



Item No. 13F

AGENDA ITEM REQUEST FORM

Town Manager's Office

Bud Bentley

Department Submitting Request

Assistant Town Manager

REGULAR
COMMISSION MTG
Meeting Dates - 7:00 PM

DEADLINE TO
Town Clerk

ROUNDTABLE
MEETING
Meeting Dates - 7:00 PM

DEADLINE TO
Town Clerk

- April 27, 2011
- May 24, 2011
- June 28, 2011
- July 26, 2011

- April 15 (5:00 pm)
- May 13 (5:00 pm)
- June 10 (5:00 pm)
- July 15 (5:00 pm)

- April 12, 2011
- May 10, 2011
- June 14, 2011
- July 12, 2011

- April 1 (5:00 pm)
- April 29 (5:00 pm)
- June 3 (5:00 pm)
- July 1 (5:00 pm)

SUBJECT TITLE: Resolution (Exhibit 1) Authorizing the Twelfth Amendment to the Interlocal Agreement (ILA) with the Resource Recovery Board

EXPLANATION: The Resource Recovery Board has proposed a twelfth amendment to the ILA (**Exhibit to the Resolution**) that revises the method of adjusting tipping fees each year to that of actual costs. If approved the amendment would take affect October 1, 2011. The proposed text provides that the new method will not result in an increase greater than what would have been approved under the existing language.

Exhibit 2 is a letter from the District Counsel, Eugene Steinfeld, explaining that if the twelfth amendment is ratified by the County and communities representing 51% of the District's population by June 1, 2011, then the October 1, 2011 tipping fee would be governed by the twelfth amendment.

We recommend approval of the proposed resolution, which authorizes the twelfth amendment.

EXHIBIT: Exhibit 1 – Resolution, twelfth amendment is an exhibit to the resolution
Exhibit 2 – April 11, 2011 letter from Eugene Steinfeld, District Counsel

FISCAL IMPACT AND APPROPRIATION OF FUNDS: Possibly less of an increase in the annual tipping fee

Reviewed by Town Attorney
 Yes No

Town Manager Initials CB

File: 4-27 AC RRB 12th Amendment

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RESOLUTION 2011-14

**A RESOLUTION OF THE TOWN OF LAUDERDALE-BY-
THE-SEA, FLORIDA, APPROVING THE TWELFTH
AMENDMENT TO THE INTERLOCAL AGREEMENT
(ILA) WITH BROWARD COUNTY FOR SOLID WASTE
DISPOSAL SERVICES; DIRECTING THE APPROPRIATE
TOWN OFFICIAL TO REQUEST THAT ALL PARTIES
APPROVE THE TWELFTH AMENDMENT BY JUNE 2,
2011; PROVIDING FOR REPEAL OF ANY CONFLICTING
RESOLUTION; AND PROVIDING AN EFFECTIVE DATE.**

14 **WHEREAS**, the Town of Lauderdale-By-The-Sea is a party to the Interlocal Agreement
15 (ILA) with Broward County for Solid Waste Disposal Services; and

16 **WHEREAS**, the ILA provides for operation of a Resource Recovery System (“System”)
17 funded through the collection of solid waste tipping fees; and

18 **WHEREAS**, the Resource Recovery Board (“Board”) sets the tipping fees pursuant to a
19 formula provided in the ILA which escalates automatically based upon a consumer price index
20 which is unrelated to the cost of operating the System; and

21 **WHEREAS**, the Board has proposed and approved a Twelfth Amendment to the ILA
22 which will set the solid waste tipping fees based upon the actual costs of maintaining and
23 funding the System, which fees shall not exceed, under any circumstances, the fees that would
24 have been set under the current formula; and

25 **WHEREAS**, the Twelfth Amendment will become effective on October 1, 2011, if
26 approved by Broward County and the Contract Communities containing at least 51% of the
27 population of all Contract Communities and unincorporated County; and

28 **WHEREAS**, the Town Commission finds that the Town’s approval of the Twelfth
29 Amendment attached hereto as Exhibit “A” is in the best interest of the Town of Lauderdale-By-
The-Sea; and

TWELFTH AMENDMENT

This Twelfth Amendment is dated for convenience as February 17, 2011, to the Interlocal Agreement with Broward County for Solid Waste Disposal Services ("Interlocal Agreement"), dated for convenience as November 25, 1986, by and between Broward County, a political subdivision of the State of Florida, by and through its Board of County Commissioners, ("COUNTY") and Municipalities who are parties to the Interlocal Agreement ("CONTRACT COMMUNITIES").

WITNESSETH

WHEREAS, the Interlocal Agreement between the County and the Contract Communities provides for operation of a Resource Recovery System within Broward County and,

WHEREAS, the Interlocal Agreement provides that the principal funding for the Resource Recovery System within Broward County is derived from tipping fees for disposal of Processable Waste and,

WHEREAS, the tipping fees are set by the Resource Recovery Board pursuant to a formula provided in the Interlocal Agreement which escalates automatically based upon a consumer price index which is unrelated to the cost of the operation of the Resource Recovery System within Broward County and the Broward Solid Waste Disposal District and,

WHEREAS, the Resource Recovery Board wishes to set the tipping fees for disposal of Processable Waste based upon the actual cost of maintaining and funding the Resource Recovery System within Broward County and the Broward Solid Waste Disposal District.

Now therefore in consideration of the mutual terms, conditions, provisions, covenants and payments hereinafter set forth, the parties agree as follows:

(1). Effective October 1, 2011, Sections 6.1 and 6.2 of Article 6 of the Interlocal Agreement between Broward County and the Contract Communities, shall be amended to read as follows:

Tipping Fees and Service Charges

6.1 County and Contract Communities agree that the Resource Recovery Board shall establish tipping fees, rates and other service charges and provide for revenue sources sufficient to fund the Resource Recovery System and the maintenance

of the District. This shall include funding for all obligations of the District, including, but not limited to, all bonded indebtedness of the Resource Recovery System and Service Agreements in the name of Broward County or the District. All tipping fees shall be approved by resolution of the Resource Recovery Board and shall not be more than reasonably necessary for the actual costs of providing for the Resource Recovery System. Tipping fees for the disposal of Processable Waste shall be calculated and established by the Resource Recovery Board at least 120 days preceding the beginning of each fiscal year and shall be effective for the next ensuing fiscal year. In no event shall the Resource Recovery Board approve a tipping fee rate for Processable Waste which would exceed the tipping fee rate provided for in Section 6.2 of this Agreement had this amendment not been approved.

6.2 (This section shall be purposefully left blank.)

(2). This amendment shall become effective only upon approval of Broward County and the Contract Communities containing at least 51% of the population of all Contract Communities and unincorporated County.

IN WITNESS WHEREOF, the parties have hereto made and executed this Agreement on the respective dates under each signature, BROWARD COUNTY through its BOARD OF COUNTY COMMISSIONERS, SIGNING BY AND THROUGH ITS Mayor or Vice Mayor, authorized to execute the same by Board action of the _____ day of _____, 20____, and by the CONTRACT COMMUNITIES signing by and through official(s) duly authorized to execute the same.

COUNTY

BROWARD COUNTY, through its BOARD OF
COUNTY COMMISSIONERS

ATTEST:

By: _____

Mayor

_____ day of _____, 20__.

County Administrator and Ex-Officio
Clerk of the Board of County
Commissioners of Broward County, Florida

Approved as to form by
Office of the County Attorney
115 South Andrews Avenue
Fort Lauderdale, Florida 33301

By: _____

(Print Name)

_____ County Attorney

TWELFTH AMENDMENT TO INTERLOCAL AGREEMENT WITH BROWARD COUNTY FOR SOLID WASTE DISPOSAL SERVICES

CONTRACT COMMUNITY

By: _____

Print Name: _____

Title: _____

Name of Contract Community

By: _____

Print Name: _____

Title: _____

Executed this __ day of __, 20__.

ATTEST:

Approved as to form:

City Attorney

Resource Recovery Board

Chair: Commissioner Ilene Lieberman - Broward County Board of County Commissioners • **Vice Chair:** Mayor Lou Sarbone - Coconut Creek
Commissioner Vince M. Boccia - Coral Springs • Mayor Suzanne Boisvenue - Oakland Park • Commissioner Beam Furr - Hollywood
Mayor Eric M. Hersh - Weston • Councilmember Marlon Luis - Davie • Mayor John P. "Jack" Seiler - Fort Lauderdale • Vice Mayor Frank B. Talerico - Margate
Executive Director: Ron Greenstein • **District Counsel:** Eugene M. Steinfeld

MEMO

Exhibit 2

April 11, 2011

To: Ron Greenstein, Executive Director
From: Eugene M. Steinfeld, District Counsel
Subject: 12th Amendment to the Interlocal Agreement

There has been some question regarding the October 1, 2011 effective date for the 12th amendment contained in paragraph (1) of the amendment.

It is clearly the intent for the tipping fee rate contained in the amendment to be effective for the District October 1, 2011.

In order for the above to properly be put in place, it will be my recommendation to have a tipping fee rate resolution adopted by the Resource Recovery Board prior to June 1, 2011. This resolution would contain two rates: One, based upon the present formula (assuming the 12th amendment is not properly ratified) and, the second, based upon the condition that the 12th amendment is ratified by the County and communities that represent 51% of the District's population by June 1, 2011.

If properly ratified by June 1, 2011 the tipping fee for the District for October 1, 2011 would be governed by the 12th amendment.

cc: RRB members
TAC members
City Managers
City Attorneys
Broward Deputy County Attorney