

## SECOND AMENDMENT TO AGREEMENT

This SECOND AMENDMENT TO AGREEMENT (the "Second Amendment") is entered into as of the 16<sup>th</sup> day of January, 2014 by and between the City of Hallandale Beach, a political subdivision of the State of Florida ("City") and Progressive Waste Solutions of FL, Inc., a Delaware corporation ("Contractor").

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### RECITALS:

WHEREAS, on December 6, 2010, the City and Choice Environmental Services of Broward, Inc. ("Choice Broward") entered into that certain Agreement for Transfer and Disposal of Solid Waste and Processing of Single Stream Recyclables (the "Contract"); and

WHEREAS, on January 1, 2012, the City and Choice Broward entered into that certain Renewal of Agreement for Transfer and Disposal of Solid Waste and Processing of Single Stream Recyclables (the "First Amendment"); and

WHEREAS, Choice Broward was a wholly-owned subsidiary of Choice Environmental Services, Inc. ("CES") at the time that the City and Choice Broward entered into the Contract and the First Amendment (collectively referred to herein as the "Agreement"); and

WHEREAS, CES was purchased by Waste Services of Florida, Inc. ("WSI") in November of 2012; and

WHEREAS, WSI changed its name to Progressive Waste Solutions of FL, Inc. on June 4, 2013; and

WHEREAS, Choice Broward was merged into CES on August 16, 2013, with CES being the surviving entity; and

WHEREAS, CES was merged into Progressive Waste Solutions of FL, Inc. on September 9, 2013 with Progressive Waste Solutions of FL, Inc. being the surviving entity; and

WHEREAS, Article 8.9 of the Agreement provides that "this Agreement may be amended only by the mutual written agreement of the parties and may be changed only by such written amendment"; and

WHEREAS, the Contractor and the City desire to amend and extend the Agreement as more fully described herein;

### AGREEMENT:

NOW, THEREFORE, in consideration of the foregoing Recitals, and other good and valuable consideration, including the mutual covenants and agreements set forth in the Agreement, the receipt, and sufficiency of which, is hereby mutually acknowledged, the City and Contractor hereby agree as follows:

1. Recitals. The foregoing Recitals are true and correct and are hereby incorporated by reference.

2. Term & Renewal. On the Effective Date (as defined herein), Article 2 of the Agreement is hereby deleted in its entirety and replaced with the following:

"Services under this Agreement shall commence on January 1, 2014 (the 'Effective Date') and continue for five (5) years through December 31, 2018 (the 'Initial Term'). This Agreement shall automatically renew for three (3) successive five (5) year periods (each, a "Renewal Term"), provided that neither party has provided the other party with written notice of its intent not to renew either the Initial Term or the then-applicable Renewal Term upon at least 90 days, but no more than 180 days, prior to the expiration of the Initial Term or the then-applicable Renewal Term, as applicable."

3. Default and Termination. The two (2) sentences added to Article 6 of the Agreement pursuant to the First Amendment are hereby deleted in their entirety.

4. Price Per Ton Service Fees. On the Effective Date, the Price Per Ton Service Fees on Exhibit 1 of the Agreement are hereby deleted in their entirety and replaced with the following:

Material	Per Ton Service Fees
City's Acceptable Waste	\$47.50 per Ton
Licensed Hauler's Acceptable Waste	\$54.50 per Ton
Administrative Fee Paid to City by Contractor	\$7.00 per Ton

5. Single Stream Recyclables Revenue Share. On the Effective Date, all of the content on Exhibit 3 of the Agreement is hereby deleted in its entirety and replaced with the following:

"Contractor shall pay the City monthly in the amount of \$28.00 per Ton for each Ton of in-bound Single-Stream Recyclables delivered to the Facility, as recorded by the Contractor's scale house."

6. Notices. The following is hereby added to the Agreement as Article 8.10:

"Any notices required or permitted to be delivered hereunder shall be in writing and shall be deemed to be delivered when addressed to the respective party at the address set forth below and either (i) deposited in the United States mail, postage

prepaid, certified mail, return receipt requested or (ii) sent via nationally recognized carrier for overnight delivery with a tracking number:

If to the City:

City of Hallandale Beach  
400 South Federal Highway  
Hallandale Beach, FL 33009  
Attn: City Manager

If to the Contractor:

Progressive Waste Solutions of FL, Inc.  
3840 NW 37<sup>th</sup> Court  
Miami, FL 33142  
Attn: Area Manager

With a Copy to:

IESI Corporation  
2301 Eagle Parkway, Suite 200  
Ft. Worth, TX 76177  
Attn: Legal Department

or such other addresses as the parties may hereafter specify by written notice and delivered in accordance herewith."

7. Attorneys' Fees. The following is hereby added to the Agreement as Article 8.11:

"The prevailing party in any dispute between the parties arising out of the interpretation, application or enforcement of any provision hereof shall be entitled to recover all of its reasonable attorneys' fees and costs whether suit be filed or not, including without limitation costs and attorneys' fees related to or arising out of any trial or appellate proceedings."

8. Reaffirmation. The parties hereto hereby restate and reaffirm their agreement with all of the terms and provisions of the Agreement, as amended hereby. All other terms and conditions of the Agreement not in conflict with this Second Amendment shall remain in full force and effect.

9. Counterparts; Facsimile Signatures. This Second Amendment may be executed in any number of counterparts, each of which shall be deemed an original, but all of which collectively shall constitute one and the same instrument representing this Second Amendment between the parties hereto, and it shall not be necessary for the proof of this Second Amendment that any party produce or account for more than one such counterpart. Facsimile signatures shall be given the same force and effect as original signatures and shall be treated for all purposes and intents as original signatures.

IN WITNESS WHEREOF, the undersigned have executed this Second Amendment as of the date first written above.

CITY:

CITY OF HALLANDALE BEACH, FLORIDA

Approved as to Form  
and Sufficiency

Asst.

City Attorney

By: 

Name: Renee C. Miller

Title: City Manager

Date: 1/16/14

ATTEST:

By: 

Name: SHEENA D. JAMES

Title: CITY Clerk

Date: 1/21/14

CONTRACTOR:

PROGRESSIVE WASTE SOLUTIONS OF FL, INC.  
A Delaware corporation

By: 

Dean DiValerio, Vice President

Date: 1/27/14

WITNESS:

WITNESS: