

## **FIRST AMENDMENT TO RECYCLING SERVICES AGREEMENT**

This First Amendment to the Recycling Processing Services Agreement (this “First Amendment”) is made effective as of March 1, 2021, between the City of Corpus Christi, Texas (the “City”), and BFI Waste Services of Texas, L.P., a Delaware limited partnership, doing business as Republic Services of Corpus Christi (the “Contractor”).

### **Recitals**

A. The City and Contractor entered into the Recycling Processing Services Agreement dated January 27, 2021 (the “Agreement”), whereby Contractor agreed to provide certain recycling processing services to the City.

B. The City and Contractor now desire to amend and ratify certain provisions of the Agreement as more fully set forth below.

### **Agreement**

NOW, THEREFORE, for good and valuable consideration, the receipt and sufficiency of which the parties acknowledge, the parties agree to the following terms and conditions:

1. Fee; Calculation and Payment Due. Section 3, Fee; Calculation and Payment Due; Educational Support Contribution, is modified as follows:

(a) Section 3(A) is deleted and replaced with the following:

“(A) Processing Fee. The City will pay the Contractor a processing fee of \$126 per ton for each ton of Program Recyclables processed by the Contractor (“Processing Fee”). The Processing Fee will not be paid for any material hauled by the Contractor to the City’s landfill or disposed of elsewhere prior to processing. The Processing Fee will be held firm for the Initial Term of this Agreement. This Agreement also includes a revenue-sharing arrangement (“Recyclable Revenue Share”), meaning the parties agree to split Gross Recyclable Revenues received from Contractor’s sale of Program Recyclables to third parties with the City receiving 55% of the Gross Recyclable Revenues.”

(b) Section 3(B) is deleted and replaced with the following:

“(B) During the Initial Term and any Renewal Term, to determine the monthly amount owed by the City to the Contractor, the Contractor shall subtract the City’s Recyclable Revenue Share from the Processing Fee. For illustration purposes, an example of the calculation for a monthly invoice is as follows:

Processing Fee (incurred by City from 1<sup>st</sup> to end of month)

minus City’s Recyclable Revenue Share (55% of Gross Recyclable Revenues)

= Amount due to Contractor”

(c) The last sentence of Section 3(C) is deleted.

2. Definitions and Use. The following changes are made to Article I, Attachment A:

(a) The definition of “Recyclable Revenue Share” is modified as follows: “*Recyclable Revenue Share* means the percentage portion of the Gross Recyclable Revenues that each party is entitled to receive pursuant to this Agreement, such percentage being shared between the parties and comprised of 55% to the City and 45% to Republic Services.”

(b) The definition, “Recyclable Revenues, Net” is deleted. Any other reference to “Recyclable Revenues, Net” or “Net Recyclable Revenue” is also removed from the Agreement.

(c) The definition, “Program Recyclables” is modified as follows: “Program Recyclables” means materials collected by City Vehicles (or City contracted vehicles and/or drivers) and other sources and delivered to the Contactor for processing, marketing, and sale to third parties.”

(d) A definition for “Litter Critter Event” is added as follows: “Litter Critter Event” means a pre-planned and scheduled community-wide event, which is held during specified hours, on date(s), and at location(s) selected by the City for the collection of brush and bulky items dropped off at no cost by citizens for placement into one or more roll-off containers, or other containers of sufficient size, provided and removed by Contractor.

3. Hours of Operation. Article III.A, of Attachment A, is modified as follows: The Standard Hours of Operation are changed to 8:00 a.m. to 7:00 pm Central Time, Monday through Friday. The modification to the Standard Hours of Operation is effective on and after August 1, 2021. Except for the modification to the Standard Hours of Operation as stated in this section of the First Amendment, the remainder of Article III.A. not modified by this First Amendment, remains unchanged and in full force and effect.

4. Administrative Charges. Article X, subparts A. and B., of Attachment A, Administrative Charges are modified as follows:

(A) The Contractor understands and agrees that, if the Contractor does not timely perform its obligations pursuant to the terms of the Agreement or violates any provision of the Agreement, the City may suffer damages which are difficult to determine and adequately specify. The Contractor further agrees, in addition to any other remedies available to City, that City may assess a fee to the Contractor in the amounts specified in this subsection as administrative charges for failure of the Contractor to fulfill its obligations (“Administrative Charges”). The City is to inform Contractor in writing of any contractual issue at the time of occurrence. The Contractor will be given a 30-day cure period to remedy each issue, except as

pertaining to a Litter Critter Event (described elsewhere in this Agreement), in which case the Contractor will be given a 5-day cure period. If the Contractor fails to cure within the 30-day period, or 5-day period if applicable, the City may impose a \$100 per day penalty, or \$1,000 per Litter Critter Event penalty, as applicable.

(B) The following acts, omissions, and misconduct by the Contractor shall be considered by the City as non-compliance infractions, and the City may require payment by the Contractor of the Administrative Charge set forth for such each act, omission, or conduct on the occasion(s) of its occurrence, as indicated below:

Failure to maintain records with the required data and information: \$100 per day

Failure to timely deliver a required report: \$100 per day for each day submitted late

Failure to accept materials during Standard Hours of Operation: \$100 per day

Failure to maintain the scale house's data and timekeeping system to accurately capture the required information: \$100 per day

Failure to achieve City Vehicle turnaround time: \$100 day

Disposal of any Program Recyclables without written pre-approval: \$100 per occurrence

Failure to place roll-off box(es) at site location and begin a Litter Critter Event by the time stated: \$1,000 per occurrence

Failure to remove roll-off box(es) at the concluding time of a Litter Critter Event: \$1,000 per container

5. Miscellaneous. The following items are added to the Agreement as indicated or are modified within the Agreement as follows:

(a) New Article XIII, entitled "Litter Critter Events," is added, with the content to read as follows:

Contractor shall provide, at no cost to the City, up to eight 40-yard roll-off boxes, or equivalent, at each Litter Critter Event on the second Saturday, or other selected date, of each month (maximum of 12 events per contract year of this Agreement). Contractor's personnel and equipment shall be on location from 9:00 a.m. to 3:00 p.m. for each event. The Contractor shall be responsible to supply the roll-off boxes and transport the waste to the Cefe Landfill with no disposal charges for the Contractor. Separate collection of tires and metals shall be provided, with the tires being transported to the J.C. Elliot Transfer Station and the metals being recycled. Additional 40-yard containers will be provided by the Contractor for a fee of \$600 per container after notification by the City during an event.

(b) Section 3(D) of the Agreement is deleted and replaced with the following: to read as follows:

(D) For public recycling educational purposes, Contractor shall remit a payment of \$2 per ton for each ton of pre-processed Program Recyclables delivered to the Designated Facility over the preceding monthly period, with such payment to be used by the City for communication and education purposes related to recycling (“Recycling Education Support Contribution”). The Contractor shall remit monthly the Recycling Education Support Contribution thirty days after remittance of invoice. Remittance of the Recycling Education Support Contribution payment by the Contractor shall continue monthly during the term of this Agreement. Payment of the monthly Recycling Education Support Contribution to the City is not subject to any offset, credit, or deduction by the Contractor from any other invoices, payments, or credits which may be due to or owed by the Contractor. The Contractor shall provide the following in-kind services, not to exceed a value of \$150,000 in support of the City’s recycling education program, in addition to the monetary amount stated in the Agreement:

In-person recycling training for City schools. Contractor shall implement a recycling education project as a whole school program in coordination with the participating schools selected by the Director of Solid Waste Services beginning in the Fall of 2021 and continuing through the Winter of 2023.

Contractor shall facilitate and be responsible for ensuring that four of the selected schools, as determined by the Director of Solid Waste Services, receive one in-person presentation and event that reaches all of the students at the school, as follows:

Contractor shall conduct, at a minimum, a 45-minute educational PowerPoint presentation at four of the schools during an assembly or in physical education (“PE”) classes, as preferred by each school principal, with the presentation to include the use of video clips and/or “Cleanup Programs”.

Host scheduled tours of the Designated Facility at least four times per contract year (one per quarter) of between 2 to 4 hours in duration to be scheduled by the Director of Solid Waste Services with a minimum of 30-day notice.

6. Capitalized Terms. Capitalized terms used but not otherwise defined in this First Amendment shall have the meanings assigned to them in the Agreement.

7. Continuing Effect. Except as expressly modified or amended by this First Amendment, all terms and provisions of the Agreement shall remain in full force and effect. In the case of a conflict in meaning between the Agreement and this First Amendment, this First Amendment shall prevail.

8. Counterparts. This First Amendment may be executed in one or more counterparts, each of which shall be deemed an original and all of which combined shall constitute one and the

same instrument. Facsimile and/or electronic copies of the parties' signatures shall be valid and treated the same as original signatures.

IN WITNESS WHEREOF, the parties have entered into this First Amendment to be effective as of March 1, 2021.

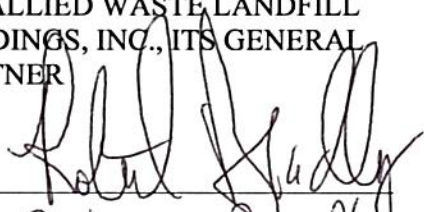
**CONTRACTOR:**

**CITY:**

BFI WASTE SERVICES OF TEXAS, LP

CITY OF CORPUS CHRISTI, TEXAS

BY: ALLIED WASTE LANDFILL  
HOLDINGS, INC., ITS GENERAL  
PARTNER

By:   
Name: Robert Bradley  
Title: General Manager  
Date: 7-23-2021

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_  
Date: \_\_\_\_\_