

**AGREEMENT BY AND BETWEEN
BOROUGH OF FORT LEE
AND
INTERSTATE WASTE SERVICES, INC.
FOR SOLID WASTE COLLECTION, DISPOSAL AND RECYCLING SERVICES**

THIS AGREEMENT ("Agreement") entered into ^{March} February ²⁶, 2020, between the **BOROUGH OF FORT LEE**, with its principal offices located at 309 Main Street, Fort Lee, New Jersey ("Borough"), and **INTERSTATE WASTE SERVICES, INC.**, with offices located at 375 U.S. Highway 1&9 South, Jersey City, New Jersey 07306 ("Contractor").

WITNESSETH:

WHEREAS, on prior occasion, the Borough authorized by resolution the procurement of bid pursuant to the Local Public Contracts Law, N.J.S.A. 40A:11-1 et seq., for the provision of solid waste collection and recycling services in the Borough; and

WHEREAS, the Borough received bids for solid waste collection and recycling services, all in accordance with applicable law, on January 3, 2020; and

WHEREAS, the Borough determined that it was in the best interests of its citizens to award a contract for solid waste collection services pursuant to Option 2 and for recycling services pursuant to Option 3; and

WHEREAS, the Borough reviewed the bid submitted by the Contractor and determined that it met all of the requirements of the Bid Specifications and that a contract should be awarded to the Contractor, as the lowest responsible bidder, for the provision of solid waste collection and recycling services; and

WHEREAS, the Borough accepted the Contractor's bid as the lowest responsible and complying bid submitted and, by Resolution CA-10, dated February 13, 2020, awarded a contract to the Contractor pursuant to applicable law for a term of four years; and

WHEREAS, the award of a contract to the Contractor was deemed to be necessary for the efficient operations of the Borough, and to ensure the continued availability of safe, adequate and proper solid waste collection and recycling services to the citizens of the Borough at a reasonable market price; and

WHEREAS, the Borough and the Contractor desire to execute this Agreement, setting forth the services to be rendered and the compensation to be paid thereof; and

WHEREAS, the Borough's Chief Financial Officer has determined that funds are available for this purpose; and

NOW, THEREFORE, for and in consideration of the foregoing and the mutual covenants hereinafter set forth and for other good and valuable consideration, the receipt and sufficiency of

which are hereby acknowledged by the Borough and the Contractor, the parties hereby agree as follows:

1. **SCOPE OF SERVICES.** The Contractor shall provide solid waste collection and recycling services (the "Work"), including any and all labor, service, equipment and materials necessary for the performance of this Agreement in accordance with the Bid Documents, which include the Request for Bids, Technical Specifications, Contract Items, the Advertisement, Notice to Prospective Bidders, Contractor's Bid, Bidder's Affidavit, Bid Bond, Surety, Surety Guarantee, General Conditions, Payment Bond, Maintenance Bond, this Agreement and all addenda thereto and modifications thereof incorporated in the said Bid Documents before execution of this Agreement, which Bid Documents are identified by the signatures of the parties hereto and become hereby a part of this Agreement as if set forth herein at length.

2. **TIME OF PERFORMANCE.** It is understood and agreed by and between the parties, hereto, that the time period for the performance of the Work and this Agreement shall commence as of the date of execution of this Agreement and continue until all conditions of the Bid Documents and Specifications are met.

3. **PAYMENT.**

a) In payment for the Work specified in the Bid Documents and upon acceptance by the Borough of the Work, unless otherwise specified in the Bid Documents, the Borough agrees to pay the Contractor the following per ton rates as are detailed in the Resolution of the Borough awarding a contract to the Contractor for the performance of the Work pursuant to this Agreement:

Year 1 - \$200.97 per ton
Year 2 - \$210.09 per ton
Year 3 - \$215.34 per ton
Year 4 - \$220.72 per ton

b) Payments of the amounts referred to above shall be made within sixty (60) days after receipt of the Contractor's invoice, setting forth the Work provided and the amount due for same and the Borough's acceptance of the Work. The payments referred to above shall not include any interest or late charges imposed by the Contractor or paid by the Borough on any payments.

4. **DELIVERY.** Contractor agrees to perform only the Work covered by Section 1, Scope of Services.

Where a review of the Work performed indicates that services other than that covered by this Agreement has been delivered, the Borough shall take such steps as are reasonably necessary to inform the Contractor of the violation. Contractor shall be required to take all such steps as are necessary to ensure that the Work meet the requirements of the Bid Specifications.

5. **INDEMNIFICATION.** Contractor agrees to indemnify and hold the Borough, its officials, officers, agents, servants, representatives, and employees, harmless from and defend the Borough against any claim, liability, cost or expense of every kind and nature arising from or in

connection with the Contractor's performance of Contractor's obligations pursuant to this Agreement, the failure by Contractor to perform such obligations, any action or failure to act or negligence by the Contractor with respect to the project to which this Agreement is applicable or in connection with any allegation of any of the foregoing including, but not limited to, claims made by the Contractor's employees, suppliers and sub-contractors. Such indemnification and/or hold harmless obligation shall extend not only to any damages but to costs and expenses of litigation, including but not limited to expenses and fees in connection with the engagement or utilization of any fact or expert witnesses as well as reasonable attorney's fees. When requested by the Borough, the Contractor agrees to aid and/or defend the Borough, its officials, officers, agents, servants, representatives and employees in the event any or all of same are named as a defendant or defendants in any action relating to the activities or obligations of the Contractor arising under this Agreement.

6. **WARRANTIES.** The Contractor expressly represents and warrants:

a) That it is financially solvent and that it is experienced and competent to perform the type of Work, and if applicable, to furnish the labor, materials, supplies and equipment, to be so performed or furnished;

b) That it is familiar with all federal, state, county, and municipal laws, ordinances and regulations that may in any way affect the Work or those employed therein, including, but not limited to, any special acts relating to the Work on the project of which it is a part;

c) That it has complied with all the requirements concerning bonding insurance contained in the Bid Documents, and will supply evidence of such insurance and copies of such bonds, acceptable to the Borough in its reasonable discretion, prior to commencing the Work.

7. **INSPECTION.** The Borough has the right at all times prior to acceptance to inspect or otherwise evaluate the Work being performed. If an inspection or evaluation is to be made by the Borough, the Contractor shall provide, or require his subcontractors to provide, all reasonable facilities and assistance for the safety and convenience of the Borough's representatives in the performance of their duties. Except as otherwise provided in the Bid Documents, the Borough, its representatives, consultants, employees or agents, shall not supervise, direct or have control over the Contractor's Work during such observations, nor shall they have authority over or responsibility for the means, methods, techniques, sequences or procedures selected by the Contractor, for safety precautions and programs incident to the Work of the Contractor or for any failure of the Contractor to comply with applicable laws, rules, regulations, ordinances, codes or orders.

8. **AFFIRMATIVE ACTION PLAN.** During the performance of this Agreement, the Contractor agrees as follows:

a) The Contractor or any subcontractor will not discriminate against any employee or applicant for employment because of age, race, creed, color, national origin, ancestry, marital status, affectional or sexual orientation, gender identity or expression, disability, nationality or sex. Except with respect to affectional or sexual orientation and gender identity or

expression, the Contractor will take affirmative action to ensure such applicants are recruited and employed, and that employees are treated during employment, without regard to their age, race, creed, color, national origin, ancestry, marital status, affectional or sexual orientation, gender identity or expression, disability, nationality or sex. Such action shall include, but not be limited to the following: employment, upgrading, demotion, or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training including apprenticeship. The Contractor agrees to post in conspicuous places, available to employees and applicants for employment, notices to be provided by the contracting officer setting forth provisions of this nondiscrimination clause.

b) The Contractor or any subcontractor, where applicable, will in all solicitations or advertisements for employees placed by or on behalf of the Contractor, state that all qualified applicants will receive consideration for employment without regard to age, race, creed, color, national origin, ancestry, marital status, affectional or sexual orientation, gender identity or expression, disability, nationality or sex.

c) The Contractor or any subcontractor will send to each labor union or representative of workers with which it has a collective bargaining agreement or other contract or understanding, a notice, to be provided by the agency contracting officer advising the labor union or workers' representative of the Contractor's commitments under this act and shall post copies of the notice in conspicuous places available to employees and applicants for employment.

d) The Contractor or any subcontractor agrees to comply with the regulations promulgated by the Treasurer pursuant to N.J.S.A. 10:5-31 et seq., as amended and supplemented from time to time.

e) The Contractor or any subcontractor shall furnish such reports or other documents to the affirmative action office as may be requested by the office from time to time in order to carry out the purposes of these regulations, and public agencies shall furnish such information as may be requested by the affirmative action office for conducting a compliance investigation pursuant to N.J.A.C. 17:27-1 et seq.

f) The Contractor or any subcontractor agrees to attempt in good faith to employ minority and female workers consistent with the applicable county employment goals prescribed by N.J.A.C. 17:27-5.2 promulgated by the Treasurer pursuant to N.J.S.A. 10:5-31 et seq., as amended and supplemented from time to time or in accordance with a binding determination of the applicable county employment goals determined by the affirmative action office pursuant to N.J.A.C. 17:27-5.2 promulgated by the Treasurer pursuant to N.J.S.A. 10:5-31 et seq., as amended and supplemented from time to time.

g) The Contractor or any subcontractor agrees to inform in writing appropriate recruitment agencies in the area, including employment agencies, placement bureaus, colleges, universities, labor unions, that it does not discriminate on the basis of age, race, creed, color, national origin, ancestry, marital status, affectional or sexual orientation, gender identity or expression, disability, nationality or sex, and that it will discontinue the use of any recruitment agency which engages in direct or indirect discriminatory practices.

h) The Contractor or any subcontractor agrees to revise any of its testing procedures, if necessary, to assure that all personnel testing conforms with the principles of job-related testing, as established by the statutes and court decisions of the State of New Jersey and as established by applicable federal law and applicable federal court decisions.

i) The Contractor or any subcontractor agrees to review all procedures relating to transfer, upgrading, downgrading, and layoff to ensure that all such actions are taken without regard to age, race, creed, color, national origin, ancestry, marital status, affectional or sexual orientation, gender identity or expression, disability, nationality or sex, and conform with the applicable employment goals, consistent with the statutes and court decisions of the State of New Jersey, and applicable federal law and applicable federal court decisions.

j) The Contractor has satisfied the precondition to entering into a valid and binding procurement or service contract with the public agency by submitting to the Borough, prior to or at the time the contract is submitted for signing by the public agency (in accordance with N.J.A.C. 17:27-4.3 promulgated by the Treasurer pursuant to N.J.S.A. 10:5-31 et seq.), the following document:

i) A certificate of employee information report approval issued in accordance with N.J.A.C. 17:27-4.

k) The parties to this Agreement do hereby agree that the provisions of N.J.S.A. 10:2-1 through 10:2-4, dealing with discrimination in employment on public contracts, and the rules and regulations promulgated pursuant thereunto, are hereby made a part of this contract and are binding upon them.

9. **BONDS.** The Contractor, simultaneously with the execution hereof, shall give a Bond in the amount of one hundred (100%) percent of the Agreement price, in a form approved by the Borough Attorney for the faithful performance of all provisions of the Agreement.

10. **INDEPENDENT CONTRACTOR.** While engaged in carrying out and complying with the terms and conditions of this Agreement, the Contractor is an independent contractor and not an officer, employee or agent of the Borough. The Contractor shall not at any time or in any manner represent that it or any of its agents or employees are agents or employees of the Borough.

11. **LIQUIDATED DAMAGES.** The Contractor, pursuant to N.J.S.A. 40A:11-19, agrees that if the Borough declared the Contractor in default in whole or in any part, such declaration of default shall not relieve or affect the liability of the Contractor and its surety for breach of any of the covenants and conditions of this Agreement. In the event that the unsatisfactory or defective conditions or breaches are not remedied and corrected to the satisfaction of the Borough within five (5) days from the service of the written default notice, the Borough will thereupon have the right to have the Work completed or corrected by the surety, or to contract for the completion or correction of the Work, or to complete or correct the Work itself, charging the expenses so incurred and any resulting damages to the Contractor.

In the event the Contractor fails to execute or perform the services within the specified time period, the Contractor shall be liable to the Borough in the sum of One Thousand (\$1,000.00) Dollars per day, for each and every calendar day that said Work/service remains incomplete. The

aforementioned liquidated damages shall be in addition to other consequential losses or damages that the Borough may incur by reason of such delay.

Without limitation of its remedies and reserving the right to maintain an action to recover damages arising from any default, the Borough may deduct the completion or corrective work expense from the payments due or to become due the Contractor, and if the expense exceeds the unpaid Agreement balance, the Contractor shall remain liable for the additional costs.

Except for defaults of the Contractor at any tier, the Contractor shall not be liable for any excess costs if the failure to perform the Agreement arises from causes beyond and without the default or negligence of the Contractor. In each instance the failure to perform must be beyond the control and without the fault or negligence of the Contractor.

12. **ASSIGNMENT.** This Agreement shall not be assigned or assignable, either by action of Contractor or by law.

13. **ARBITRATION.** The Parties agree to be bound by the terms of the Arbitration and Waiver Addendum. A copy of said Addendum is annexed as Appendix A.

Any and all disputes arising out of this Agreement shall be submitted to process of resolution pursuant to alternative dispute resolution practices such as mediation, binding arbitration or non-binding arbitration, pursuant to industry standards, prior to being submitted to a court for adjudication as referenced in Appendix A. The alternative dispute resolution practices shall not apply to any dispute concerning any subcontracts to be entered into pursuant thereto.

Notwithstanding the foregoing, nothing contained herein shall prevent the Borough from seeking injunctive or declaratory relief from a court of competent jurisdiction, at any time.

It is the intent and purpose of this paragraph that this Agreement be interpreted pursuant to the provisions of N.J.S.A. 40A:11-50.

14 **GOVERNING LAW.** All controversies, disputes or questions concerning the construction, validity and interpretation of this Agreement shall be governed by and construed in accordance with the domestic laws of the State of New Jersey, without giving effect to any choice of law or conflict of law provision or rule (whether of the State of New Jersey or any jurisdiction) that would cause the application of the laws of any jurisdiction other than the State of New Jersey. The parties consent to the filing of an action in, and hereby submit to the jurisdiction of, the State courts located in the State of New Jersey, County of Bergen, and further agree that such Courts shall be exclusive courts of jurisdiction and venue for any litigation arising under this agreement.

15 **MERGER CLAUSE.** The Bid Documents, this Agreement and Addendum contain the entire agreement between the Parties pertaining to the subject matter hereof and supersedes all prior agreements, understandings, negotiations and discussions, whether oral or written.

16. **AMENDMENTS.** This Agreement may be amended by the mutual consent of both Parties. Any amendment must be in writing and must be executed. A copy shall be attached to this Agreement.

17. **SAVINGS CLAUSE.**

a) It is understood and agreed that if any portion of this Agreement or the application of this Agreement to any person or circumstances shall be held to be invalid, the remainder of this Agreement or the application of such provision to other persons or circumstances shall not be affected thereby.

b) Except otherwise provided in this Agreement, the failure to enforce any provision of this Agreement shall not be deemed a waiver thereof.

18. **WAIVER.** Modification or waiver of any of the provisions of this Agreement shall be effective only if made in writing, and executed with the same formality as this Agreement. The failure of either party to insist upon strict performance of any of the provisions of this Agreement shall not be construed as a waiver of any subsequent default of the same or similar nature.

19. **ENTIRE AGREEMENT.** This Agreement constitutes the entire agreement between the parties hereto and supersedes all prior and contemporaneous agreements, understanding, negotiations and discussions, either oral or executed in writing by the parties to be bound thereby. Any oral representations or modifications concerning this Agreement shall be of no force and effect, excepting a subsequent modification in writing, signed by both parties.

IN WITNESS WHEREOF, the Borough has caused this instrument to be signed by its Mayor, attested to by its Borough Clerk and its municipal seal to be hereunto affixed, pursuant to the Resolution of the Borough Council passed for that purpose, and the Contractor has likewise signed and sealed this Agreement on the day and year first written above.

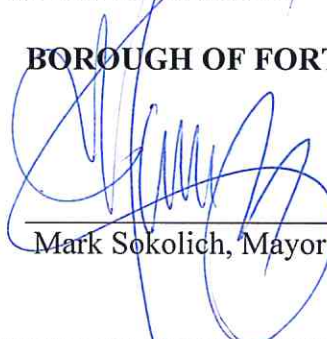
ATTEST:

By:


Evelyn Rosario
Borough Clerk

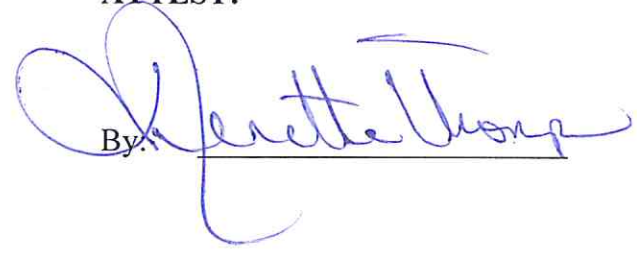
BOROUGH OF FORT LEE

By:


Mark Sokolich, Mayor

ATTEST:

By:



By:


Michael DiBella, CEO

APPENDIX A

FINAL AND BINDING ARBITRATION AGREEMENT AND WAIVER OF SPECIFIED LEGAL RIGHTS

READ THIS AGREEMENT VERY CAREFULLY

THIS FINAL AND BINDING ARBITRATION AGREEMENT AND WAIVER OF SPECIFIED LEGAL RIGHTS ("AGREEMENT") BETWEEN INTERSTATE WASTE SERVICES, INC. ("YOU," "WE," "US" OR "OUR") AND THE BOROUGH OF FORT LEE ("CLIENT") REQUIRES YOU TO GIVE UP AND WAIVE CERTAIN IMPORTANT AND SPECIFIED LEGAL RIGHTS THAT YOU MAY HAVE. THIS AGREEMENT ALSO REQUIRES YOU TO ARBITRATE CERTAIN KINDS OF LEGAL CLAIMS YOU MAY HAVE. READ THIS AGREEMENT VERY CAREFULLY. YOU MAY WISH TO CONSULT AN ATTORNEY PRIOR TO SIGNING THIS AGREEMENT. IF SO, TAKE A COPY OF THIS AGREEMENT WITH YOU.

YOU HAVE THIRTY (30) DAYS FROM FEBRUARY __, 2020 TO CONSENT TO, SIGN AND RETURN THIS AGREEMENT TO THE MAYOR AND COUNCIL OF THE BOROUGH OF FORT LEE. AFTER YOU HAVE SIGNED THIS AGREEMENT YOU MAY STILL REVOKE YOUR CONSENT, FOR UP TO SEVEN (7) DAYS, BY DELIVERING TO THE MAYOR'S OFFICE AT THE BOROUGH OF FORT LEE AT 309 MAIN STREET, FORT LEE, NEW JERSEY A SIGNED AND DATED LETTER OF REVOCATION. HOWEVER, YOU WILL NOT BE OFFERED SUCH WORK OR CONTINUED CONTRACT IF YOU DO NOT CONSENT TO, SIGN, AND RETURN THIS AGREEMENT TO THE OFFICE DESIGNATED ABOVE BY 5:00 P.M. ON MARCH __,

2020. YOU WILL ALSO NOT BE OFFERED A CONTRACT OR CONTINUED CONTRACT IF YOU REVOKE YOUR CONSENT TO THIS AGREEMENT.

1) **Consideration We Received For Consenting To and Signing This Agreement:**

a) We acknowledge and agree that we have received fair and adequate consideration for our consenting to and signing of this Agreement based upon the possible savings in expense and time that we may receive if we arbitrate a claim covered by this Agreement in a binding arbitration proceeding, as opposed to litigating our claim in a court of law or equity or administrative agency.

2) **This Agreement Covers All and Any Disputes Arising in Connection with Our Services:**

a) **We understand and agree that any dispute, right, claim, or controversy (hereinafter collectively, "Claim") that we or our heirs, successors or assigns have or may have or which we may assert, now and at any time during or after our services with the Client, which Claim arises from or in connection with our services or the termination of our services with the Client, including but not limited to, the Claims listed in Paragraph #7 of this Agreement, shall be submitted to final and binding arbitration in accordance with the provisions of the Agreement;**

b) We understand and agree that the Client will pay the costs of the arbitration proceeding, but that we will have to pay our own attorney, expert or representative's fee and any other fees and costs that we may incur in arbitrating our Claim.

3) **Legal Rights We are Waiving by Consenting to and Signing This Agreement:**

a) We understand and agree that by signing this Agreement and consenting to binding arbitration of our current or future Claims (as defined in Paragraphs #4 and #7 hereof) that we are giving up and waiving important legal rights that we may have. **We understand and agree that the important legal rights which we are waiving and giving up include, but are not limited to:**

- (i) **the right to trial of our Claim in a court of law or equity or in an administrative agency;**
- (ii) **the right to trial of our Claim by a judge or jury of our peers; and**
- (iii) **the right to have the trial of our Claim governed by the rules of evidence, discovery and procedure that apply in a court or in administrative agency;**

b) We also understand and agree that this Agreement does not give us or the Client any new rights or liabilities that we did not have before, except the right to arbitrate Claims covered by this Agreement according to its terms and conditions.

4) **Agency to Select Arbitrator and Establish Rules Governing the Arbitration:**

a) We agree that we will submit any demand for binding arbitration that we may have for any Claim covered by the Agreement to the American Arbitration Association ("AAA") pursuant to AAA's Employee Dispute Resolution Rules. We understand and agree that the Client may also demand final and binding arbitration regarding any claim that has or may arise between us and that is covered by the terms of this Agreement. In the event that the AAA declines to appoint an arbitrator for the purposes of this Agreement, then we will apply to the New Jersey State Board of Mediation ("NJSBM") to appoint an arbitrator. AAA or the NJSBM will appoint an arbitrator according to its then applying regulations and procedures, from its list of grievance arbitrators. The arbitration proceeding will be governed by and conducted in accordance with the appointing agency's then applicable Rules;

b) We understand and agree that the Rules of Procedure, Discovery and Evidence governing proceedings in courts of law or in administrative proceedings will not be applicable in any arbitration proceeding conducted pursuant to this Agreement. We further understand and agree that issues regarding rules of procedure, discovery and evidence will be controlled and decided by the arbitrator who will apply the appointing agency's applicable rules and regulations. However, the designated arbitrator will also be required to apply all laws and rules governing privilege(s) and prosecutorial/grand jury confidentiality and secrecy, to the same extent and manner as they would be applied in a lawsuit in the Superior Court of New Jersey;

c) We understand and agree that the designated arbitrator shall be required to issue a signed and dated written decision and award. The decision and award shall apply and be consistent with the requirements and provisions of all applicable laws (including but not limited to the law and statutes set forth in Paragraph #7 hereof), applicable judicial decisions and the Public Policy of the State of New Jersey.

5) **Judicial Review, Intervention and Enforcement:**

a) We understand and agree that in the event either we or the Client seeks judicial intervention, review or enforcement of any demand for arbitration, proceeding, order or award, conducted or issued pursuant to this Agreement, we or the Client shall make his/her/its application to the Superior Court of New Jersey, Bergen County. Judicial review of any arbitration award issued pursuant to the Agreement shall be, to the same extent, manner and scope as the then applicable review that the Superior Court applies to a New Jersey private sector grievance arbitration award.

6) **The List of the Claims We Agree to Arbitrate, Instead of Going to a Court or Administrative Agency:**

(a) We understand and agree that this Agreement binds us to arbitrate all our covered Claims (as "Claims" are defined in this Agreement) against the Client, and all current and

former employees, agents, representatives, attorneys and others acting for or on behalf of the Client, except for claims excluded from arbitration by Paragraph #8 of this Agreement.

(b) We understand and agree that the Claims covered by the Agreement include, but are not limited to:

- (i) Claims as defined in Paragraph #4 of the Agreement;
- (ii) claims for wages or other compensation; claims for breach of express or implied contract; estoppel, fraud; misrepresentation which may be brought in any court of law, equity or administrative agency;
- (iii) claims for defamation, liability in tort and claims of any kind which may be brought in any court of law, equity or administrative agency;
- (iv) claims alleging unlawful and wrongful discrimination, harassment, or retaliation which may be brought in any court of law, equity or administrative agency;
- (v) claims alleging wrongful termination or other adverse employment action of any kind, which may be brought in any court of law or equity or administrative agency;
- (vi) claims arising under the Constitution of the United States, as amended, and the Constitution of the State of New Jersey, as amended, which may be brought in any court of law, equity or administrative agency;
- (vii) claims arising under the following statutes and any other statutes, regulations, ordinances or common law regarding or affecting employee or derivative claims involving discrimination, harassment, or retaliation, as same are now constituted and as they may be later enacted, amended or supplemented in the future which may be brought in any court of law, equity or administrative agency, including but not limited to:
 - (a) Title VII of the Civil Rights Act of 1964, 42 U.S.C. §§ 2000a - 2000h-6.
 - (b) The Age Discrimination in Employment Act of 1967, 29 U.S.C. §§ 621 – 634.
 - (c) The Older Worker's Benefit Protection Act, See P.L. 101 - 433.
 - (d) The Rehabilitation Act of 1973, 29 U.S.C. §§ 701 - 796 l.
 - (e) The American with Disabilities Act of 1990, 42 U.S.C. §§ 12101 – 12213.
 - (f) The Employment Retirement Income Security Act of 1974, 29 U.S.C. §§ 1001 – 1461.

- (g) The U.S. Fair Labor Standards Act, 29 U.S.C. §§ 201 – 219.
- (h) The U.S. Family and Medical Leave Act of 1993, 29 U.S.C. §§ 2601 – 2654.
- (i) The New Jersey Family Leave Act, N.J.S.A. 34:11B-1 to -16.
- (j) The New Jersey Law against Discrimination, N.J.S.A. 10:5-1 to -12.2.
- (k) The New Jersey Conscientious Employee Protection Act (CEPA), N.J.S.A. 34:19-1 to -8
- (l) Claims for employee benefits including health care benefits or pension benefits.
- (m) N.J.S.A. 11A:2-24 claims (if applicable).
- (n) and any future amendments to the above-listed statutes and any other Claims, known or unknown, alleging any violation of any federal, state or other governmental law, common law, statute, regulation, or ordinance, (as same may be later enacted or amended from time to time) relating to employment related torts and equitable claims, employment discrimination, retaliation or harassment, employee benefits and the termination of employment, except claims expressly excluded from arbitration under the Agreement as set forth below in Paragraph #8 of this Agreement.

7) **Claims Excluded from Arbitration:**

Any claims for Worker's Compensation, unemployment compensation, temporary disability benefit claims seeking injunctive and/or equitable relief from any alleged unfair competition and/or the use and/or unauthorized disclosure of trade secrets or confidential information and any other claim which may not lawfully be subject to arbitration are not covered by this Agreement, and are not subject to arbitration under this Agreement. Either party is free to seek and obtain such relief as may be appropriate from a court or administrative agency of competent jurisdiction for claims not covered by this Agreement.

8) **Time Limits on Filing a Demand to Arbitrate a Claim; Method of Filing a Demand for Arbitration; and Waive and Release of Claim(s) if not Timely Filed:**

a) We understand that we are required to demand arbitration of a Claim within the same time limitations we would have, according to law, if we were to file that same Claim in a court of law or in an administrative agency;

b) A demand for arbitration must be in a signed and dated writing filed with the Borough of Fort Lee at 309 Main Street, Fort Lee, New Jersey 07024 and with the American Arbitration Association at 950 Warren Avenue, East Providence, Rhode Island 02914 Attention: Employment. It is strongly recommended that a demand for arbitration be filed by United States Certified Mail, Return Receipt Requested;

c) We further understand that if we do not file a timely demand for arbitration of our Claim(s), that we automatically waive, release and give-up the right to arbitrate (or litigate) our Claims(s) in every and any forum, court, arbitration hearing and administrative agency.

9) **Governing Law and Venue:**

This Agreement shall be governed by the applicable United States and New Jersey laws and any dispute concerning it, or to enforce it, shall only be brought in the Superior Court of New Jersey, of Bergen County, New Jersey or the Federal District Court in Newark, New Jersey.

10) **Amendment of the Agreement by a Court:**

Should any United States or New Jersey court of competent jurisdiction finally determine, after exhaustion of all appeals, that any provision(s) of this Agreement is invalid, then the invalid provision or provisions so affected shall be automatically conformed to the law by the parties or by the court, and otherwise the remaining provisions of this Agreement shall remain and continue in full force and effect.

11) **Advisory Arbitration if Binding Arbitration is Not Possible:**

In the event that any court or competent jurisdiction shall determine, after the exhaustion of all appeals, or in the event that any government agency successfully asserts independent enforcement authority over our Claim, after the exhaustion of all appeals, that the binding nature of any arbitration of any Claim covered by this Agreement is invalid, we agree that, before we or the government file or process any Claim covered by this Agreement in a court of law or equity or in an administrative agency, we will fully comply with the terms and conditions of this Agreement and submit our claim to an advisory arbitration. We further agree that the advisory arbitration decision and award, which shall issue, will be admitted into evidence in any judicial or administrative lawsuit or proceeding which we or the government may subsequently file in a court or administrative agency.

12) **Additional Terms and Conditions:**

(a) This Agreement supersedes any and all prior agreements between the parties concerning the subject matter hereof and this Agreement constitutes the entire agreement between the parties with respect thereto;

(b) This Agreement may be modified only with a written and dated instrument duly executed by each of the parties;

(c) No person has any authority to make any representation or promise on behalf of any of the parties which representation or promise is not set forth herein;

(d) This Agreement has not been executed by me or the Client in reliance upon any representation or promise except those contained herein;

(e) No waiver by any party or any breach of this Agreement shall be deemed to be a waiver of any preceding or succeeding breach.

AGREED and ACCEPTED:

INTERSTATE WASTE SERVICES, INC. By: <u>Michael Di Bella</u> Date: <u>3-10-2020</u>	STATE OF _____) COUNTY OF <u>Bergen</u>) Sworn to and subscribed before me this <u>10th</u> day of February <u>MARCH</u> 2020. Notary: <u>Angelina J. D'Ambrosio</u>
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ANGELINA J. D'AMBROSIO
NOTARY PUBLIC OF NEW JERSEY
Comm. # 50071117
My Commission Expires 10/31/2022