City for disposal, and which is committed to the County for disposal in the Solid Waste Management System in accordance with the Interlocal Agreements between the Contract Cities and the County, and actually disposed of therein; and

Whereas, Waste Management owns and operates (i) the only private Class I landfill in Miami-Dade County, which is located at 9350 NW 89th Avenue (the "Landfill"), and (ii) a private Class I landfill located in Okeechobee County, Florida (the "Alternate Landfill"); and

Whereas, through this Agreement, the Landfill and the Alternate Landfills are contracted components of the Solid Waste Management System consistent with County's policy as stated in

the Comprehensive Development Master Plan which prohibits the establishment of disposal facilities not integrated into this System; and

Whereas, the County acknowledges that Waste Management's landfills represent resources capable of satisfying, in part, the concurrency requirements of state law as well as the County's responsibilities to secure the health, safety and welfare of its citizens by maintaining the long-term availability of solid waste disposal facilities; and

Whereas, by this Agreement the County and Waste Management have secured a beneficial long-term contractual relationship to enable the County to utilize Waste Management's waste disposal facilities to satisfy the County's (including Contract Cities and Contract Haulers), solid waste disposal needs, including, without limitation, securing the availability of long-term solid waste disposal capacity to satisfy planning and health, safety, and welfare concerns; and

Whereas, the County must comply with the stipulations of Bond Ordinance No. 96-168 regarding the construction, acquisition, or operation of any private Solid Waste disposal facilities within the County that may compete or tend to compete with the County Solid Waste Management System, and the provisions of Ordinance No. 92-155 regarding permitting of resource recovery and management facilities; and

Whereas, the initial development and subsequent expansions of the Landfill were authorized prior to adoption by the Board of Ordinance No. 92-155, which places restrictions on development of resource recovery and management facilities in Miami-Dade County, and therefore portions of the Landfill have grandfather status with regard to the provisions of this ordinance for its existing and County approved airspace; and

Whereas, Waste Management has agreed to the waste delivery guarantee and Disposal Surcharge Fee contained in this Agreement which contribute toward mitigation of the adverse impacts to the County from operation of the Landfill; and

Whereas, Waste Management agrees that any future expansion of the Landfill shall be treated as a new solid waste management facility by the County for permitting purposes consistent with the provisions of Ordinance No. 92-155.

NOW, THEREFORE, in consideration of the foregoing premises, and the mutual considerations contained herein, the parties hereto, intending to be legally bound, do hereby agree as follows:

DEFINITIONS

For the purposes of this Agreement, the following capitalized words and phrases shall be given the following respective meanings:

Alternate Landfill - the Okeechobee Landfill (Okeechobee Landfill, Inc., a wholly owned subsidiary of Waste Management Inc. of Florida), which is located in Okeechobee County, Florida.

Board - the Miami-Dade County Board of County Commissioners.

Change in Law - after the date of execution of this Agreement, (a) the adoption, promulgation, issuance, modification, or change in interpretation of any federal, state or local law, regulation, rule, requirement, ruling or ordinance, of the United States or any state or territory thereof, unless (i) such law, regulation, rule, requirement, ruling or ordinance was on or prior to such date duly adopted, promulgated, issued or otherwise officially modified or changed in interpretation, in each case in final form, to become effective without any further action by any governmental entity or official having jurisdiction, or (ii) compliance with such law, regulation, rule requirement, ruling or ordinance was provided for in the Agreement; or (b) the issuance of an order and/or judgment of any governmental entity or official having jurisdiction, to the extent such order and/or judgment constitutes a reversal of a prior applicable order and/or judgment, or an overturning of prior administrative policy or judicial precedent.

Contract City(ies) - the municipal corporation or corporations existing under the laws of the State of Florida, that have entered into an Interlocal Agreement with the County for use of the Solid Waste Management System.

Contract Hauler(s) - any private waste hauler operating in Miami-Dade County that has a current non-exclusive agreement with the County for commitment to use the System for municipal solid waste disposal.

Contract Rate – the lowest MSW disposal rate offered to Contract Cities and Contract Haulers that are under long-term contract with the County.

County - Miami-Dade County, Florida.

Director - the Director of the Department of Solid Waste Management or his/her designee.

Disposal Fee - the fee charged to dispose of Solid Waste at the Landfill or Alternate Landfill. This fee does not include any federal, state, or local fees, charges, or surcharges.

Disposal Surcharge Fee - a fee charged per ton of Waste, generated from either inside or outside Miami-Dade County, that Waste Management delivers to the lined Class I disposal cells at the Landfill which shall be used to mitigate the adverse financial impact to the County from Landfill operation. The Disposal Surcharge Fee shall be either payable to the County, or an offset or credit against fees owed by the County at the County's sole discretion and shall not apply to Waste delivered by or on behalf of, or at the direction of Miami-Dade County pursuant to this Agreement.

Environmental Law - all applicable laws, ordinances, orders, and resolutions relating to the environment, including without limitation, rules or regulations relating to the environment issued or enacted by any regulatory agency with jurisdiction over the Landfill, Alternate Landfill, or WM Transfer Stations.

Fiscal Year - the period beginning October 1st of each year and ending September 30th of the subsequent year. The use of the words "annual" or "annually" in this Agreement shall mean a Fiscal Year. All annual amounts stated herein shall be prorated for any partial Fiscal Year.

Force Majeure - an act of God, epidemic, lightning, earthquake, fire, explosion, storm, hurricane, flood or similar occurrence, strike, act of a public enemy, blockade, insurrection, riot, general arrest or restraint of government and people, civil disturbance or similar occurrence, which has

had or may reasonably be expected to have a material adverse effect on the rights or obligations under this Agreement which by the exercise of due diligence the party relying thereon as justification for not performing any obligation under this Agreement shall not have been able to avoid, and which is not the result of a willful or negligent action or omission of such party.

Fuel Surcharge - a fuel surcharge will be calculated monthly on a per load basis, and will increase or decrease by one cent (\$0.01) per mile for every five (5) cent increase or decrease in the price of diesel fuel above or below the threshold price. The threshold price is based on the agreement between Waste Management and the hauler. Calculations shall be made based on the United States Energy Information Administration's ("EIA") U.S. On Highway Diesel Fuel Price index for PADD 1C (Lower Atlantic) as reported on their website. The adjustment will be based on the last published price by the EIA of the preceding month. The calculated per load amount will be divided by 27 tons per load (the historical average per load weight at Waste Management's MSW transfer station) to convert it to a per ton rate.

Garbage - any accumulation of animal, fruit or vegetable matter that attends the preparation, use, cooking and dealing in, or storage of, edibles, and any other matter, of any nature whatsoever, which is subject to decay, putrefaction and the generation of noxious or offensive gases or odors, or which, during or after decay, may serve as breeding or feeding material for flies or other germ-carrying insects.

Hazardous Waste - as defined in Chapter 403, Part IV, Florida Statutes, as amended.

Landfill - the Waste Management Inc. of Florida landfill which is located at 9350 NW 89th Avenue, Medley, Florida.

Municipal Solid Waste ("MSW") or Solid Waste or Waste - all discarded materials or substances, exclusive of source-separated recyclable materials, including, but not limited to, garbage, trash, litter, refuse, rubbish, ashes, incinerator residue, recycling process residue, or other materials allowed by the State Department of Environmental Protection for disposal in a Class I landfill which result from domestic, commercial, industrial, mining, agricultural or governmental activities, but not including Waste Tires, sewage or other highly-diluted, water-carried materials or substances, or those in gaseous form.

Solid Waste Management System ("System") - The aggregate of those solid waste management facilities owned by or operated under contract with Miami-Dade County which shall include the North Dade Landfill (21500 NW 47th Avenue); South Dade Landfill (23707 SW 97th Avenue); Resources Recovery Facility (6990 NW 97th Avenue); Waste Management's Medley Landfill, Medley, Florida (9350 NW 89th Avenue); Waste Management's Okeechobee Landfill Okeechobee County, Florida; Northeast Transfer Station (18701 NE 6th Avenue); Central Transfer Station (1150 NW 20th Street); West Transfer Station (2900 SW 72nd Avenue); Reuter Recycling of Florida (20701 Pembroke Road, Pembroke Pines, Florida); WM Recycling Oakes Road (3250 SW 50th Avenue, Davie, Florida); WM Davie Transfer Station (2380 College Avenue, Davie, Florida); WM Miami Transfer Station (2120 NW 11th Avenue, Miami, Florida); WM/FEC Intermodal Facility (7300 NW 69th Avenue, Miami, Florida); Waste Connections of Florida, Inc. Transfer Station, (4070 NW 37th Court, Miami, Florida); Heart of Florida Landfill (1032 County Road 529A, Lake Panasoffkee, Florida); JED Landfill (1501 Omni Way, St. Cloud, Florida) and other such facilities as may be added to or deleted from this listing from time to time, by the County

Mayor or his/her designee at his/her sole discretion. Such additions or deletions may be made by use of an attachment hereto without need for formal amendment to this Agreement.

Source-Separated Recyclable Materials - materials separated from MSW at their source of generation which are set-out for collection at their source of generation. Such materials shall be limited to: clean yard trash, construction and demolition debris material, Waste actually used as landfill cover, aseptic and gable-top containers, corrugated cardboard, magazines, mixed waste paper, newspapers, telephone books, household batteries, glass containers, plastic containers, steel cans, aluminum cans, and other source-separated recyclable materials as may be approved for addition to this listing from time to time by the County Mayor, which approval shall not be unreasonably withheld; such additions may be made by use of an attachment hereto without need for formal amendment to this Agreement.

Transfer Fee - the per ton fee charged to deliver Solid Waste to a WM Transfer Station. This fee includes the costs of handling and transportation to the ultimate disposal site (other than to the Landfill). This fee does not include any federal, state, or local fees, charges or surcharges or Disposal Fees.

Trash - any accumulation of paper, packing material, rags or wooden or paper boxes or containers, sweepings, and all other accumulations of a nature other than Garbage, which are usual to housekeeping and to the operation of commercial establishments.

Unacceptable Waste - any waste that cannot be legally disposed of at a Class I Landfill in accordance with Environmental Law.

Waste Tire - a tire from a motorized vehicle that is no longer suitable for its originally-intended purpose because of wear, damage, or defect, or which is no longer intended by the holder thereof for vehicular use.

WM/FEC Intermodal Facility – an intermodal facility located at 7300 NW 69th Avenue, Miami, Florida, adjacent to a Florida East Coast rail spur in Miami-Dade County and made available for the acceptance and intermodal transport of Solid Waste to the Alternate Landfill by or on behalf of or at the direction of the County pursuant to this Agreement.

WM Transfer Station(s) - the Solid Waste transfer facilities operated by Waste Management and made available for the acceptance and transfer of Solid Waste which is delivered by or on behalf of, or at the direction of the County pursuant to this Agreement which facilities include: WM Recycling Oakes Road (3250 SW 50th Avenue, Davie, Florida); WM Davie Transfer Station (2380 College Avenue, Davie, Florida); WM Miami Transfer Station (2120 NW 11th Avenue, Miami, Florida); and the WM/FEC Intermodal Facility (7300 NW 69th Avenue, Miami, Florida). Additional WM Transfer Stations may be added by mutual agreement of the parties by use of an attachment hereto and without the need for formal amendment to this Agreement.

ARTICLE 1
CONSTRUCTION OF 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
WASTE MANAGEMENT RESPONSIBILITIES

A. **Permits.** Waste Management shall diligently pursue such permits, approvals, and licenses, if any, as are required for the disposal of Solid Waste at the Landfill which is delivered by or on behalf of or at the direction of the County pursuant to this Agreement. Waste Management's further obligations hereunder are expressly subject to the issuance of final, non-appealable licenses, permits and approvals as are required for the operations and services described herein.

Waste Management shall continue to provide off-site and on-site groundwater sampling data in accordance with the frequency(ies) (limited to a quarterly maximum) and locations as specified by the Miami-Dade County Department of Regulatory and Economic Resources (“RER”). Groundwater samples shall be analyzed in accordance with RER approved monitoring parameters, as amended. The analysis results shall be forwarded to RER within fifteen (15) days of their receipt by Waste Management.

B. **Waste Disposal Capacity.**

- (1) Waste Management shall accept up to Seven Hundred Thousand (700,000) tons of Solid Waste annually at the Landfill, which is delivered by or on behalf of or at the direction of the County pursuant to this Agreement. By mutual agreement of the parties, and in an effort to preserve capacity at the Landfill, at the County’s sole discretion, all, or a portion of the 700,000 tons annual capacity guarantee at the Landfill shall be transferrable to the Alternate Landfill.
- (2) Annually, Waste Management shall accept Solid Waste which is delivered by or on behalf of or at the direction of the County pursuant to this Agreement at the Alternate Landfill up to Two Million (2,000,000) tons.
- (3) The above maximum amounts of Solid Waste disposal capacity may be increased upon the same terms and conditions contained herein with the mutual written consent of both parties without formal amendment to this Agreement. Additional Waste disposal and waste transfer capacity may also be made available by Waste Management for use by the County at other Waste Management owned or operated Solid Waste management facilities at the same or lower rates contained in this Agreement, at Solid Waste volumes and per ton rates mutually agreeable to both Waste Management and the County pursuant to this Agreement. Such additional facilities, at applicable volumes and rates, may be made available to the County by use of an attachment hereto without need for formal amendment to this Agreement.
- (4) The provision of Solid Waste disposal services under this Agreement shall comply with all applicable federal, state, and local laws and rules.

- (5) Waste Management shall take title in perpetuity to all Waste delivered to the Landfill, and Alternate Landfill or any other waste management facility owned or operated by Waste Management, by or on behalf of or at the direction of the County pursuant to this Agreement.

C. **Unacceptable Waste.** Waste Management may refuse for disposal or transfer any load of Solid Waste which, based on substantial competent evidence, Waste Management has determined to contain Unacceptable Waste. In the event Unacceptable Waste is disposed or delivered by or on behalf of or at the direction of the County, and the applicable party responsible for the Unacceptable Waste fails to remove such Unacceptable Waste within twenty-four (24) hours after delivery, Waste Management may take any and all appropriate action to remove and dispose of the Unacceptable Waste as required by law and the County shall pay all costs incurred for such removal, transportation and disposal for which verifiable information pertaining to such costs is provided in written form to the County by Waste Management. Waste Management shall use reasonable commercial efforts to minimize said costs. Waste Management shall notify the County immediately by phone of its intent to refuse disposal of any Waste delivered by or on behalf of or at the direction of the County pursuant to this Agreement, or to remove, transport and dispose of Unacceptable Waste delivered by or on behalf of or at the direction of the County.

D. **Waste Delivery Limitations.** Annually, Waste Management may dispose of up to 200,000 tons of Solid Waste generated outside of Miami-Dade County in the Landfill, provided that Waste Management provides prior notice to the County in accordance with Article 6 of this Agreement. Disposal of Solid Waste generated outside of Miami-Dade County in excess of 200,000 tons annually will require prior written approval of the Director, which approval shall not be unreasonably withheld. All Solid Waste from outside the County disposed of in the Landfill by Waste Management shall be subject to the Disposal Surcharge Fee.

Other than Waste delivered by or on behalf of or at the direction of the County pursuant to this Agreement, Waste Management shall only accept Waste at the Landfill from its own company or subsidiaries, which may include the transfer of Waste by Waste Management or subsidiaries and Waste transferred for it by third parties under contract with Waste Management, from an RER permitted Solid Waste transfer facility located in Miami-Dade County to the Landfill for disposal, and such Waste deliveries shall be subject to the Disposal Surcharge Fee.

The County agrees to use its waste enforcement resources to monitor waste collection and delivery by Contract Haulers in an ongoing effort to prevent the delivery of waste generated outside Miami-Dade County to the Landfill, provided however, this provision does not require the County to mandate or allocate a minimum amount of enforcement resources or personnel to accomplish same.

E. **Waste Delivery Guarantee.** From and after the effective date of this Agreement, and for the initial term and any renewal terms of this Agreement, Waste Management shall deliver to any County Solid Waste disposal site open to the general public an annual amount of Solid Waste of not less than One Hundred Thousand (100,000) tons, which shall be delivered at a consistent rate of approximately Eight Thousand Three Hundred (8,300) tons per month at the County's contract disposal rate, which is the County's lowest Solid Waste disposal rate. In the event that Waste Management enters into a Solid Waste agreement with any Contract City not already under contract with Waste Management subsequent to July 31, 1998, the Waste collected pursuant to such agreement shall not count toward satisfaction of Waste Management's annual Waste delivery guarantee referenced herein during the initial term and any renewal terms of this Agreement.

From and after the effective date of this Agreement, and for the initial term and any renewal terms of this Agreement, Waste Management agrees to dispose of a minimum of 230,000 tons per year of Waste it collects at the lined Class I Solid Waste disposal cells at the Landfill, or all the Solid Waste that Waste Management or its subsidiaries collect, including that which is collected for it by third parties under contract with Waste Management, from within Miami-Dade County, whichever is less.

F. **Disposal Surcharge Fees.** Waste Management shall pay the County a Disposal Surcharge Fee for waste disposed of at the lined Class I Solid Waste disposal cells at the Landfill, except for materials which are accepted at no charge to the customer. Waste Management shall obtain County approval prior to accepting materials at no charge. Beginning October 1, 2023, and continuing through September 30, 2024, the Disposal Surcharge Fee shall be \$2.77 per ton. The Disposal Surcharge Fee shall be increased or decreased for inflation or deflation beginning on October 1, 2024, and on the first day of each Fiscal Year thereafter, relative to increases or decreases in the U.S. Government Consumer Price Index for All Urban Consumers for the Southeast Region of the United States ("CPI"), for the prior period of July 1st through June 30th. Such CPI increases or decreases shall be capped at five percent (5%) for the term of this Agreement. The Disposal Surcharge Fee shall be paid quarterly in arrears and shall be due within fifteen (15) days of the end of the quarter commencing with the end of the first quarter after the execution of this Agreement.

G. **Additional Taxes, Surcharges or Fees.** Any taxes, special surcharges, or fees levied by any governmental entity on the disposal of Solid Waste shall be collected and paid by Waste Management to the appropriate governmental entity. Any such fee will not be deducted from the Disposal Surcharge Fee. In the event the County adds any of the above taxes, surcharges, or fees for any reason, each shall be levied on all landfills and Solid Waste management facilities within the County. Waste Management shall account for such additional taxes, surcharges, or fees, separately from the Disposal Surcharge Fee in Section F above.

H. County Disposal and Transfer Fees. WM shall pay the County the Disposal Fee Contract Rate for each ton of MSW delivered for disposal to the North Dade Landfill or South Dade Landfill.

(1) Beginning on the effective date of this Agreement, WM shall pay the County a Disposal Fee of Seventy-One and 53/100 dollars (\$71.53) per ton for Waste delivered to the North Dade Landfill or South Dade Landfill.

(2) Beginning on the effective date of this Agreement, WM shall pay the County a Transfer Fee of Fifteen and 65/100 (\$15.65) dollars per ton for Waste delivered to any County Transfer Station, in addition to the Disposal Fee.

The WM Disposal Fee and Transfer Fee shall be increased or decreased for inflation or deflation beginning on October 1, 2025, and on the first day of each Fiscal Year thereafter, relative to increases or decreases in CPI for the prior period of July 1st through June 30th. Such CPI increases or decreases shall be capped at five percent (5%) per year for the term of this Agreement.

ARTICLE 3
COUNTY RESPONSIBILITIES

A. Waste Delivery Guarantee.

(1) Beginning on the effective date of this Third Amendment and annually thereafter, the County shall guarantee an annual minimum of Solid Waste deliveries to the WM/FEC Intermodal Facility in the amount of Five Hundred Fifty Thousand (550,000) tons delivered at a consistent rate of approximately Ten Thousand (10,000) tons per week. In the event that the WM/FEC Intermodal Facility is not available to accept waste from the County, the Five Hundred Fifty Thousand (550,000) tons waste delivery guarantee shall be satisfied at any WM Transfer Station identified as a part of the System as defined in this Agreement. Notwithstanding the forgoing, any County waste delivered to the Alternate Landfill shall count toward satisfaction of the waste delivery guarantee.

(2) At such time as the County's new waste-to-energy ("WTE") facility becomes operational, the parties agree to decrease the County's waste delivery guarantee in the event that the waste committed to Waste Management pursuant to this Agreement is shown by the County to be required to meet the County's waste delivery obligation to the WTE facility, provided however, that the County's waste delivery obligation to Waste Management shall not fall below Two Hundred Fifty Thousand (250,000) tons per annual period. Furthermore, any future County waste delivery obligation(s) to other waste disposal provider(s), except for the WTE facility, shall be subordinate to the waste delivery obligation to Waste Management, meaning waste required to meet the waste delivery obligation at the WTE facility shall first be secured by the County from all other commitments prior to adjusting the County's waste delivery obligation to Waste Management contained herein.

(3) The County agrees to use its best efforts to acquire the necessary equipment (i.e., trailer chassis) that will enable it to load WM-provided intermodal containers at the West Transfer Station and Northeast Transfer Station and any other mutually agreed upon solid waste management facility by October 1, 2024.

B. Unacceptable Waste. The County understands and agrees that the Landfill, Alternate Landfill and WM Transfer Stations will not accept or dispose of any Unacceptable Waste and the County and those parties delivering Waste on behalf of or at the direction of the County shall remove all such Waste prior to delivering Solid Waste to the Landfill, Alternate Landfill and WM Transfer Stations, except, to the extent consistent with applicable regulatory and permit requirements, such minor amounts of Unacceptable Waste (other than Hazardous Waste) as may be contained in the normal Solid Waste stream.

C. Disposal and Transfer Fees.

The County shall pay a Disposal Fee for each ton of MSW delivered for disposal to the Landfill and Alternate Landfill by or on behalf of or at the direction of the County pursuant to this Agreement. The County shall pay the Transfer Fee, plus the applicable Fuel Surcharge, for each ton of MSW delivered to a WM Transfer Station by or on behalf of or at the direction of the County pursuant to this Agreement.

(1) Beginning on the effective date of this Agreement, the County shall pay Waste Management a Disposal Fee of Forty-Five and 41/100 dollars (\$45.41) per ton for Waste delivered to the Landfill.

(2) Beginning on the effective date of this Agreement, the County shall pay Waste Management a Disposal Fee of Thirty-Seven and 98/100 (\$37.98) dollars per ton for Waste delivered to the Alternate Landfill.

(3) Beginning on the effective date of this Agreement, the County shall pay Waste Management a Transfer Fee of Thirty and 99/100 (\$30.99) dollars per ton, plus the applicable per ton Fuel Surcharge subject to adjustment monthly, for Waste delivered to any of the WM Transfer Stations made available to the County pursuant to this Agreement. The Transfer Fee rate for transfer by road shall be the same as the Transfer Fee for transfer by rail. The cost for purchasing intermodal containers for waste transfer by rail shall be included in the Transfer Fee.

The County Disposal Fees and Transfer Fees shall be increased or decreased for inflation or deflation beginning on October 1, 2024, and on the first day of each Fiscal Year thereafter, relative to increases or decreases in the CPI for the prior period of July 1st through June 30th. Such CPI increases or decreases shall be capped at five percent (5%) per year for the term of this Agreement. In addition, the County will pay any federal, state, or local per ton charge or fee imposed on the disposal of MSW at the Landfill, and Alternate Landfill or the delivery of MSW at WM Transfer Stations as applicable. The local fees in the preceding sentence do not include the Disposal Surcharge Fees mentioned in Article 2, F. The Disposal Fee and Transfer Fee shall not otherwise increase, unless as required by Change in Law, as defined herein, which may occur at any time during the term of this Agreement.

D. Change in Law Disposal Fee and Transfer Fee Adjustments. Waste Management shall notify the County of proposed Disposal Fee and Transfer Fee adjustments on the basis of a change in law. Simultaneously with such notification, Waste Management shall submit certified financial information prepared by a Certified Public Accountant licensed to practice in the State of Florida which shall contain substantial proof and justification to support the need for the Disposal Fee and/or Transfer Fee adjustment. The County may request from Waste Management, and Waste Management shall provide at its sole expense, such further information, including certified financial information prepared by a Certified Public Accountant licensed to practice in the State of Florida, as may be reasonably necessary in making its determination of fee justification. The County Mayor shall approve, deny, or modify the Disposal Fee and/or Transfer Fee adjustment request, in whole or in part, at his/her sole discretion, within thirty (30) days of the request and receipt of all other additional information required by the County. The County Mayor's approval of proposed fee adjustments shall not be unreasonably withheld.

E. Terms of Payment. The County shall pay Waste Management the applicable Disposal Fees and Transfer Fees based on Landfill, Alternate Landfill and WM Transfer Station weighing records or transaction tickets, within thirty (30) days of the last day of each month, commencing in the first month after the effective date of this Agreement, and continuing monthly thereafter for the term of this Agreement.

F. Other Waste Facilities. The County and Waste Management acknowledge that, due to the fact that remaining permitted airspace at the Landfill approved prior to adoption of Ordinance No. 92-155 has grandfather status with regard to Ordinance No. 92-155, which places restrictions on development of resource recovery and management facilities in Miami-Dade County, the Waste Delivery Guarantee and Disposal Surcharge Fee contained in this Agreement may in the aggregate be of proportionately lesser value than similar mitigation measures that have been or will be

applied to other resource recovery and management facilities in Miami-Dade County. Notwithstanding this acknowledgment, in the event that the County allows establishment of any other non-County owned Class I or Class III landfills or other resource recovery and management facilities, as defined in Chapter 24 of the Code of Miami-Dade County, Fla. (the "Code"), subsequent to the effective date of this Agreement, the County agrees that it shall impose charges and/or waste delivery guarantees, in accordance with Chapter 15, Section 15-18 of the Code pertaining to Resource Recovery and Management Facility Permitting, which are no less stringent than those agreed to by Waste Management in this Agreement.

ARTICLE 4

WEIGHING RECORDS

Waste Management shall cause the Landfill, Alternate Landfill and WM Transfer Stations to operate and maintain motor truck scales calibrated to the accuracy required by Florida law and to weigh all vehicles delivering MSW. Each vehicle delivering MSW to the Landfill, Alternate Landfill and WM Transfer Stations by or on behalf of or at the direction of the County, shall have a uniquely numbered County sticker and its tare weight and cubic yard capacity permanently and conspicuously displayed on the exterior of the vehicle. All such vehicles shall be weighed when entering the Landfill, Alternate Landfill or WM Transfer Station, as applicable. Waste Management may, from time to time, require revalidation of the tare weight of any vehicle. If weighing scales are inoperable or are being tested, the facility operator shall estimate the quantity of MSW delivered using a schedule of estimated waste material weights in accordance with Sections 15-25(b) and (d) of the Code (Fees for disposal of solid waste brought to County solid waste management facilities), as amended from time to time. The estimates shall take the place of actual weighing records when the scales are not operational. By Monday of each week, the scalehouse transaction data from the Landfill, Alternate Landfill or WM Transfer Station, as applicable, for the previous week shall be provided to the County. The transaction data shall be provided as a hard copy and electronic format determined by the County and accompanied by the applicable file layout. If, in its sole discretion, the County determines that Waste Management's scale house system at any of the facilities is not adequate for the County's needs and cannot be modified, then the County, at its sole cost, may switch Waste Management's scale house system to the County's scale house computer system. The County, at its sole option and cost, may have an employee in the scalehouse whenever the scalehouse is open at any of the facilities. The County employee shall be entitled to obtain a copy of each transaction ticket applicable to Waste delivered by or on behalf of or at the direction of the County as each such transaction occurs.

ARTICLE 5

DURATION OF AGREEMENT

The term of MSW deliveries by the County to Waste Management and by Waste Management to the County under this Agreement shall commence with the date of execution and shall remain in effect up to and including September 30, 2035, unless otherwise terminated. This Agreement shall be renewed for two (2) subsequent ten (10) year periods unless the County or Waste Management provide notice of intent to terminate in the manner set forth in Article 6 at least one hundred and eighty (180) days prior to the expiration of the initial term or any renewal term. The County acknowledges that Waste Management may require additional expansion of the Landfill in order to fulfill its obligations under this Agreement. Waste Management will diligently pursue such permits, licenses, and approvals as may be required for the disposal of Solid Waste at the Landfill, and to the extent authorized by law and deemed reasonable by the County Mayor, the County will assist and cooperate with Waste Management in securing the permits, licenses, and approvals necessary for Waste Management's continued disposal of Solid Waste for the entire term (including any renewals) of this Agreement. Waste Management acknowledges that the County cannot guarantee issuance of permits, licenses, or approvals required by the County or any other agency.

ARTICLE 6

APPROVALS AND NOTICES

Notices and approvals required or contemplated by this Agreement shall be written and personally served or mailed, by registered or certified United States mail, with return receipt requested, to the following address:

To County:
Miami-Dade County, Florida
111 NW 1st Street, 29th Floor
Miami, FL 33128
Attn.: County Mayor

cc: Department of Solid Waste Management
Dr. Martin Luther King Office Plaza
2525 NW 62nd Street, Suite 5100
Miami, FL 33147
Attn.: Director

cc: Miami-Dade County Attorney's Office
111 NW 1st Street, 28th Floor
Miami, FL 33128

To Waste Management:
Waste Management Inc. of Florida
3401 NW 110th Street
Miami, Florida 33167
Attn.: Alex Gonzalez
Phone: 305 525-5953

cc: Waste Management Inc. of Florida
1800 North Military Trail
Boca Raton, Florida 33431
Attn.: David M. Myhan
Phone: 954 789-9037

ARTICLE 7
AMENDMENT TO AGREEMENT

This Agreement may be modified, altered, or amended only by a written amendment duly executed by the parties hereto. Any oral representations or modifications concerning this Agreement shall be of no force or effect.

ARTICLE 8
NON-ASSIGNMENT

In no case shall Waste Management assign, transfer, convey or otherwise hypothecate any interest, rights, duties, or obligations hereunder, or any part thereof to any person, partnership, corporation, or other entity, or to, including without limitation, any division, subsidiary, or affiliate of Waste Management, without approval in writing by the County Mayor in his/her sole discretion. In the event Waste Management attempts to assign, transfer, convey or otherwise hypothecate this Agreement or its rights, duties, or obligations hereunder, or any part thereof, the County may at its option, terminate this Agreement within five (5) days of issuing notice of its intent to terminate in accordance with Article 6 of this Agreement.

In no case shall the County assign, transfer or convey to third parties its rights to the disposal capacities set forth in Article 2 of this Agreement without the written consent of Waste Management.

ARTICLE 9
INDEMNIFICATION

Waste Management shall indemnify and hold harmless the County and its officers, employees and agents from any and all liability, losses or damages, including attorneys' fees and costs of defense, which the County or its officers, employees or agents may suffer as a result of claims, demands, suits, actions or proceedings of any kind or nature, including, without limitation, Worker's Compensation claims and violations of Environmental Law, arising out of or resulting from the negligence of Waste Management or its employees, agents, servants, partners, principals or subcontractors within the scope of this Agreement; and Waste Management shall, at its own expense and at the County's option, appear, defend and pay all charges or attorneys' fees and all costs and other expenses arising therefrom or incurred in connection therewith; and if any judgments shall be rendered against the County or its officers, employees or agents in any such action, Waste Management shall, at its own expense, satisfy and discharge same. Waste Management expressly understands and agrees that any insurance protection required by this Agreement, or otherwise provided by Waste Management, shall in no way limit the responsibility to indemnify, keep and save harmless and defend the County or its officers, employees or agents as herein provided.

ARTICLE 10
INSURANCE REQUIREMENTS

Insurance Requirements: County

Waste Management recognizes that the County has an on-going self-insurance program for Worker's Compensation, Public Liability and Automobile Liability, in compliance with and subject to limitations of the Florida Statutes, Section 768.28.

Insurance Requirements: Waste Management

In addition to any specific state or federal insurance requirements, Waste Management shall furnish to Miami-Dade County, c/o Risk Management Division, 111 NW 1st Street, Suite 2340, Miami, Florida 33128-1989, Certificate(s) of Insurance which indicate that insurance coverage has been obtained which meets the requirements as outlined below:

- a. Worker's Compensation Insurance for all employees of the Contractor or governmental entity as required by Florida Statutes, Section 440.
- b. Public Liability Insurance on a comprehensive basis, including XCU, Completed Operations and Pollution Liability coverage in an amount not less than \$1,000,000 combined single limit per occurrence for bodily injury and property damage. The County must be shown as an additional insured with respect to this coverage.
- c. Automobile Liability Insurance covering all owned, non-owned and hired vehicles used in connection with the work, in an amount not less than \$1,000,000 combined single limit per occurrence for bodily injury and property damage.

The insurance coverage required shall include those classifications, as listed in standard liability insurance manuals, which most nearly reflect the operations of Waste Management.

All insurance policies required above shall be issued by companies authorized to do business under the laws of the State of Florida, with the following qualifications:

The company must be rated no less than "B" as to management, and no less than "Class V" as to financial strength, by the latest edition of the Best's Insurance Guide, published by A.M. Best Company, Oldwick, New Jersey, or its equivalent subject to the approval of the County Risk Management Division.

or

The company must hold a valid Florida Certificate of Authority as shown in the latest "List of All Insurance Companies Authorized or Approved to Do Business in Florida", issued by the State of Florida Department of Insurance and must be members of the Florida Guaranty Fund. Certificates will indicate that no modification or change in insurance shall be made without thirty (30) days written advance notice to the certificate holder.

ARTICLE 11
NONDISCRIMINATION

Waste Management agrees that there will be no discrimination as to race, sex, religion, age, handicaps, color, creed, or national origin with regard to obligations, work, and services performed under the terms of this Agreement. Waste Management agrees to comply with Executive Order No. 11246 entitled "Equal Employment Opportunity" as amended by Executive Order No. 11375, as supplemented by the Department of Labor Regulations (41 CFR, Part 60).

ARTICLE 12
RIGHTS OF OTHERS

Nothing in this Agreement, either express or implied, is intended to confer upon any person other than the parties hereto any rights or remedies under or by reason of this Agreement. There are no third-party beneficiaries to this Agreement.

ARTICLE 13
WAIVER

There shall be no waiver of any right related to this Agreement unless that such waiver is in writing signed by the party waiving such right. No delay or failure to exercise a right under this Agreement shall impair such right or shall be construed to be a waiver thereof. Any waiver shall be limited to the particular rights waived and shall not be deemed a waiver of the same right at a later time, or of any other right under this Agreement.

ARTICLE 14
FORCE MAJEURE

Neither party hereto shall be liable for its failure to carry out its obligations under this Agreement during any period when such party is rendered unable, in whole or in part, by Force Majeure to carry out such obligations, but the obligations of the party relying on such Force Majeure shall be suspended only during the continuance of any inability so caused and for no longer period, and such cause shall, so far as possible, be remedied with all reasonable dispatch. It is further agreed and stipulated that the right of any party hereto to excuse its failure to perform by reason of Force Majeure shall be conditioned upon such party giving, to the other party, written notice of its assertion that a Force Majeure delay has commenced within five (5) working days after such commencement in the manner set forth in Article 6. If a party fails to give timely notice, such failure shall not prejudice any party's right to justify any non-performance as caused by Force Majeure, unless the failure to give timely notice causes material prejudice to the other party.

ARTICLE 15
COUNTY EVENT OF DEFAULT

The failure by the County to substantially fulfill any of its material obligations in accordance with this Agreement, unless excused by Force Majeure or actions of or by Waste Management, shall constitute an event of default ("County Default"). If a County Default should occur, Waste Management shall have all of the following rights and remedies which each may exercise singly or in combination: 1. the right to declare that this Agreement together with all rights granted to the

County hereunder are terminated, effective upon such date as is designated by Waste Management; and/or 2. any and all other rights provided under federal laws and the laws of the State of Florida. In any event, the County shall maintain responsibility for any debts owed to Waste Management for services provided under the terms of this Agreement. Notwithstanding any other provision of this article, Waste Management shall not terminate this Agreement for a "County Default" unless Waste Management first give(s) the County written notice of intent to terminate specifying the alleged default, and providing the County a period of thirty (30) days from receipt of notice within which to cure such default, which timeframe to cure may be extended by Waste Management at its sole discretion.

ARTICLE 16

WASTE MANAGEMENT EVENT OF DEFAULT

Without limitation, the failure by Waste Management to substantially fulfill any of its material obligations in accordance with this Agreement, unless excused by Force Majeure, shall constitute an event of default ("Waste Management Default"). If a Waste Management Default should occur, the County shall have all of the following rights and remedies which it may exercise singly or in combination: 1. the right to declare that all rights granted to Waste Management hereunder are terminated, effective upon such date as is designated by the County; and/or 2. any and all rights provided under federal laws and the laws of the State of Florida. In any event, Waste Management shall maintain responsibility for any debts owed to the County for services provided under the terms of this Agreement. Notwithstanding any other provision of this article, the County shall not terminate this Agreement for a Waste Management Default unless the County first give(s) Waste Management written notice of intent to terminate specifying the alleged default, and providing Waste Management a period of thirty (30) days from receipt of notice within which to cure such default, which timeframe to cure may be extended by the County at its sole discretion.

ARTICLE 17

AGREEMENT GOVERNS; ENTIRE AGREEMENT

This writing embodies the entire Agreement and understanding between the parties hereto, and there are no other agreements or understandings, oral or written with reference to the subject matter hereof, and which involve the Department of Solid Waste Management, that are not merged herein and superseded hereby.

ARTICLE 18

HEADINGS

The Section headings in this Agreement are for convenience and reference only and in no way define or limit the scope or content of this Agreement or in any way affect its provisions.

ARTICLE 19

RELATIONSHIPS OF THE PARTIES

Nothing herein shall be construed as creating a partnership or joint venture between the County and Waste Management. No person performing any of the work or services described hereunder shall be considered an officer, agent, servant, or employee of the County, nor shall any such person be entitled to any benefits available or granted to employees of the County.

ARTICLE 20

FLORIDA LAW GOVERNS; VENUE IN MIAMI-DADE COUNTY, FLORIDA

This Agreement, regardless of where executed, shall be governed by, and construed according to the laws of the State of Florida, and venue shall be in Miami-Dade County, Florida.

ARTICLE 21

BINDING EFFECT

This Agreement shall be binding upon the parties and their respective successors and assigns.

ARTICLE 22

COUNTERPARTS

This Agreement may be executed in one or more counterpart(s), each of which shall be deemed an original.

ARTICLE 23

SEVERABILITY

If any term, covenant, or provision of this Agreement shall be held to be invalid, illegal, or unenforceable in any respect, the balance of this Agreement shall remain in effect and be construed without regard to such provision.

[continued on the following page]

IN WITNESS WHEREOF, Miami-Dade County, Florida, has caused this Agreement to be executed in its name by the County Mayor or his/her designee, attested by the Clerk of the Board of County Commissioners and has caused the seal of the Board of County Commissioners to be hereto attached; and Waste Management has caused this Agreement to be executed in its name by its Chairman or President attested by its Assistant Secretary and has caused the seal of the corporation to be attached, all on the date stated above.

ATTEST:

WASTE MANAGEMENT INC. OF FLORIDA,
a Florida Corporation

By: *Ira P. Silva*
Assistant Secretary

By: *David M. Myhan*
David M. Myhan, President

[SEAL]



ATTEST:

MIAMI-DADE COUNTY, a political subdivision
of the State of Florida

JUAN FERNANDEZ-BARQUIN

By: _____
Clerk of the Board

By: *Daniella Levine Cava*
Daniella Levine Cava
County Mayor

Approved for Legal Sufficiency by:

Assistant County Attorney

Mr. Achaya Kelapanda, P.E.
Deputy Director, Operations
Miami-Dade County Department of Solid Waste Management
2525 N.W. 62nd Street, 5th Floor
Miami, FL 33147

Subject:
Waste Management Agreement – Third Amendment

Arcadis U.S., Inc.
701 Waterford Way
Suite 420
Miami
Florida, 33126
Tel 305.262.6250
www.arcadis.com

Dear Mr. Kelapanda:

Arcadis reviewed the draft Third Amended and Restated Non-Exclusive Agreement (Amendment) Between Miami-Dade County (County) and Waste Management, Inc. of Florida (WMI) for Provision of Solid Waste Disposal Services, dated February 24, 2024. Overall, the terms of the Amendment appear reasonable and are consistent with the County's goals of maintaining the operations of its Solid Waste System (System) and meeting Concurrency requirements in the wake of the RRF closure. A brief overview of the proposed Amendment revisions and their expected effects on the County's System operations and finances are presented in the sections that follow.

Date:
May 14, 2024

Contact:
Christopher Tilman, PE, BCEE

Phone:
239.738.3303

Email:
Christopher.tilman@arcadis.com

Our ref:
30189215

Florida License Numbers:

Engineering
EB00007917

Geology
GB564

Landscape Architecture
LC26000269

Surveying
LB7062

Amendment Revisions

- Revised definition of the County's "Solid Waste Management System" includes all the County's facilities and the disposal and transfer facilities used by the County under contract, including the WMI/Florida East Coast Railway (FEC) Intermodal Facility at 7300 NW 69th Avenue, Miami, Florida to accommodate rail haul of solid waste to the WMI Okeechobee Landfill for disposal.
- Term - The term of the Amendment remains through September 30, 2035, with now two (2) 10-year options-to-renew (previously two 5-year options).
- Revised Tonnage Commitments
 - The annual tonnage commitment to the County by WMI remains at 100,000 tons per year.
 - The Amendment adjusted the Medley Surcharge (WMI must annually deliver at least 230,000 tons of waste to the Medley Landfill and pay a per-ton surcharge) to \$2.77 per ton, subject to Consumer Price Index (CPI) adjustment each year.

May 14, 2024

- Revised Disposal Capacity Commitment – Increased capacity commitment by WMI at the Medley Landfill (from 500,000 tons to 700,000 tons) and increased capacity commitment at the Okeechobee County Landfill (from 500,000 tons to 2,000,000 tons). The total annual capacity commitment under the Amendment is increased from 1.25 million tons to 2.7 million tons.
- Revised Delivery Guarantee – This Amendment removes 250,000 ton per year waste delivery guarantee for the County at either the Medley Landfill or Okeechobee Landfill. However, the County must deliver 550,000 annual tons to the WMI/FEC Intermodal Facility until such time as the County's new waste-to-energy (WTE) facility becomes operational. At that time, the waste delivery guarantee will be reduced to meet the County's waste delivery obligation at the new WTE, provided the waste delivery guarantee to WMI does not fall below 250,000 tons annually.
- Disposal Fee – Beginning on the effective date of this Amendment, the County shall pay a Disposal Fee of \$45.41 at the Medley Landfill and \$37.98 at the Alternate Landfill for each ton of MSW delivered for disposal.
- Transfer Fee – Beginning on the effective date of the Amendment, the County shall pay a Transfer Fee of \$30.99, plus the applicable per ton Fuel Surcharge subject to adjustment monthly, for each ton of MSW delivered to any of the WMI Transfer Stations made available to the County pursuant to this Amendment. The Transfer Fee rate for transfer by road shall be the same as the Transfer Fee for transfer by rail. The cost for WMI to purchase intermodal containers for waste transfer by rail shall be included in the Transfer Fee.
- Fuel Surcharge – A fuel surcharge will be calculated monthly on a per load basis and will increase or decrease by one cent (\$0.01) per mile for every five (5) cent increase or decrease in the price of diesel fuel above or below the threshold price. The threshold price is based on the agreement between WMI and the hauler. Calculations shall be made based on the United States Energy Information Administration's ("EIA") U.S. on Highway Diesel Fuel Price index for PADD 1C (Lower Atlantic) as reported on their website. The adjustment will be based on the last published price by the EIA of the preceding month. The calculated per load amount will be divided by 27 tons per load (the historical average per load weight at WMI's MSW transfer station) to convert it to a per ton rate.
- Inflation Adjustments – The Disposal Fees and Transfer Fees shall be increased or decreased for inflation or deflation beginning on October 1, 2024 and on the first day of each Fiscal Year thereafter, relative to increases or decreases in the CPI for the prior period of July 1st through June 30th. Such CPI increases or decreases shall be capped at five percent (5%) per year for the term of this Amendment.

Expected Financial Effects

The Amendment requires WMI to deliver a minimum of 100,000 tons of waste to the System each year at the County's contract disposal rate, which provides gross revenues of approximately \$7.15 million to the DSWM. The Amendment also requires WMI to pay the County a surcharge on waste it delivers to the Medley Landfill. The minimum tonnage subject to the surcharge is 230,000 tons per year, which equates to approximately \$637,100.00 annually at the FY2023-24 rate of \$2.77 per ton (subject to annual CPI adjustment).

Over the thirty-one-year term of the Amendment (until 2055), WMI must annually provide up to 700,000 tons of waste disposal capacity at the Medley Landfill and 2 million tons of capacity at the Okeechobee Landfill. The proposed per-ton disposal rates at these facilities are \$45.41 at the Medley Landfill and \$37.98 at the Okeechobee Landfill, respectively (subject to annual CPI adjustment). These rates appear reasonable, especially when considering the benefit of the increased contract disposal capacity (from 1.25 million tons to 2.7 million tons annually) to the County's System.

The County will have an annual 550,000 tons waste delivery guarantee at the WMI/FEC Intermodal Facility. However, that tonnage would likely be transferred to Okeechobee and gives time for the County to develop a WTE facility. Once the WTE goes into commercial operation, the guarantee will be reduced to meet the County's waste delivery

May 14, 2024

obligation at the new WTE, provided the waste delivery guarantee to WMI does not fall below 250,000 tons annually.

The addition of the Transfer Fee introduces a new cost for the County of \$30.99 for each ton of waste delivered to any transfer facility, plus the applicable per ton Fuel Surcharge (\$3.08 for April 2024, subject to adjustment monthly).

The loss of the Resources Recovery Facility has made the County's System much more reliant on transfer operations. During FY 2023 the County's System received approximately 2.2 million tons of waste, of which about 126,000 tons was disposed at the North Dade Landfill and about 721,000 was disposed at the South Dade Landfill. Assuming those same disposal rates for FY 2024 and accounting for the use of other contract transfer vendors, the County would likely deliver approximately 1.25 million tons of waste to WMI transfer and disposal facilities. Using the Amendment delivery guarantees and disposal facility tonnage limits, the estimated first year revenues and costs to the County are as follows:

First Year Revenues	Amount
WMI Delivery Guarantee (100,000 tons at Contract Rate of \$71.53/ton)	\$7,153,000
Disposal Fee Differential Revenue For Tonnage Transferred to Medley (Assuming max 700,000 tons, rate \$71.53 - \$45.41 = \$26.12)	\$18,284,000
WMI Medley Surcharge (assuming max 700,000 tons delivered at the FY2023-24 rate of \$2.77 per ton)	\$1,939,000
Revenues Total	\$27,376,000

First Year Expenses	Amount
Waste Disposal Fees – Medley (700,000 tons @ \$45.41/ton)	\$31,787,000
Waste deliveries to WMI/FEC Intermodal Facility (assuming 550,000 tons delivered at a Transfer Fee of \$30.99 per ton + Okeechobee Landfill Disposal Fee of \$37.98 + Fuel Surcharge of \$3.08).	\$39,627,500
Expenses Total	\$71,414,500

Based on the terms of the Amendment, the County can expect a net annual cost of approximately \$44,038,500 for the transfer and disposal of 1.25 million tons of waste, subject to annual CPI increases. This equates to a net per ton cost of \$35.23, exclusive of County transport costs. Considering the significant changes in the System operations resulting from the loss of the RRF, the transfer and disposal capacity provided by the Amendment and their associated costs appear to be reasonable and consistent with the County's solid waste goals and maintenance of Concurrency requirements. However, the County's Transfer and Disposal rates may need to be adjusted to account for these costs and in preparation for the eventual closure of the South Dade Landfill and the additional transfer tonnage that will result.

Mr. Achaya Kelapanda, P.E.

May 14, 2024

Please do not hesitate to contact us should you need any additional information or clarification.

Sincerely,



Christopher C. Tilman, PE, BCEE
Principal Management Consultant

Copies:

Aneisha Daniel, Director, DSWM

Bolanle Shorunke-Jean, Assistant Director, Financial Services, DSWM

Raul Trabanco, Controller, DSWM

John Wong, Assistant Director, Technical Services and Environmental Affairs

Leah Richter, Vice President, Arcadis

Alex Bellino, Senior Management Consultant, Arcadis



MEMORANDUM

(Revised)

TO: Honorable Chairman Oliver G. Gilbert, III
and Members, Board of County Commissioners

DATE: September 4, 2024

FROM: 
Gen Bonzon-Keenan
County Attorney

SUBJECT: Agenda Item No. 8(M)(2)

Please note any items checked.

- ☐ "3-Day Rule" for committees applicable if raised
- ☐ 6 weeks required between first reading and public hearing
- ☐ 4 weeks notification to municipal officials required prior to public hearing
- ☐ Decreases revenues or increases expenditures without balancing budget
- ☐ Budget required
- ☐ Statement of fiscal impact required
- ☐ Statement of social equity required
- ☐ Ordinance creating a new board requires detailed County Mayor's report for public hearing
- ☐ No committee review
- ☐ Applicable legislation requires more than a majority vote (i.e., 2/3's present ____, 2/3 membership ____, 3/5's ____, unanimous ____, CDMP 7 vote requirement per 2-116.1(3)(h) or (4)(c) ____, CDMP 2/3 vote requirement per 2-116.1(3)(h) or (4)(c) ____, or CDMP 9 vote requirement per 2-116.1(4)(c)(2) ____ to approve
- ☐ Current information regarding funding source, index code and available balance, and available capacity (if debt is contemplated) required

Approved _____ Mayor
Veto _____
Override _____

Agenda Item No. 8(M)(2)
9-4-24

RESOLUTION NO. _____

RESOLUTION APPROVING THE THIRD AMENDED AND
RESTATED NON-EXCLUSIVE AGREEMENT BETWEEN
MIAMI-DADE COUNTY, FLORIDA, AND WASTE
MANAGEMENT INC. OF FLORIDA FOR PROVISION OF
MUNICIPAL SOLID WASTE DISPOSAL SERVICES;
AND AUTHORIZING THE COUNTY MAYOR OR
COUNTY MAYOR'S DESIGNEE TO EXECUTE THE
AGREEMENT AND EXERCISE ALL PROVISIONS
CONTAINED THEREIN, INCLUDING RENEWAL
AND TERMINATION PROVISIONS

WHEREAS, this Board desires to accomplish the purposes outlined in the accompanying memorandum, a copy of which is incorporated herein by reference,

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF COUNTY COMMISSIONERS OF MIAMI-DADE COUNTY, FLORIDA, that the Third Amended and Restated Non-Exclusive Agreement between Miami-Dade County, Florida and Waste Management Inc. of Florida for Provision of Municipal Solid Waste Disposal Services in substantially the form attached hereto is approved and the County Mayor or County Mayor's designee is authorized to execute the Agreement and to exercise all provisions contained in the Agreement, including renewal and termination provisions.

The foregoing resolution was offered by Commissioner ,
who moved its adoption. The motion was seconded by Commissioner
and upon being put to a vote, the vote was as follows:

Oliver G. Gilbert, III, Chairman	
Anthony Rodríguez, Vice Chairman	
Marleine Bastien	Juan Carlos Bermudez
Kevin Marino Cabrera	Sen. René García
Roberto J. Gonzalez	Keon Hardemon
Danielle Cohen Higgins	Eileen Higgins
Kionne L. McGhee	Raquel A. Regalado
Micky Steinberg	

The Chairperson thereupon declared this resolution duly passed and adopted this 4th day of September, 2024. This resolution shall become effective upon the earlier of (1) 10 days after the date of its adoption unless vetoed by the County Mayor, and if vetoed, shall become effective only upon an override by this Board, or (2) approval by the County Mayor of this resolution and the filing of this approval with the Clerk of the Board.

MIAMI-DADE COUNTY, FLORIDA
BY ITS BOARD OF
COUNTY COMMISSIONERS

JUAN FERNANDEZ-BARQUIN, CLERK

By: _____
Deputy Clerk

Approved by County Attorney as
to form and legal sufficiency.

dsh

David Stephen Hope