

INTERLOCAL AGREEMENT

between

BROWARD COUNTY

and

CITY OF SUNRISE

for

SOLID WASTE COLLECTION, DISPOSAL, AND RECYCLING SERVICES FOR
UNINCORPORATED RESIDENTIAL UNITS WITHIN SUNRISE

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SOLID WASTE COLLECTION, DISPOSAL, AND RECYCLING SERVICES FOR
UNINCORPORATED RESIDENTIAL UNITS WITHIN SUNRISE

This is an Interlocal Agreement, made and entered into by and between:
BROWARD COUNTY, a political subdivision of the state of Florida, hereinafter referred
to as "COUNTY,"

AND

CITY OF SUNRISE, a Florida municipal corporation, hereinafter referred to as
"CITY."

WHEREAS, after voluntary annexations, there are remaining unincorporated
residential units intermingled within CITY; and

WHEREAS, COUNTY and CITY seek to eliminate the duplication of solid waste
collection, disposal and recycling services in these areas; thereby reducing truck traffic
and excessive wear and tear on residential streets, reducing greenhouse gas emissions
and improving overall quality for the affected residents; and

WHEREAS, COUNTY is authorized to enter into agreements with other
governmental agencies within the boundaries of Broward County for performance by
one unit on behalf of the other, of any of either agency's authorized functions pursuant
to Section 125.01(1)(p), Florida Statutes; and

WHEREAS, COUNTY and CITY desire to enter into this Interlocal Agreement as
authorized by Chapter 163, Florida Statutes;

IN CONSIDERATION of the mutual terms, conditions, promises, covenants, and
payments hereinafter set forth, COUNTY and CITY agree as follows:

ARTICLE 1
DEFINITIONS AND IDENTIFICATIONS

For purposes of this Agreement, reference to one gender shall include the other, use of the plural shall include the singular, and use of the singular shall include the plural. The following definitions apply unless the context in which the word or phrase is used requires a different definition:

- 1.1 **Agreement** - means this document, Articles 1 through 8, inclusive. Other terms and conditions are included in the exhibits and documents that are expressly incorporated by reference.
- 1.2 **Board** - The Broward County Board of County Commissioners.
- 1.3 **City Contract Administrator** - The City of Sunrise Utility Finance Manager. The primary responsibilities of the City Contract Administrator are to coordinate and communicate with COUNTY and to manage and supervise execution and completion of the Scope of Services and the terms and conditions of this Agreement as set forth herein.
- 1.4 **County Contract Administrator** - The Broward County Administrator, the Director of the Broward County Waste and Recycling Division, or the designee of such County Administrator or Director. The primary responsibilities of the Contract Administrator are to coordinate and communicate with CITY and to manage and supervise execution and completion of the Scope of Services and the terms and conditions of this Agreement as set forth herein.
- 1.5 **County Administrator** – The administrative head of COUNTY pursuant to Sections 3.02 and 3.03 of the Broward County Charter.
- 1.6 **County Attorney** - The chief legal counsel for COUNTY who directs and supervises the Office of the County Attorney pursuant to Section 2.10 of the Broward County Charter.

ARTICLE 2
SCOPE OF SERVICES

For the purpose of transitioning responsibilities for the areas described in Exhibit "A" attached hereto and made a part hereof, from COUNTY to CITY, COUNTY and CITY shall perform their respective work, tasks, functions, and services identified in Exhibit "B" attached hereto and made a part hereof. The parties agree that the Scope of Services is a description of their respective obligations and responsibilities and is deemed to include preliminary considerations and prerequisites, and all labor, materials, equipment, work, tasks, functions, and services which are such an inseparable part of the matter described that

exclusion would render performance by the party so obligated impractical, illogical, or unconscionable.

ARTICLE 3 EFFECTIVENESS; TERM AND TIME OF PERFORMANCE

- 3.1 This Agreement shall become effective on the date it is fully executed by both parties and shall terminate one year from such date. This Agreement shall automatically renew unless terminated as provided herein.
- 3.2 Time shall be deemed to be of the essence in performing the duties, obligations and responsibilities required by this Agreement.

ARTICLE 4 CHANGE IN SCOPE OF SERVICES

Any change to the Scope of Services must be accompanied by a written amendment, executed by CITY and COUNTY in accordance with Section 8.15 below.

ARTICLE 5 GOVERNMENTAL IMMUNITY

Nothing herein is intended to serve as a waiver of sovereign immunity by any party nor shall anything included herein be construed as consent to be sued by third parties in any matter arising out of this Agreement or any other contract. COUNTY and CITY are state agencies, political subdivisions or municipalities as defined in Chapter 768.28, Florida Statutes, and agree to be fully responsible for the acts and omissions of their respective agents or employees to the extent permitted by law.

ARTICLE 6 INSURANCE

CITY is an entity subject to Section 768.28, Florida Statutes, and CITY shall furnish written verification of liability protection to COUNTY's Contract Administrator in accordance with state law prior to final execution of this Agreement, failing which CITY assumes the risk for any and all loss and liability resulting from this Agreement that is judicially imposed upon CITY. COUNTY is an entity subject to Section 768.28, Florida Statutes, and COUNTY shall furnish written verification of liability to CITY's Contract Administrator in accordance with state law prior to final execution of this Agreement, failing which COUNTY assumes the risk for any and all loss and liability resulting from this Agreement that is judicially imposed upon COUNTY.

ARTICLE 7 TERMINATION

- 7.1 If the area described in Exhibit "A" is annexed into a municipality or political subdivision, this Agreement shall be terminated effective on a date mutually agreed to by COUNTY and CITY Contract Administrators.
- 7.2 This Agreement may be terminated for cause by the aggrieved party if the party in breach has not corrected the breach within ten (10) days after written notice from the aggrieved party identifying the breach. This Agreement may also be terminated for convenience by the COUNTY or CITY. Termination for convenience by either party shall be effective on the termination date stated in written notice provided by COUNTY or CITY, which termination date shall be not less than thirty (30) days after the date of such written notice. This Agreement may also be terminated by County Administrator upon such notice as County Administrator deems appropriate under the circumstances in the event County Administrator determines that termination is necessary to protect the public health or safety. The parties agree that if COUNTY erroneously, improperly or unjustifiably terminates for cause, such termination shall be deemed a termination for convenience, which shall be effective thirty (30) days after such notice of termination for cause is provided.
- 7.3 This Agreement may be terminated for cause for reasons including, but not limited to, CITY's repeated (whether negligent or intentional) submission for payment of false or incorrect bills or invoices, failure to suitably perform the work; or failure to continuously perform the work in a manner calculated to meet or accomplish the objectives as set forth in this Agreement, or COUNTY's repeated late payments (whether negligent or intentional) to CITY.
- 7.4 Notice of termination shall be provided in accordance with the "NOTICES" section of this Agreement except that notice of termination by County Administrator, which County Administrator deems necessary to protect the public health, safety, or welfare may be verbal notice that shall be promptly confirmed in writing in accordance with the "NOTICES" section of this Agreement.
- 7.5 In the event this Agreement is terminated for convenience, CITY shall be paid for any services properly performed under the Agreement through the termination date specified in the written notice of termination. CITY acknowledges and agrees that it has received good, valuable and sufficient consideration from COUNTY, the receipt and adequacy of which are, hereby acknowledged by CITY, for COUNTY's right to terminate this Agreement for convenience.
- 7.6 In the event this Agreement is terminated for any reason, any amounts due CITY shall be withheld by COUNTY until all documents are provided to COUNTY pursuant to Section 8.1 of Article 8.

ARTICLE 8 MISCELLANEOUS

8.1 RIGHTS IN DOCUMENTS AND WORK

Any and all reports, photographs, surveys, and other data and documents provided or created in connection with this Agreement are and shall remain the property of the party that created same and will be available to the other party for inspection or use at no cost; provided that nothing herein shall prevent or restrict the owner of the documents from lawfully destroying or lawfully disposing of any such documents.

8.2 AUDIT RIGHT AND RETENTION OF RECORDS

Each party shall have the right to audit the books, records, and accounts of the other party that are related to this Agreement. CITY and COUNTY shall keep such books, records, and accounts as may be necessary in order to record complete and correct entries related to this Agreement. CITY and COUNTY shall preserve and, upon request, make available, at reasonable times for examination and audit by COUNTY, all financial records, supporting documents, statistical records, and any other documents pertinent to this Agreement for the required retention period of the Florida Public Records Act, Chapter 119, Florida Statutes, as may be amended from time to time, if applicable, or, if the Florida Public Records Act is not applicable, for a minimum period of three (3) years after the document or record came into existence. If any audit has been initiated and audit findings have not been resolved at the end of the retention period or three (3) years, whichever is longer, the books, records, and accounts shall be retained until resolution of the audit findings.

8.3 UNLAWFUL DISCRIMINATION, EQUAL EMPLOYMENT OPPORTUNITY, AND AMERICANS WITH DISABILITIES ACT

Neither CITY nor COUNTY shall unlawfully discriminate against any person in its operations and activities or in its use or expenditure of funds in fulfilling its obligations under this Agreement. CITY and COUNTY shall comply with all applicable provisions of the Americans with Disabilities Act (ADA) in the course of providing any services funded by this Agreement including, without limitation, Titles I and II of the ADA (regarding nondiscrimination on the basis of disability), and all applicable regulations, guidelines, and standards.

CITY's and COUNTY's decisions regarding the delivery of services under this Agreement shall be made without unlawful regard to or unlawful consideration of race, age, religion, color, gender, sexual orientation (Broward County Code, Chapter 16 ½), national origin, marital status, physical or mental disability, political affiliation, and without regard to or consideration of any other factor which cannot be lawfully used as a basis for service delivery.

CITY and COUNTY shall not engage in or commit any discriminatory practice in violation of the Broward County Human Rights Act (Broward County Code, Chapter 16 ½) in performing any services pursuant to this Agreement.

8.4 INDEPENDENT CONTRACTOR

CITY and COUNTY are independent contractors under this Agreement. Services provided by CITY pursuant to this Agreement shall be subject to the supervision of CITY and services provided by COUNTY, pursuant to this Agreement, shall be subject to the supervision of COUNTY. In providing such services, CITY, its officers, employees, or agents are not authorized to and shall not act as officers, employees, or agents of COUNTY, and COUNTY, its officers, employees, or agents are not authorized to and shall not act as officers, employees, or agents of CITY. No partnership, joint venture, or other joint relationship is created hereby. COUNTY does not extend to CITY or CITY's agents any authority of any kind to bind COUNTY in any respect whatsoever. CITY does not extend to COUNTY or COUNTY's agents, any authority of any kind to bind CITY in any respect whatsoever.

8.5 THIRD PARTY BENEFICIARIES

Neither CITY nor COUNTY intends to directly or substantially benefit a third party by this Agreement. Therefore, the parties agree that there are no third party beneficiaries to this Agreement and that no third party shall be entitled to assert a right or claim against either of them based upon this Agreement.

8.6 NOTICES

Whenever either party desires to give notice to the other, such notice must be in writing, sent by certified United States Mail, postage prepaid, return receipt requested, or sent by commercial express carrier with acknowledgement of delivery, or by hand delivery with a request for a written receipt of acknowledgment of delivery, addressed to the party for whom it is intended at the place last specified. The place for giving notice shall remain the same as set forth herein until changed in writing in the manner provided in this section. For the present, the parties designate the following:

FOR COUNTY:

County Administrator
Governmental Center, Suite 409
115 South Andrews Avenue
Fort Lauderdale, Florida 33301

With a copy to:

Director, Recycling & Contract Administration Division
One North University Drive, Suite 400
Plantation, FL 33324

FOR CITY:

City of Sunrise Utility Finance Manager
10770 West Oakland Park Boulevard
Sunrise, FL 33351

With a copy to:

City of Sunrise
Office of the City Attorney
10770 West Oakland Park Boulevard
Sunrise, FL 33351

8.7 ASSIGNMENT AND PERFORMANCE

Neither this Agreement nor any right or interest herein shall be assigned, transferred, or encumbered without the written consent of Contract Administrator of the other party.

8.8 CONFLICTS

Neither CITY nor its employees shall have or hold any continuing or frequently recurring employment or contractual relationship that is substantially antagonistic or incompatible with CITY's loyal and conscientious exercise of judgment and care related to its performance under this Agreement.

CITY further agrees that none of its officers or employees shall, during the term of this Agreement, serve as an expert witness against COUNTY in any legal or administrative proceeding in which he, she, or CITY is not a party, unless compelled by court process. Further, CITY agrees that such persons shall not give sworn testimony or issue a report or writing, as an expression of his or her expert opinion, which is adverse or prejudicial to the interests of COUNTY in

connection with any such pending or threatened legal or administrative proceeding unless compelled by court process. The limitations of this section shall not preclude CITY or any persons in anyway from representing themselves, including giving expert testimony in support thereof, in any action or in any administrative or legal proceeding.

In the event CITY is permitted pursuant to this Agreement to utilize subcontractors to perform any services required by this Agreement, CITY agrees to require such subcontractors, by written contract, to comply with the provisions of this section to the same extent as CITY.

8.9 MATERIALITY AND WAIVER OF BREACH

COUNTY and CITY agree that each requirement, duty, and obligation set forth herein was bargained for at arms-length and is agreed to by the parties in exchange for quid pro quo, that each is substantial and important to the formation of this Agreement and that each is, therefore, a material term hereof.

Neither CITY's nor COUNTY's failure to enforce any provision of this Agreement shall not be deemed a waiver of such provision or modification of this Agreement. A waiver of any breach of a provision of this Agreement shall not be deemed a waiver of any subsequent breach and shall not be construed to be a modification of the terms of this Agreement.

8.10 COMPLIANCE WITH LAWS

CITY shall comply with all applicable federal, state, and local laws, codes, ordinances, rules, and regulations in performing its duties, responsibilities, and obligations pursuant to this Agreement. Likewise, COUNTY shall comply with all applicable federal, state, and local laws, codes, ordinances, rules, and regulations in performing its duties, responsibilities, and obligations pursuant to this Agreement.

8.11 SEVERANCE

In the event a portion of this Agreement is found by a court of competent jurisdiction to be invalid, the remaining provisions shall continue to be effective unless COUNTY or CITY elects to terminate this Agreement. An election to terminate this Agreement based upon this provision shall be made within seven (7) days after the finding by the court becomes final.

8.12 JOINT PREPARATION

Each party and its counsel have participated fully in the review and revision of this Agreement and acknowledge that the preparation of this Agreement has

been their joint effort. The language agreed to expresses their mutual intent and the resulting document shall not, solely as a matter of judicial construction, be construed more severely against one of the parties than the other. The language in this Agreement shall be interpreted as to its fair meaning and not strictly for or against any party.

8.13 PRIORITY OF PROVISIONS

If there is a conflict or inconsistency between any term, statement, requirement, or provision of any exhibit attached hereto, any document or events referred to herein, or any document incorporated into this Agreement by reference and a term, statement, requirement, or provision of Articles 1 through 8 of this Agreement, the term, statement, requirement, or provision contained in Articles 1 through 8 shall prevail and be given effect.

8.14 JURISDICTION, VENUE, WAIVER OF JURY TRIAL

This Agreement shall be interpreted and construed in accordance with and governed by the laws of the state of Florida. All parties agree and accept that jurisdiction of any controversies or legal problems arising out of this Agreement, and any action involving the enforcement or interpretation of any rights hereunder, shall be exclusively in the state courts of the Seventeenth Judicial Circuit in Broward County, Florida, and venue for litigation arising out of this Agreement shall be exclusively in such state courts, forsaking any other jurisdiction which either party may claim by virtue of its residency or other jurisdictional device. **BY ENTERING INTO THIS AGREEMENT, CITY AND COUNTY HEREBY EXPRESSLY WAIVE ANY RIGHTS EITHER PARTY MAY HAVE TO A TRIAL BY JURY OF ANY CIVIL LITIGATION RELATED TO THIS AGREEMENT.**

8.15 AMENDMENTS

No modification, amendment, or alteration in the terms or conditions contained herein shall be effective unless contained in a written document prepared with the same or similar formality as this Agreement and executed by the Board and CITY or others delegated authority to or otherwise authorized to execute same on their behalf.

8.16 PRIOR AGREEMENTS

This document represents the final and complete understanding of the parties and incorporates or supersedes all prior negotiations, correspondence, conversations, agreements, and understandings applicable to the matters contained herein. The parties agree that there is no commitment, agreement, or understanding concerning the subject matter of this Agreement that is not

contained in this written document. Accordingly, the parties agree that no deviation from the terms hereof shall be predicated upon any prior representation or agreement, whether oral or written.

8.17 PAYABLE INTEREST

8.17.1. Payment of Interest. Except as required by the Broward County Prompt Payment Ordinance, COUNTY shall not be liable for interest for any reason, whether as prejudgment interest or for any other purpose, and in furtherance thereof CITY waives, rejects, disclaims and surrenders any and all entitlement it has or may have to receive interest in connection with a dispute or claim based on or related to this Agreement.

8.17.2. Rate of Interest. In any instance where the prohibition or limitations of Section 8.17.1 are determined to be invalid or unenforceable, the annual rate of interest payable by COUNTY under this Agreement, whether as prejudgment interest or for any other purpose, shall be .025 percent simple interest (uncompounded).

8.18 INCORPORATION BY REFERENCE

The truth and accuracy of each "Whereas" clause set forth above is acknowledged by the parties. The attached Exhibits "A" and "B" are incorporated into and made a part of this Agreement.

8.19 REPRESENTATION OF AUTHORITY

Each individual executing this Agreement on behalf of a party hereto hereby represents and warrants that he or she is, on the date he or she signs this Agreement, duly authorized by all necessary and appropriate action to execute this Agreement on behalf of such party and does so with full legal authority.

8.20 MULTIPLE ORIGINALS

Multiple copies of this Agreement may be executed by all parties, each of which, bearing original signatures, shall have the force and effect of an original document.

(The remainder of this page is intentionally left blank.)

IN WITNESS WHEREOF, the parties hereto have made and executed this Agreement: BROWARD COUNTY through its BOARD OF COUNTY COMMISSIONERS, signing by and through its Mayor or Vice-Mayor, authorized to execute same by Board action on the ____ day of _____, 20__, and CITY, signing by and through its _____, duly authorized to execute same.

COUNTY:

ATTEST:

BROWARD COUNTY, by and through
its Board of County Commissioners

Broward County Administrator, as
Ex-officio Clerk of the Broward County
Board of County Commissioners

By _____
Mayor

____ day of _____, 20__

Approved as to form by
Office of the County Attorney
for Broward County, Florida
Joni Armstrong Coffey, County Attorney
Governmental Center, Suite 423
115 South Andrews Avenue
Fort Lauderdale, Florida 33301
Telephone: (954) 357-7600
Telecopier: (954) 357-6968

Insurance requirements
approved by Broward County
Risk Management Division

By _____
(Date)

By _____
Purvi A. Bhogaita (Date)
Assistant County Attorney

By _____
Noel M. Pfeffer (Date)
Deputy County Attorney

AGREEMENT BETWEEN BROWARD COUNTY AND CITY OF SUNRISE FOR SOLID
WASTE COLLECTION, DISPOSAL, AND RECYCLING SERVICES FOR
UNINCORPORATED RESIDENTIAL UNITS WITHIN SUNRISE

CITY:

ATTEST:

City Clerk

By: _____
Michael J. Ryan, Mayor

Dated: _____ day of _____, 20____

APPROVED AS TO LEGAL FORM:

Kimberly Kisslan, City Attorney

Dated: _____

PAB:dmv
09/13/11
09/01/11
08/05/10
sunrise-solidwastecoll.ila.doc

EXHIBIT "A"

AREA

The single family residences located at the following addresses are covered by this Agreement:

- 741 SW 157th Terrace
- 15810 N Wind Circle
- 641 SW 158th Terrace
- 15910 N Wind Circle
- 620 SW 159th Terrace
- 15931 N Wind Circle

EXHIBIT "B"

SCOPE OF SERVICES

CITY'S RESPONSIBILITIES:

- CITY shall provide the collection and disposal of solid waste, bulky waste and recycling services for the unincorporated areas within the CITY, consistent with CITY services.
- CITY will include these unincorporated area services through an amendment to the existing CITY agreement and any future agreement until the areas are annexed.
- CITY shall invoice COUNTY for single family residential solid waste services provided at the per unit rate that is charged to SUNRISE residents, and for single family residential recycling services provided at the per unit rate charged by the CITY's franchised hauler, including any annual adjustments for disposal costs and CPI as outlined in the CITY's present agreement with its franchised hauler, plus an administrative fee of 10%.
- CITY shall instruct its franchised hauler to handle all service inquiries, missed collections, and enforce code compliance as it relates to solid waste services.
- CITY shall provide recycling bins/containers to unincorporated area residents in a manner consistent with CITY service. The cost of the container shall be reimbursed by the COUNTY.
- CITY shall pay its franchised hauler for the solid waste services provided to these remaining unincorporated residential units within the CITY, consistent with CITY service.
- CITY shall provide post hurricane/storm event debris clearance and removal from public right-of-ways within the area.
- CITY shall retain all related revenues including residential and commercial franchise fees associated with the applicable solid waste and recycling services.

COUNTY'S RESPONSIBILITIES:

- COUNTY shall collect the annual Garbage and Trash Assessment from the remaining unincorporated residential units until such time as these remaining residential units are annexed.

COUNTY shall pay CITY for all solid waste and recycling services in accordance

with this Interlocal Agreement between CITY and COUNTY.

- COUNTY shall reimburse CITY for all public right-of-way debris clearance and removal costs from the designated areas that are not reimbursed by Federal, State or local agencies.
- COUNTY shall work collaboratively with CITY on providing notification to affected residents regarding the change in collection services and schedules to allow for seamless conversion to CITY solid waste services.
 1. COUNTY shall provide a direct mail letter to the affected residents informing them of the changes in solid waste collection services and schedules.
 2. CITY shall provide information and/or literature on the solid waste service levels, contact information and processes in the delivery of the CITY's solid waste services to COUNTY for distribution.
- COUNTY shall continue to maintain property rolls and provide the annual unit counts and service addresses list through the Broward County Property Appraisers office.
- COUNTY shall reimburse CITY for any direct costs associated with the provision of carts, bins or other containers for residences that are not covered in the CITY's service agreement with its franchised hauler.