

AMENDED AND RESTATED FRANCHISE AGREEMENT

THIS AMENDED AND RESTATED FRANCHISE AGREEMENT is made and entered this _____ day of _____ 2011, by WASTE MANAGEMENT INC. OF FLORIDA, ("Contractor") and the CITY OF MARGATE, a municipal corporation ("City").

WHEREAS, Contractor has heretofore provided certain waste services for residential collection within the City pursuant to a Franchise Agreement dated November 6, 1991 (the "Residential Agreement"); and

WHEREAS, the Residential Agreement was amended on or about October 1, 1994, and September 30, 1998; and

WHEREAS, Contractor has heretofore provided certain waste services for commercial collection within the City pursuant to a Franchise Agreement dated January 26, 1999; and

WHEREAS, the City Commission of the City of Margate has determined that it is in the best interest of the City to combine the agreements and amend and restate them.

NOW, THEREFORE, the City of Margate and Waste Management, Inc. of Florida, for and in consideration of the following do hereby agree:

1. EXCLUSIVE RIGHT

The City does grant to the contractor the exclusive right and obligation to provide residential and commercial solid waste collection services and residential curbside recycling services within the City boundaries subject to the limitations and conditions set forth herein. The Contractor shall have vested title to all Solid Waste and residential curbside recyclables covered by this Amended and Restated Franchise Agreement.

Contractor will commence servicing newly annexed areas within twenty-four (24) hours after official written notification by the City acting through the City Clerk's office. The Contractor shall perform the obligations of collecting all waste materials covered by this Agreement through any recognized subsidiary or division of the Contractor. All such subsidiaries or divisions shall be registered with the office of the City Clerk.

2. DEFINITIONS. The following definitions shall be used herein:

A. Solid Waste – shall mean Garbage, Household Trash and Horticultural Trash as defined herein. Goods requiring Special Handling are not included within this definition.

B. Residence – shall include single family, duplex, triplex, quadplex, townhouse dwellings and mobile homepads.

(1) Single Family Residences - shall mean a single family structure designed for occupancy by one person or by one family. Each mobile home pad shall be deemed a single family residence. Each townhouse unit shall be deemed a single family residence.

(2) Duplex Residence - shall mean and include a detached two family structure designed or utilized for occupancy by two (2) families.

(3) Triplex Residence - shall mean and include a detached three family structure designed or utilized for occupancy by three (3) families.

(4) Quadplex Residence – shall mean and include a detached four family structure designed or utilized for occupancy by four (4) families.

C. Garbage – shall mean and include all waste and accumulation of animal, fruit or vegetable matter that attends or results from the preparation, use, handling, cooking, serving or storage of meats, fish, fowl, fruit, vegetable matter, of any nature whatsoever, which is subject to decay, putrefaction and the generation of noxious and offensive gases or odors, or which may serve as breeding or feeding materials for flies and other insects.

D. Household Trash – shall mean and include accumulations of paper, magazines, packaging containers, sweepings, and all other accumulations of a nature other than Garbage and Horticultural Trash, which is usual to housekeeping and to the operation of residences. Special Handling Waste and waste generated by construction and remodeling of a residence is not considered Household Trash.

E. Horticultural Trash – shall mean accumulations of grass clippings, shrubbery cuttings or clippings, palm fronds, small tree branches (not to exceed four (4) inches in diameter), bushes or shrubs, or other matter usually created as refuse in the care of hedges, bushes and trees, except large branches, trees, or bulky or non-combustible materials not susceptible to normal loading and collection in “load packer” type sanitation equipment used for regular collections from domestic households. Such Horticultural Trash shall be placed within Approved Containers whenever possible. Otherwise, Horticultural Trash shall be tied into bundles not exceeding four (4) feet in length, not weighing over forty

(40) pounds and placed at the curb for pickup. Such Horticultural Trash shall be collected by Contractor only when generated from the residence for which the collection service is provided by the resident. Contractor generated waste (landscaping companies, landclearing, tree surgeons and similar contractors) is not acceptable and will not be collected.

F. Special Handling Waste - shall mean any waste which by the nature of its size, weight or chemical content does require special handling in either its collection or disposal. It includes but is not limited to tree trimmings and branches exceeding the size or the weight defined as Horticultural Trash, Hazardous Materials, appliances, bulky household items, large furniture items, construction materials, abandoned vehicles or vehicle parts, body parts, dead animals, flammables, explosives, radioactive materials or liquid waste, or any items that may not be lawfully disposed of at the disposal facility utilized by the Contractor.

G. Hazardous Materials – shall mean wastes that are hazardous by reason of their pathological, explosive, radiological or toxic characteristics.

H. Handicapped Service – shall be service of Garbage or Household Trash at rear or side of house for persons approved by the City Manager in conjunction with the Handicapped Committee (Horticultural Trash shall be placed at the curb).

I. Curb Service - shall mean a single collection point within five (5) feet of the hardtopped road.

J. Residential Service: The collection, transportation and disposal from Residences of Solid Waste, Recyclable Materials, Other Waste and such items of Special Handling Waste as provided in this Agreement.

K. Other Waste: Construction and demolition debris, materials not qualifying as Recovered Materials and other categories of waste which are exclusively collected by Contractor.

L. Recyclable Materials: Those materials deemed acceptable by the Broward County Waste and Recycling Services (“WRS”) at the recycling facility designated by WRS to receive curbside recyclables pursuant to the applicable Interlocal Agreement. In the event the City is no longer a participant in the Interlocal Agreement, the parties shall mutually determine which recyclable materials are acceptable.

M. Certified Recovered Materials Dealer - a dealer certified under 403.7046, F.S.

N. Recovered Materials - Metal, paper, glass, plastic, textile or rubber materials that have known recycling potential, can be feasibly recycled and have been diverted and source separated or have been removed from the solid waste stream for sale, use or reuse as raw materials, whether or not the materials require subsequent processing or separation from each other, but does not include materials destined for any use that constitutes disposal. Recovered Materials as described above are not solid waste. However, Recovered Materials that (i) are not source separated or (ii) are commingled with solid waste (in such quantity that the solid waste is not de minimus) or (iii) are not processed such that at least 80% by weight or volume, whichever is most restrictive, is recycled are considered solid waste.

O. Source Separated - Recovered Materials and Recyclable Materials that are separated from solid waste where the Recovered Materials and solid waste are generated. The term does not require that various types of Recovered Materials be separated from each other and recognizes that de minimus solid waste may be included with recovered materials.

P. De Minimus Solid Waste - Non-recoverable materials (including solid waste) less than 5% by weight or volume, whichever is most restrictive, when compared to recovered materials or recyclable materials.

Q. Commercial Service - The collection, transportation and disposal from Commercial Establishments of Solid Waste, Other Waste and Special Handling Waste as provided in this Agreement.

R. Commercial Establishment - A property or properties zoned or used for commercial or industrial uses, or used by an entity exempt from taxation under Section 501(c)(30) of the Internal Revenue Code and excludes property or properties zoned or used for single-family residential or owner-occupied multi-family residential uses.

S. Owner Occupied Multi-Family Residential - a multi-family owner occupied residential complex of five units or more. Such complexes shall contract with any of the Franchisees of the City of Margate as each complex shall deem appropriate and may change Franchisees as each complex shall deem appropriate and may change Franchisees at will subject to any contractual limitations entered into by the complex and a specific Franchisee. In addition, the rates charged by a Franchisee to any such complex shall not be regulated by the CITY but shall be agreed upon between the Franchisee and the complex.

T. Other Waste - Construction and demolition debris, materials not qualifying as Recovered Materials and other categories of waste which are exclusively collected by FRANCHISEE.

2. TERM

The Franchise shall commence on October 1, 2011_____, and ending at 12:00 Midnight on September 30, 2015. The Franchise shall automatically renew for successive three year terms unless either party provides written notice of nonrenewal at least 180 days prior to the end of the term or any renewal term.

3. RESIDENTIAL SERVICE

A. Residential Solid Waste.

All persons occupying or maintaining a place of residence in individually served single, duplex, triplex, quadplex and townhouse family dwellings together with all mobile home pads shall be provided regular Solid Waste collection curb service at least on two separate days per week. The owners and/or occupants shall subscribe to the solid waste collection service and have all accumulations of Solid Waste generated from such premises removed by the Contractor. Individually served residences and mobile homes may not convert to any other type service without the consent of the Contractor.

B. Residential Recycling. For single family and other residences receiving curb services for the collection of their garbage and trash, the CONTRACTOR shall provide recycling collection service one (1) day per week on a day which coincides with one of the resident's trash collection days. For multifamily complexes using containerized service for the collection of their garbage and trash, the CONTRACTOR shall provide recycling collection service once per week. At the option of the City, Contractor and the City may mutually agree on the purchase, delivery and implementation of a residential Recyclable Materials collection program using rollout carts. The program shall coincide with the provision by Broward County of funding for that purpose. In conjunction with the rollout cart recycling program, the City may choose to implement a "recycling rewards" provision in which residents receive inducements to recycle. If the City selects such provision, the Contractor will work with the City to implement same.

C. Residential Bulk Collection. The Contractor shall provide a city-wide bulk pickup service monthly at no additional cost to the City or residents. Such bulk pickups shall be at curbside, the same as normal pickups at agreed upon dates between the City and the Contractor. All bulk pickups shall include bulky household items, discarded furniture, etc. Acceptable bulk horticultural waste shall include cut and securely bundled

yard trash, tree trimmings, branches, and palm fronds. Bundles must not exceed four (4) feet in length and fifty (50) pounds in weight. Residents must cut tree trunks, logs and limbs into sections that do not exceed four (4) feet in length and fifty (50) pounds in weight and must be stacked neatly at the curb. Bulk pickups shall not include construction materials, mature trees (unless reduced to size as stated above), hazardous waste, abandoned vehicles or vehicle parts, body waste, dead animals, flammables, explosives, radioactive materials, liquid waste, or any garbage or trash which would not be legally acceptable by the disposal facility being utilized by the Contractor.

D. Special Handling Waste. Any materials classified as Special Handling Waste are not included within this Agreement except that bulky household items and large furniture items shall be collected during bulk pickups as above stated in Paragraph C.

E. Residential Collection Hours. Collections shall normally be made in residential areas no earlier than 7:00 A.M. with no service on Sunday, except in time of emergency or to maintain schedules due to Holidays; provided, however, that if the Contractor has an equipment breakdown, it shall be relieved from commencing collection at 7:00 A.M. for the route being served by such equipment experiencing operating difficulties; provided further that where possible such route shall be fully collected by the contractor with substitute equipment that day.

F. Approved Solid Waste Containers. Residential customers shall place Solid Waste in Approved Residential Containers which shall mean any commonly available light gauge steel, plastic or galvanized can or non-absorbent material, closed at one end and open at the other furnished with a closely fitted top or lid and handle(s). A container also included a heavy duty, securely tied, plastic bag designed for use as a garbage container. Any containers including waste material shall not exceed thirty-two (32) gallons in capacity or forty (40) pounds in weight.

G. Recycling Materials To Be Collected.

The following materials will be collected using single stream system in which the resident need not separate the materials:

(1) Newspapers and inserts, phone books, corrugated cardboard; incidental kraft paper or film plastic used to contain program recyclables.

(2) Clear, green and brown glass containers; aluminum, steel and bimetal containers; polycoated gabletop containers and aseptic packages; plastic containers (types # 1, # 2 and # 3).

(3) Additional recyclable materials may be added to the program by direction of the City Manager and upon specific written amendment to the Agreement.

The parties shall negotiate the price of any materials added to the recyclables set forth therein.

H. Method Of Collection of Recycling Materials

(1) Single Family/Curbside: At the option of the City, each single family home will be provided by the City with one (1) sixty five gallon rollout cart for collection of program recyclables.

I. Residential Drop-Off Center. The Contractor shall provide one (1) enclosed roll off container for the purpose of establishing a residential City wide recycling drop off center. This container shall be placed on City property at a location to be determined by the City. The Contractor shall pull the container when full or as reasonably directed by the City so as to prevent an overflowing of the contents. The Contractor shall provide this service free of charge; however, the City shall be responsible for any charges incurred as a result of contamination of the Recyclable materials.

4. COMMERCIAL SERVICE.

A. Minimum Service. Contractor shall provide commercial pickup service to commercial establishments as defined herein. Contractor shall collect garbage and trash. Contractor shall pick up garbage and trash on a schedule to be agreed upon between Contractor and individual Commercial Establishments; provided, however, in no event shall collections be less frequently than once per calendar week for trash and twice per calendar week for garbage. Failure of a Contractor and customer to agree upon a pickup schedule shall result in the matter being referred to the City for resolution, which resolution shall be final. Commercial customers shall identify to the Contractor any special wastes as defined in this Agreement, which are included in waste being disposed of by the commercial customer. Where necessary to protect the public health, the City shall have the authority to require more frequent collections and require the user to pay for such additional services.

B. Routing. All routing and scheduling of trucks used by the Contractor for the pickup of Solid Waste shall be left to the discretion of the Contractor to the end that the schedule of pickups shall be reasonably, equally spaced during each week and shall assure maximum efficiency of operation.

C. Commercial Containers. Commercial customers shall be required to use mechanically dumped metal containers ("dumpsters") as provided by the Contractor and approved by the City ("Approved Commercial Container"). Contractor is required to maintain dumpsters to provide the safe, efficient and functional storage and collection of solid waste and to present a non-objectionable appearance as determined by the City. Contractor's employees shall report to its Customer Service Department

the condition of any container which requires repair. Contractor shall replace the dumpster if repairs cannot be made on site within three (3) working days of notification.

Casters shall be required on all containers that cannot be collected from a stationary point at the service location. Caster swivel units shall be maintained in good working condition to ensure the free movement of the swivel mechanism and/or wheel. Dumpsters shall be positioned in compliance with all applicable City ordinances.

5. SPILLAGE AND LITTER The Contractor shall not litter the premises and shall make every effort to completely empty all receptacles in the process of making collections or in hauling the Solid Waste materials once so collected. In the event of spillage by the Contractor, the Contractor shall promptly clean up all such litter from such spillage. The contractor shall not be required to collect any materials that have not been placed in Approved containers in the matter herein provided. Contractor shall maintain equipment in such manner to prevent the spillage of leachate.

6. COLLECTION EQUIPMENT The Contractor shall have on hand at all times, in good working order, such equipment to perform its duties hereunder. The Contractor shall have available to it, at all times, reserve equipment which can be put into service and operation within two (2) hours of any breakdown. Such reserve equipment shall substantially correspond, in size and capability, to the equipment used by the Contractor to perform its duties hereunder.

7. OFFICE

The Contractor's office/call center shall remain open Monday through Friday from 8:30 A.M. to 5:00 P.M. and Saturday from 8:30 A.M. to 12:00 P.M. for the purpose of handling complaints. There shall be adequate telephones and a responsible person in charge during such normal business hours.

8. DISPOSAL

All Solid Waste for disposal shall be hauled to a legally approved site or facility. Currently, the City's processable waste is being disposed at the Wheelabrator North Facility pursuant to the Interlocal Agreement for Solid Waste Disposal executed by the City with Broward County.

9. CHARGES AND RATES - For services required to be performed under this Contract, the charges shall be set forth in Exhibit "A" attached.

10. DISPOSAL FEE ADJUSTMENTS – Commencing October 1, 2011, the disposal component for residential solid waste service will be \$9.66 per month per unit and the disposal component for commercial solid waste shall be \$4.35 per cubic yard.

Subsequent to October 1, 2011, on each October 1 of the term of this Agreement and any renewal term, the disposal component of each of the residential and commercial rates shall be subject to increase or decrease based on the percentage change in the tipping fee at the disposal facility. Commencing October 1, 2011, the tipping fee at the Wheelabrator North or South Facility will be \$72.57 per ton of processable waste. The disposal component of the residential rate shall be adjusted to reflect changes in the tipping fees charged by the receiving facility in accordance with the Interlocal Agreement for Solid Waste Disposal. Should the Interlocal Agreement for Solid Waste Disposal not be renewed upon expiration (July 2, 2013), any change in the disposal rate shall be adjusted according to the proportionate change in the tipping fee. In such case that the Interlocal Agreement for Solid Waste Disposal is not renewed, Contractor agrees that it will provide disposal facilities for the disposal of the City's processable waste at an initial tipping fee that is no greater than lowest tipping fee (a) charged to any Broward County municipality at any publicly owned disposal facility in Broward County or by Contractor (including the Wheelabrator North or South Facility) to any Broward County municipality that is under contract to exclusively utilize Contractor's (including Wheelabrator North or South Facility) facilities or (b) charged to a consortium of municipalities within Broward County that contract with a public or private vendor; provided, however, in the case of a consortium set forth in (b), Contractor may decline to match the rate and the City shall be free to join such consortium and utilize such rate for disposal. It is understood and agreed that Contractor's election to decline to match the consortium rate does not affect Contractor's exclusivity for collection. Further, should the location of the designated disposal facility materially change the Contractor's costs of collection, the parties shall negotiate an appropriate adjustment to the collection rate.

11. COST OF LIVING ADJUSTMENTS – Yearly on each October 1, the nondisposal portion of the rates shall be adjusted upward or downward to reflect the cost of doing business measured by fluctuations in the Consumer Price Index (CPI), as published by the U.S. department of Labor, bureau of Labor Statistics, or its successor agency for all urban consumers in the Miami - Fort Lauderdale area for the twelve (12) months from June of the previous year. The rates shall be adjusted by one hundred percent (100%) of the percentage change for the year in the CPI. In addition, there shall be a franchise fee adjustment so that when the City's franchise fee is computed on the gross amount then the net to the Contractor shall equal the aforesaid one hundred percent (100%) of the CPI change.

The calculation is as follows:

$$\text{New Rate} = \frac{[(\text{CPI}2 - \text{CPI}1) + 1]}{\text{CPI}1} \times \text{Current Rate}$$

"CPI" - the Consumer Price Index for the U.S. City Average - All items - All Urban Wage Earners and Clerical Workers (Miami —Ft. Lauderdale area, published by the United States Department of Labor, Department of Labor Statistics,

"CPI1" - the published CPI for the month of June of the preceding year.

"CPI2" - the published CPI for the month of June for the year in which the Collection Fee is being adjusted.

Adjustments to the prices made in accordance with this subsection are intended to reflect changes in the purchasing power of a given amount of money expressed in dollars. If CPI1 and CPI2 are not expressed in relation to the same base period or if a material change is made in the method of establishing CPI, the City and the Contractor shall make an appropriate statistical adjustment or conversion. If the CPI is discontinued, the City and the Contractor shall mutually select another index published by the United States government or by a reputable publisher of financial and economic indices.

No later than August 15, the Contractor shall provide the City with the new rate as adjusted by the CPI for that year.

12. EXTRAORDINARY COSTS INCURRED - In the circumstance that an extraordinary and unanticipated event shall affect the costs of operation of the Contractor in providing the service called for in this agreement, then the Contractor may appeal to the City for an adjustment in rates to reflect such increased costs. In that case, the Contractor shall submit appropriate data to document both the event and increased costs and the City shall determine the extent of rate adjustment to be granted

13. LOCATION - All Solid Waste shall be placed at a location prior to scheduled collection, that is readily accessible to the Contractor's personnel, and that is at the curb within five (5) feet of a hardtopped road, excepting for handicapped service. All Solid Waste that will fit within an Approved Container shall be placed within an Approved Container.

14. BILLING

By the City:

- A. The City shall bill, collect and remit monthly to the Contractor for billing those residential customers of the City in which both Solid Waste and water and sewer are billed to an individual, single family residence or unit, i.e., a single family home, one-half (1/2), a duplex, one-third (1/3) a triplex, one-fourth (1/4) a quadplex, any townhouse or multifamily home

for which the individual unit billing is made for both water and sewer and solid waste.

- B. In addition to a. above, the City shall not be responsible for multifamily residences whereby a common receptacle or dumpster for refuse collection is utilized by more than one unit of a common development or where water and sewer billing is billed for a common development or portion thereof rather than each individual living unit or for collection of refuse within any mobile home or trailer park.
- C. Charges for refuse collection shall be billed by the City monthly and listed on the bills of the Utility Department of the City of Margate. Charges for refuse collection shall be individually noted on all bills remitted to all applicable residences as provided for in Subsection a. above.
- D. The City shall have the right to reject partial payment of the complete utility bill and any partial payment, if accepted, shall first be allocated to payment of solid waste charges.
- E. If the utility charges of the City or any portion hereof shall remain unpaid for thirty (30) days, the City shall have a lien on all lands or premises provided utility services by the City until paid. Said liens shall be prior to all other liens on said land except federal, state, county and city taxes shall be on a parity with the lien of such taxes. Liens provided hereunder may be foreclosed in the manner provided for foreclose of liens generally.

By the Contractor

The Contractor shall assume responsibility for billing and collection of charges directly from each residential owner for all residences not the responsibility of the City as provided in Subsection a. above. All rental residences shall be billed as to the total number of units per building and subject bill shall be payable by the owners of rental residences whether owners are the occupants or not. All mobile home parks shall be billed as to the number of pads.

15. CONTAINERS FOR CITY USE - The City shall be entitled to the following services:

Contractor shall furnish front end-loading containers as well as collection and disposal service at designated city public buildings.

In addition to the above described service at city public buildings, the Contractor shall provide up to six (6) rolloff containers as determined by the City as well as collection

and disposal service for such containers at the City Public Works Department. The City may designate the various sizes of such containers as between twenty (20) and thirty (30) cubic yards. The containers shall be taken for disposal at the North Broward landfill so long as such facility is operable and lawfully able to receive the contents of the containers. The above services shall be provided without charge.

The City shall notify the Contractor two (2) business days before each requested pull of a container from the Public Works Department.

In addition, the Contractor shall provide a recycling program for the administrative offices at City Hall; DEES-Administration; DEES-Water Plant; Calypso Cove/Royal Palm Park; Firefighters Park; Oriole Park; Sports Complex; Southeast Park; Vinson Park; and Public Works at no charge to the City. For each location, the Contractor shall provide two 96 gallon carts to be used for paper and commingled recyclables. The carts shall be serviced weekly.

The Contractor shall provide a two (2) cubic yard front end-loading container as well as collection and disposal service at the City Wastewater Treatment Plant. The contents of the container shall consist of wastewater material for disposal at the North Broward Resource Recovery facility. The cost to the City shall be \$199.48 per four (4) cubic yard container. This cost is computed at \$49.87 per cubic yard based on the current disposal rate of \$62.50 per ton at such facility. The rate will increase proportionately to reflect any future increase in the disposal fee.

16. CITY SPONSORED EVENTS AND ADDITIONAL SERVICES -

A. City Sponsored Events. The Contractor shall provide, at no additional charge to the City, all collection services, containers and equipment required for waste collection and disposal service at up to six City sponsored special events per year to be determined by the City. For such events, Contractor will supply up to six (6) portable toilets at no charge to the City. For the City's Fourth of July event, Contractor will provide an annual sponsorship donation of Five Thousand Dollars (\$5000) to the Special Activities Fund (114) and shall also provide courtesy trash boxes with liners.

B. Solar Compactors. The Contractor shall provide four (4) Big Belly Solar compactors for City use in designated parks and City sites. The City shall provide an appropriate concrete pad for each unit and shall provide such other services necessary to install such units.

C. Household Hazardous Waste Collection. Annually, upon request of the City, the Contractor shall coordinate with the City a household hazardous waste collection event. The collection location, schedule and duration of the event shall be

mutually determined by the City and Contractor. Residents will bring acceptable items to the location which shall have an attendant employed by or under the control of Contractor on duty at all times during the duration of the event. Collection shall be limited to residents of the City and shall not be open to commercial or industrial establishments. Items that may be accepted will include paints, pesticides, waste tires, cleaning fluids, and similarly regulated materials. Radioactive, biohazardous, and biomedical wastes will not be collected. This collection is not intended for yard trash or bulk items and they will not be accepted. Contractor shall provide appropriate containers for the waste materials and Contractor's attendant shall assist with separation and placement of materials in proper containers. Contractor will transport or arrange for transport of the collected materials to a permitted disposal facility. There shall be no charge to the City or its residents for the services set forth herein.

D. Environmental / Recycling Day. Annually, at City Hall or a City school, or at such other location as may be mutually selected by the Contractor and City, Contractor shall provide educational materials and support in conjunction with the City activities.

E. At Your Door Household Hazardous Waste. Contractor is in the process of establishing a program for the monthly collection of household hazardous waste from the front door/garage door of single family residential units. Once operational, the City shall have the option of utilizing such program at an initial rate of \$1.00 per home per month. Contractor shall provide notice to City when the program is available.

17. COMPLAINTS - All complaints shall be reasonably resolved within twenty-four (24) hours. The Contractor shall prepare a form or maintain a log for his Broward County office on all complaints on a form approved by the City and indicate the disposition of each. Such records shall be available for City inspection at all times during business hours. The form shall indicate the date and the hour on which it is resolved. When a complaint is received on the day preceding a holiday or on a Saturday after 12:00 noon, it shall be serviced on the next working day. A ten dollar (\$10.00) per day penalty shall be paid to the City by the Contractor on any complaints not reasonably resolved within twenty-four (24) hours after written notice from the City to the Contractor. The term twenty-four (24) hours shall be construed to mean by the close of business of the next working day.

18. ROUTES AND SCHEDULES - The Contractor shall periodically provide the office of the City Clerk with schedules of residential collection routes and keep such information current at all times. In the event of changes in routes or schedules that will alter the day or the time of pickup, the Contractor shall notify each customer affected by either (a) direct mail; (b) door hangers; or (c) an advertisement prominently displayed in the Fort Lauderdale News and the sun sentinel at least once, not less than one week prior to change. All such changes in routes or schedules will also be

immediately communicated to the office of the City Manager when determined by the Contractor.

19. CONTRACTOR'S PERSONNEL

- A. The Contractor shall assign a qualified person or persons to be in charge of its operations in the City and shall give the name or names to the City Manager's office.
- B. The City has the right to require that the Contractor's collection employees wear a clean uniform or shirt bearing the Company's name.
- C. Each driver shall, at all times, carry a valid driver's license for the type of vehicle he is driving.
- D. No person shall be denied employment by the Contractor for reasons of race, creed, sex or religion.

20. COLLECTION SERVICES - In and about the collection and disposal of Solid Waste from included residences in the City of Margate, the Contractor shall do and perform the following:

- A. Furnish a residential Solid Waste collection and disposal service to all persons occupying or maintaining a place of residence as described herein.
- B. Where necessary to protect the public health, the City shall have the authority to require more frequent collections and require the user to pay for such additional services.
- C. Deposit all solid waste collected hereunder in approved sites or facilities legally empowered to accept it as approved by appropriate governmental agencies.
- D. All Solid Waste required to be collected by the Contractor shall be placed in Approved Containers as herein described and provided for except for Horticultural Trash properly tied and bundled and placed adjacent to the Approved Containers and further excepting for those items to be collected as Bulk Pickup Days.
- E. All routing and scheduling of trucks used by the Contractor for the pickup of Solid Waste shall be left to the discretion of the Contractor to the end that the schedule of pickups shall be reasonably, equally spaced during each week and shall assure maximum efficiency of operation.

- F. The rates set forth in this Agreement are predicated upon the disposal of all collected Solid Waste at the existing landfill facility or existing resource recovery facility, both located immediately North of Sample Road in North Broward County. In the event that for twelve (12) days or more in any one October to October contract year, the Contractor (except where based upon Contractor's actions or inactions) whether by governmental action or by virtue of the inability of either of such facilities to accept the collected Solid Waste by necessity, be required to dispose of such Solid Waste at an alternate facility located more than four (4) miles distant from the nearest limits of the City, by ordinary vehicular route, then there shall be added to such rates a charge reflecting the actual additional cost for transporting and disposing of Solid Waste at such alternate facilities beyond the four mile radius.
- The disposal fee together with the franchise fee shall be adjusted to reflect any difference between the disposal fee at the alternate facility, compared to the fee at the existing facility contemplated in this Agreement.
- G. The Contractor shall maintain normal service on all legal holidays excepting Christmas Day. Further, should the Contractor miss scheduled pickups due to Hurricanes or other causes beyond his control, then he shall make every reasonable effort to make up any such lost days.
- H. Employees of the Contractor shall not be required to subject themselves to the danger of being bitten by vicious dogs in order to perform their duties.
- I. The Contractor shall make collections of solid waste with as little disturbance as possible. The same may be transferred in tubs, hampers, or other receptacles to collection trucks or to other garbage removal equipment.

21. INDEMNITY - The Contractor will defend, indemnify, save harmless and exempt the City, its officers, agents, servants and employees from and against any and all suits, actions, legal proceedings, claims, demands, costs, expenses and attorney's fees resulting from injury to persons or damage to property arising out of work done in the performance of the contract caused by the negligence, willful misconduct, violation of law/regulation or breach of the terms of this Agreement.

Further, the Contractor shall defend, indemnify, save harmless and exempt the CITY, its officers, agents, servants and employees from and against any and all suits, actions, legal proceedings, claims, demands, costs, expenses and attorney's fees (up to and including the highest court of appeal) brought against the CITY by a third person or

entity, or government, alleging the illegality of this and prior agreements with the parties, whether based upon violation of constitution, statute, rule or regulation and the common law.

22. FORCE MAJEURE - If either party is prevented from or delayed in performing its duties under this Agreement by circumstances beyond its control, whether or not foreseeable, including, without limitation, fires, typhoons, hurricanes, severe weather, floods, volcanic eruption, pandemics, quarantines, war, civil disturbances, acts of terrorism, labor disputes, acts of God, or significant threats of such circumstances, or any future laws, rules, regulations, orders, or acts of any local, state, federal, or provincial government ("Force Majeure"), then the affected party shall be excused from performance hereunder during the period of such disability. The party claiming Force Majeure shall promptly notify the other party when it learns of the existence of a Force Majeure condition and when the Force Majeure condition has terminated. Notwithstanding anything in this Agreement to the contrary, the term "Force Majeure" does not include and a party shall not be excused from performance under this Agreement for events relating to increased costs, including, without limitation, increased costs of fuel, labor, insurance or other expenses of performing the services hereunder.

24. FRANCHISE FEES -

Commencing October 1, 2011, Contractor agrees that the franchise fee to be paid to the City during each year of this Agreement shall be \$1,254,798.00. The City agrees that annually it will credit Contractor's account \$477, 472.00 toward the payment of the guaranteed franchise fee. One-twelfth of the monies for this credit shall be retained monthly by the City from billings pursuant to Section 14 A of this Agreement. Contractor shall pay its obligation for franchise fees on a monthly basis.

The franchise fee shall be adjusted each October 1 pursuant to Section 11 of this Agreement. However, the credit shall not be so adjusted.

25. PERFORMANCE BOND - A performance bond of \$1,000,000.00 will be required of the Contractor to be executed by a surety company licensed to do business in the State of Florida. Said bond shall be obtained by the Contractor and presented to the City within ten (10) days following the execution of the contract. The performance bond shall remain valid at all times for the life of the contract. Upon completion of the contract and compliance with all times and conditions, the Contractor shall be entitled to the return of any cash bond on deposit with the City.

26. RIGHT TO REQUIRE PERFORMANCE & TERMINATION OF CONTRACT -

- A. The failure of the City at any time to require performance by the Contractor of any provision of the contract shall in no way affect the right of the City thereafter to enforce same; or shall waiver by the City of any breach of any provision of the contract be taken or held to be a waiver of any succeeding breach of such provisions or as a waiver of any provision itself.

- B. The City shall have the right to terminate this Franchise Agreement if Contractor fails to reasonably correct violations of the Agreement after a period of thirty (30) days upon being notified by the City of such alleged violations. All of alleged violations shall be delivered by certified mail, return receipt requested, at the office specified by this Agreement. If corrections are not made, and the contract is properly terminated, the City shall be entitled to call the bond and apply the cash or surety bond for the additional reasonable cost of the same service in excess of that set forth in this Agreement paid to the firm engaged for the balance of the contract period.

- C. In the event of a strike of the Contractor's employees or any other labor dispute which makes performance of the contract substantially impossible, Contractor agrees that the City shall have the right to call the bond and engage another firm to provide necessary service with the bond proceeds to pay any difference between the contract price in effect and the costs charged by the second company until the Contractor is able to resume its obligations under the contract.

27. LAW TO GOVERN AND VENUE - The contract shall be governed by the laws of the State of Florida both as to interpretation and performance. This agreement shall have been deemed to have been executed with the State of Florida. The validity, construction, and effect of this Agreement shall be governed by the laws of the state of Florida. Any claim, objection or dispute arising out of this Agreement shall be litigated in the Seventeenth Judicial Circuit in and for Broward County, Florida.

28. COMPLIANCE WITH LAWS - The Contractor shall conduct operations under the contract in compliance with all applicable laws.

29. ILLEGAL PROVISIONS - If any provision of the contract shall be declared illegal, void or unenforceable, the other provisions shall not be affected but shall remain in full force and effect.

30. PERMITS AND LICENSES - The Contractor shall obtain, at its own expense, all permits and licenses required by law or ordinance and maintain same in full force and effect.

other natural or man-made disaster unless the City enters into a written agreement with Contractor specifying the terms and compensation for such services.

36. POINT OF CONTACT - All dealings, contacts, notices, etc. between the Contractor and the City shall be directed by the Contractor to the City Manager, City of Margate, Florida, and by the City to the Contractor or its subsidiary.

37. NOTICE - A letter addressed and sent by certified United States mail to either party at its business address shall be sufficient notice whenever required for any purpose in the contract.

As to City:
Office of City Manager
Margate City Hall
5790 Margate Boulevard
Margate, Florida 33063
Copy to:
City Attorney
Margate City Hall
5790 Margate Boulevard
Margate, FL 33063

As to Contractor:
District Manager
Southern Sanitation Service
3831 N.W. 21st Avenue
Pompano Beach, Florida 33073
Copy to:
Florida Counsel
Waste Management Inc. of Florida
2700 Wiles Road
Pompano Beach, FL 33073

38. MODIFICATION - The Agreement will constitute the entire Agreement and understanding between the parties and it shall not be modified, altered, changed or amended in any respect unless in writing and signed by both parties.

DATED THIS ____ DAY OF _____, 2011.

CITY OF MARGATE, FLORIDA

By: _____

MAYOR

By: _____

CITY MANAGER

ATTEST:

CITY CLERK

APPROVED AS TO FORM:

CITY ATTORNEY

WASTE MANAGEMENT INC. OF FLORIDA

By: _____

Vice President

Waste Management Inc. of Florida

ATTEST:
