

## CONTRACT

This AGREEMENT made this 1<sup>st</sup> day of April, 2017, between the BOROUGH OF JENKINTOWN, with offices located at 700 Summit Avenue, Jenkintown, PA, Montgomery County, Commonwealth of Pennsylvania, party of the first part (hereinafter known as Borough) and BFI Waste Services Of Pennsylvania, LLC, with offices located at 731 E. Reliance Road Telford PA 18969 party of the second party (hereinafter known as Collector or Contractor).

WHEREAS, Borough has duly accepted Collector's bid proposal dated January 26, 2017, and in reliance thereon has awarded this Contract to Collector, as lowest responsible bidder; and

WHEREAS, Collector has had a full opportunity to read and review all of the contract documents and has submitted a proposal in conformance with all of said documents,

NOW, THEREFORE, for and in consideration of the mutual promise contained herein the parties hereto covenant, contract, and agree as follows:

1. The Collector shall for a period of three (3) years provide all labor, tools, machinery, vehicles, equipment, and/or all other facilities required to fully perform all services provided for under the bid documents identified in paragraph two hereof. Where alternates are provided for under the bid documents, Collector shall provide such alternate services at the option and direction of the Borough.

2. All bid documents, including the following specifically enumerate documents, are made a part of this contract by reference: **Bid Document Checklist (Exhibit A); Bid Form (Exhibit B); Bidder's Affidavit (Exhibit C); Non-Collusion Affidavit (Exhibit D); Bidder's Questionnaire (Exhibit E); Vehicle Dedication Affidavit (Exhibit F); Affirmative Action Affidavit (Exhibit G); Performance Bond; Instructions to Bidders; General Specifications.**

3. It is understood, acknowledged, and agreed that the Collector is operating as an independent contractor, and that, as such, will be responsible for all damage, loss, or injury to persons or property that may arise or be incurred in or during the conduct and progress of the work included in this agreement, either directly or by subcontractors, agents, or employees, whether or not the same shall result from negligence and that the Borough shall be held and kept from and discharged of and from any and all responsibility or liability therefore of any sort or kind. Collector shall assume all responsibility for risks or casualties of every description, for loss or injury to persons or property arising out of Collector's activities. Collector shall bear the cost and expenses for damages that may occur to property in consequence of the work or any of it, and shall assume all blame, loss, and responsibility of whatsoever nature by reason of Collector's neglect or violation of any Federal, State, County, or Borough laws, regulations, or ordinances, or of any rules or regulations of the Department of Environmental Protection of the Commonwealth of Pennsylvania, or any rules and regulations of the Board of Health to

which he or she is subject. Collector further agrees to indemnify, reimburse, and save harmless the Borough, its officers, agents, employees, and assigns from claim or claims for damages caused to persons or property arising out of Collector's activities, including legal fees and costs for collection, and/or counsel fees incurred in defending any suit or suits that may be instituted against the Borough and any judgment that may be obtained in any such suit(s).

4. Collector further agrees to indemnify, reimburse, and save the Borough harmless from any claim or claims, suit or suits, for damages for any infringement or use of any patented apparatus or appliance, in the execution of this contract, and shall and will, bear the cost and expense, incurred by the Borough in the Borough's defense of any action or actions that may be instituted by reason thereof.

5. Collector shall provide proof of coverage under the provisions of the Pennsylvania Workers' Compensation Act, full general liability coverage naming the Borough as an additional insured, and proof of all other coverage as are called for in the bid documents.

6. Collector further agrees to furnish bonds satisfactory to Borough, with a corporate surety licensed to do business within the Commonwealth of Pennsylvania in accordance with the requirements set forth in the bid documents conditioned for the full and faithful compliance by Collector with all the terms, conditions, and requirements of this agreement, and said bond to be delivered to Borough within ten (10) days after the award of this contract.

a. It is expressly understood and agreed that all liabilities, duties, and obligations of Collector hereunder shall, in the event of his or her default or failure to perform any or all of the terms and conditions hereof, apply and extend to any surety or sureties who may give bond hereunder for the faithful performance of this agreement in all respects, whether in the provisions hereof or hereunder the surety shall be specifically referred to or not. It is further understood and agreed that all rights and remedies of Borough hereunder are cumulative and not alternative and may be enforced alternately, successively, or concurrently as Borough may elect. This agreement shall extend to and be binding upon the parties hereto and their respective heirs, executors, administrators, successors, and assigns.

b. Collector agrees not to assign this contract or any portion of the work hereby contracted for without the consent of the Borough in writing, and in no event shall any assignment relieve Collector or his or her surety from prime responsibility for the faithful performance of this contract.

7. Borough for and in consideration of the covenants and agreements to be kept and performed by Collector as herein set forth covenants and agrees to pay Collector for the work done under and in pursuant of this contract the sum of EIGHT HUNDRED SIXTY NINE THOUSAND SEVEN HUNDRED SEVENTY NINE DOLLARS (\$869,779.00), plus such additional compensation as agreed.

8. In the event of any dispute between the parties hereto as to compliance with the terms and provisions hereunder, said dispute may, at the option of the Borough, unless otherwise provided hereunder, be submitted to the American Arbitration Association in Philadelphia, Pennsylvania for arbitration, whose decision shall be final and binding upon the parties, provided, however, that a party shall first give the other party written notice, forty-eight (48) hours prior to such submission to the American Arbitration Association and shall make known in said notice the nature of the dispute and the requirements considered by the party to be necessary to be met in order to avoid arbitration. Failure of the Borough to avail itself of arbitration under the terms and conditions hereof, with respect to the American Arbitration Association, shall not be deemed to constitute a waiver of Borough's rights to pursue any and all other remedies in law or equity for the determination and/or satisfaction of its rights hereunder.

9. The term of this agreement shall be three (3) years.

10. The parties shall have the option to renew this agreement pursuant to the terms contained herein for an additional two (2) year term for consideration in the amount of SIX HUNDRED TWENTY FOUR THOUSAND TWO HUNDRED TWELVE DOLLARS (\$624,212.00)

IN WITNESS WHEREOF, the parties hereto, intending to be legally bound, hereby have caused this contract to be signed, sealed, and delivered with their seals attached, duly attested, the day and year above written.

ATTEST:

  
\_\_\_\_\_  
Borough Manager

(Borough Seal)

BOROUGH OF JENKINTOWN

By:

Deborra Sines Pancoe  
Council President



(Corporate Seal)

"COLLECTOR" known as:

BFI Waste Services Of  
Pennsylvania, LLC

ATTEST:

  
\_\_\_\_\_  
Secretary

By:   
\_\_\_\_\_  
Title

David Gromlich  
General Manager

NOTE: If Collector is corporation, copy of Resolution of Board of Directors of corporation authorizing execution hereof must be attached.