

# CONTRACT

C O N T R A C T

NOTE; This contract is not to be filled in until contract is awarded.

THIS AGREEMENT, made and concluded 1/20/2022, by and between the **City of Reading**, a municipal corporation of the Commonwealth of Pennsylvania, located in the County of Berks, said Commonwealth, party of the first part, and **BFI Waste Services of Pennsylvania, LLC**, Contractor, party of the second part, pursuant to law and to the provisions and requirements of the ordinance of the City of Reading, Pennsylvania.

WITNESSETH, that the parties to these presents, each in consideration of the agreements on the part of the other herein contained, have agreed, and hereby do agree, the party of the first part for itself, its successors and assign, and the party of the second part for itself, himself, or themselves, its successors, or his or their executors and administrators as follows:

**CONTRACTOR'S GENERAL AGREEMENT.** The Contractor covenant, promises and agrees to and with the party of the first part, for the consideration hereinafter mentioned and contained, and under the penalty expressed in a bond bearing date of \_\_\_\_\_ and hereto attached, to furnish all the material, machinery, equipment, tools, labor and transportation, except as hereinafter otherwise provided, at his own cost, necessary or proper for the purpose of executing the work embraced in this contract in a good, substantial and workmanlike manner, and in strict accordance with the specifications pertaining to this contract a herein contained.

**PARTS OF CONTRACT.** The Location Map; Notice to Contractors; Bid Instructions; Documents to be Submitted with Bid; Contract Documents; Documents to be Submitted During the Course of the Contract; Wage Rate Determinations; Notice of Preconstruction Requirements and Pre-Construction Conference Questionnaire; Affirmative Action Requirements; General Provisions; Supplementary General Terms and Conditions; Technical Specifications; Supplementary Technical Specifications; and Correspondence and Supportive Documentation shall each form a part of the Contract.

**THE CONTRACT SUM.** The City shall pay the Contractor for the performance of the Contract, subject to additions and deductions provided therein, in current funds as follows: See, Addendum, pages 36-37.

Where the quantities originally contemplated are so changed that application of the agreed unit price to the quantity of work performed is shown to create a hardship to the Owner or the Contractor, there shall be an equitable adjustment of the Contract to prevent such hardship.

**TIME & MANNER OF DOING WORK.** The party of the second part agrees to commence the construction of the work to be done under this contract, immediately upon

receiving written notice from the Director of Public Works, or other applicable Director, so to do and to complete the entire work not later than Fifteen (15) Consecutive Working Days From Issuance Of Notice To Proceed, it being expressly agreed and understood that the time of beginning, rates of progress and time of completion of the work are essential under this contract. Time is to be considered to be the essence of this contract.

STIPULATED DAMAGES. The Contractor shall begin work within ten (10) days of receipt of written notice from the applicable Director, to do so. If the Contractor fails to complete and finish the work in conformity with the terms and provisions of this Contract within the time hereinbefore specified, he shall pay to the City the sum of Fifty Dollars (\$50) for each and every day thereafter, including Sundays and holidays, that the finishing of the Contract is delayed, which sum shall be construed as stipulated and liquidated damages and not as a penalty and shall be deducted from the amount due by the terms of the Contract; provided, however, that in case of justifiable delay, the City shall extend the time for completion of said work as provided for in Article G.7, but no extension of time for any reason beyond the time fixed herein for the completion of the work shall be deemed a waiver by the City of the right to abrogate this Contract for abandonment for delay.

LIENS. Neither the final payment nor any part of the retained percentage shall become due until the Contractor, if required, shall deliver to the City a complete release of all liens arising out of this Contract, or receipts in full in lien thereof, and, if required in either case, an affidavit that so far as he has knowledge or information the release and receipts include all the labor and material for which a lien could be filed. If any lien remains unsatisfied after all payments are made, the Contractor shall refund to the City all monies that the latter may be compelled to pay in discharging such a lien, including all costs and a reasonable attorney's fee.

BASIS OF CONTRACT. This contract is founded on \_\_\_\_\_

\_\_\_\_\_  
\_\_\_\_\_

IN WITNESS WHEREOF, the said City of Reading has caused this Agreement to be executed by its Mayor, and its corporate seal to be hereunto affixed, duly attested by its City Clerk, and the party of the second part.

\_\_\_\_\_  
\_\_\_\_\_

the day and year first above written.

Attest:

DocuSigned by:  
*Linda A. Kelleher CMC, City Clerk*  
73DE031C240D451  
\_\_\_\_\_  
City Clerk

**CITY OF READING**

DocuSigned by:  
*Mayor Eddie Moran*  
9DBC26E27C5948B...  
By: \_\_\_\_\_  
Mayor Eddie Moran

**BFI WASTE SERVICES OF PENNSYLVANIA, LLC**

DocuSigned by:  
*Jeff DeAngelo*  
632D0EF77C924D6...  
By: \_\_\_\_\_  
Jeff DeAngelo  
General Manager

PERFORMANCE BOND

Know All Men By These Presents that we, \_\_\_\_\_  
(CONTRACTOR)

hereinafter called the PRINCIPAL, and \_\_\_\_\_  
(SURETY)

hereinafter called the SURETY, a corporation organized and existing under the laws of  
the \_\_\_\_\_ are held and firmly bound unto

\_\_\_\_\_ hereinafter called the OBLIGEE, as hereinafter  
set forth, in the full and just sum of \_\_\_\_\_ Dollars

(\$ \_\_\_\_\_), lawful money of the United States of America, for the payment of  
which sum we bind ourselves, our heirs, executors, administrators, successors and  
assigns, jointly and severally, firmly by these presents.

WITNESSETH THAT:

WHEREAS, the PRINCIPAL heretofore submitted to the OBLIGEE a certain  
PROPOSAL, dated \_\_\_\_\_, 20\_\_\_\_, to perform the WORK for the OBLIGEE,  
in connection with the \_\_\_\_\_  
as set forth in CONTRACT DOCUMENTS.

WHEREAS, the OBLIGEE is a "contracting body" under provisions of Act No.  
385 of the General Assembly of the Commonwealth of Pennsylvania, approved by the  
Governor on December 20, 1967, known and cited as the "Public Works Contractors  
Bond Law of 1967" (the "Act"); and

WHEREAS, the Act, in Section 3(a), requires that, before an award shall be made  
to the PRINCIPAL by the OBLIGEE in accordance with the PROPOSAL, the  
PRINCIPAL shall furnish this BOND to the OBLIGEE, with this BOND to become  
binding upon the award of the CONTRACT to the PRINCIPAL by the OBLIGEE in  
accordance with the PROPOSAL; and

WHEREAS, it also is a condition of the CONTRACT DOCUMENTS that this  
BOND shall be furnished by the PRINCIPAL to the OBLIGEE; and

WHEREAS, under the CONTRACTOR DOCUMENTS, it is provided inter alia,  
that if the PRINCIPAL shall furnish this BOND to the OBLIGEE, and if the OBLIGEE  
shall make an award to the PRINCIPAL, in accordance with the PROPOSAL, then the  
PRINCIPAL and OBLIGEE shall enter into a CONTRACT with respect to performance  
of the WORK, the form of which CONTRACT is set forth in the CONTRACT  
DOCUMENTS.

NOW, THEREFORE, the terms and conditions of this BOND are and shall be  
that if the PRINCIPAL will truly and faithfully comply with and perform the WORK in  
accordance with the CONTRACT DOCUMENTS, at the time and in the manner

provided in the CONTRACT DOCUMENTS, and if the PRINCIPAL shall satisfy all claims and demands incurred in or related to the performance of the WORK by the PRINCIPAL, and if the PRINCIPAL shall indemnify completely and shall hold harmless the OBLIGEE and all of its officers, agents and employees from any and all costs and damages which the OBLIGEE and all of its officers, agents and employees may sustain or suffer by reason of the failure of the PRINCIPAL to do so, and if the PRINCIPAL shall reimburse completely and shall pay to the OBLIGEE any and all costs and expenses which the OBLIGEE and all of its officers, agents or employees may incur by reason of any such default or failure of the PRINCIPAL, then this BOND shall be void; otherwise, this BOND shall remain in force and effect.

This BOND, is executed and delivered under and subject to the Act, to which reference hereby is made.

The PRINCIPAL and the SURETY agree that any alterations, changes and/or additions to the CONTRACT DOCUMENTS, and/or any alterations, changes and/or additions to the WORK to be performed in accordance with the CONTRACT DOCUMENTS, and/or any alterations, changes and/or additions to the CONTRACT , and/or any giving by the OBLIGEE of any extensions of time for the performance of the WORK in accordance with the CONTRACT DOCUMENTS, and/or any act of forbearance of either the PRINCIPAL or the OBLIGEE toward the other with respect to the CONTRACT DOCUMENTS, and/or the reduction of any percentage to be retained by the OBLIGEE as permitted by the CONTRACT DOCUMENTS, shall not release, in any manner whatsoever, the PRINCIPAL and the SURETY, or either of them, or their heirs, executors, administrators, successors and assigns, from liability and obligations under this BOND; and the SURETY, for value received, does waive notice of any such alterations, changes, additions, extensions of time, acts of forbearance and/or reduction of retained percentage.

IN WITNESS WHEREOF, the PRINCIPAL and the SURETY cause this BOND to be signed, sealed and delivered this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

(Individual Principal)

\_\_\_\_\_(SEAL)  
(Signature of Individual)

Witness:  
\_\_\_\_\_

Trading And Doing Business As  
\_\_\_\_\_

(Partnership Principal)

\_\_\_\_\_  
(Name of Partnership)

Witness:

\_\_\_\_\_ By: \_\_\_\_\_(SEAL)  
Partner

\_\_\_\_\_ By: \_\_\_\_\_(SEAL)  
Partner

\_\_\_\_\_ By: \_\_\_\_\_(SEAL)  
Partner

\_\_\_\_\_ By \_\_\_\_\_(SEAL)  
Partner

(Corporation PRINCIPAL)

\_\_\_\_\_  
(Name of Corporation)

\*By: \_\_\_\_\_  
(Officer or Authorized Representative)

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

Attest:

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

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

(Corporate Seal)

Witness:  
/s/ \_\_\_\_\_

\*Attach appropriate proof, dated as of the same date as the BOND evidencing authority to execute in behalf of the Corporation.

(Corporate SURETY)

(Corporate Seal)

\_\_\_\_\_  
(Name of Corporation)

Witness:

\_\_\_\_\_

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

\*\* Attorney-in-Fact

\*\* Attach an appropriate Power of Attorney, dated as of the same date as the BOND, evidencing the authority of the Attorney-in-Fact to act in behalf of the Corporation.



PAYMENT BOND

Know All Men by These Presents That We, \_\_\_\_\_ (contractor) hereinafter called the PRINCIPAL, and \_\_\_\_\_ (SURETY) hereinafter called the SURETY, a corporation organized and existing under laws of the \_\_\_\_\_ of \_\_\_\_\_ are held and firmly bound unto \_\_\_\_\_, hereinafter called the OBLIGEE, as hereinafter set forth, in the full and just sum of \_\_\_\_\_ dollars (\_\_\_\_\_), lawful money of the United States of America, for the payment of which we bind ourselves, our heirs, executors, administrators, successors and assigns, jointly and severally, firmly by these presents.

Witnesseth That:

WHEREAS, the PRINCIPAL heretofore submitted to the OBLIGEE a certain PROPOSAL, dated \_\_\_\_\_, 20 \_\_, to perform the WORK for the OBLIGEE, in connection with the

\_\_\_\_\_ as set forth in the CONTRACT, DOCUMENTS; and \_\_\_\_\_ Public Affairs, City of Reading, Pennsylvania.

WHEREAS, the OBLIGEE is a "contracting body" under provisions of the Act of the General Assembly of the Commonwealth of Pennsylvania, approved by the Governor on December 20, 1967, known as and cited as the "Public Works Contractors" Bond Law of 1967", P L 869 (the Act"): and

WHEREAS, the Act, in section 3(a), requires that, before an award shall be made to the PRINCIPAL by the OBLIGEE in accordance with the PROPOSAL, the PRINCIPAL shall furnish this BOND to the OBLIGEE, with this BOND to become binding upon the award of a CONTRACT to the PRINCIPAL by the OBLIGEE in accordance with the PROPOSAL: and

WHEREAS, it also is a condition of the CONTRACT DOCUMENTS that this BOND shall be furnished by the PRINCIPAL to the OBLIGEE; and

WHEREAS, under the CONTRACTOR DOCUMENTS, it is provided, inter alia, that if the PRINCIPAL shall furnish this BOND to the OBLIGEE, and if the OBLIGEE shall make an award to the PRINCIPAL in accordance with the PROPOSAL then the PRINCIPAL and the OBLIGEE shall enter into a CONTRACT with respect to performance of the WORK, the form of which CONTRACT is set forth in the CONTRACT DOCUMENTS.

NOW, THEREFORE, the terms and conditions of this BOND are and shall be that if the PRINCIPAL and any SUBCONTRACTOR of the PRINCIPAL to whom any portion of the WORK shall be subcontracted, and if all assignees of the PRINCIPAL and of any such SUBCONTRACTOR, promptly shall pay or shall cause to be paid, in full all money which may be due any claimant supplying labor or materials in the prosecution

and performance of the WORK in accordance with the CONTRACT DOCUMENTS, including any amendment, extension or addition to the CONTRACT DOCUMENTS, for material furnished or labor supplied or labor performed, then this BOND shall be void; otherwise, this BOND shall be and shall remain in force and effect.

This BOND, as provided by the Act, shall be solely for the protection of claimants supplying labor or materials to the PRINCIPAL or to any SUBCONTRACTOR of the PRINCIPAL in the prosecution of the WORK covered by the CONTRACT DOCUMENTS, including any amendment, extension or addition thereto. The term "claimant", where used herein and as required by the Act, shall mean any individual, firm, partnership, association or corporation. The phrase "labor or materials", when used herein and as required by the Act, shall include public utility services and reasonable rentals of equipment, but only for periods when the equipment rented is actually used at the site of the WORK covered by the CONTRACT. As required by the Act, the provisions of this BOND shall be applicable whether or not the material furnished or labor performed enters into and becomes a component part of the public building, public work or public improvement contemplated by the CONTRACT DOCUMENTS.

As provided and required by the Act, the PRINCIPAL and the SURETY agree that any claimant, who has performed labor or furnished material in the prosecution of the WORK in accordance with the CONTRACT DOCUMENTS, including any amendment, extension or addition to the CONTRACT DOCUMENTS, and who has not been paid therefore, in full, before the expiration of ninety (90) days after the last day on which such claimant performed the last of such labor or furnished the last of such materials for which payment is claimed, may institute an action upon this BOND, in the name of the claimant, in assumpsit, to recover any amount due the claimant for such labor or material, and may prosecute such action to final judgment and may have execution upon the judgment; provided, however, that:

(a) Any claimant who has a direct contractual relationship with any SUBCONTRACTOR of the PRINCIPAL, but has no contractual relationship, express or implied, with the PRINCIPAL, may institute an action upon this BOND only if such claimant first shall have given written notice, served in the manner provided in the Act, to the PRINCIPAL, within ninety (90) days from the date upon which such claimant performed in the last of the labor or furnished the last of the materials for which payment is claimed, stating, with substantial accuracy, the amount claimed and the name of the person for whom the WORK was performed or to whom the material was furnished; and

(b) No action upon this BOND shall be commenced after the expiration of one (1) year from the day upon which the last of the labor was performed or material was supplied, for the payment of which such action is instituted by the claimant; and

(c) Every action upon this BOND shall be instituted either in the appropriate court of the County where the WORK is to be performed or of such other County as Pennsylvania statutes shall provide, or in the United States District Court for the district in which the PROJECT, to which the CONTRACT relates, is situated, and not elsewhere.

This BOND is executed and delivered under and subject to the Act, to which

reference hereby is made.

The PRINCIPAL and the SURETY agree that any alterations, changes and/or additions to the CONTRACT DOCUMENTS, and/or any alterations, changes and/or additions to the WORK to be performed in accordance with the CONTRACT DOCUMENTS, and/or any alterations, changes and/or additions to the CONTRACT, and/or any given by the OBLIGEE of any extensions of time for the performance of the WORK in accordance with the CONTRACT DOCUMENTS, and/or any act of forbearance of either the PRINCIPAL or the OBLIGEE toward the other with respect to the CONTRACT DOCUMENTS, and/or the reduction of any percentage to be retained by the OBLIGEE as permitted by the CONTRACT DOCUMENTS, shall not release, in any manner whatsoever, the PRINCIPAL and the SURETY, or either of them, or their heirs, executors, administrators, successors and assigns, from liability and obligations under this BOND; and the SURETY for value received, does waive notice of any such alterations, changes, additions, extensions of time, acts of forbearance and/or reduction of retained percentage.

If the PRINCIPAL is a foreign corporation (incorporated under the laws other than those of the Commonwealth of Pennsylvania) then further terms and conditions of this BOND are and shall be that the PRINCIPAL or the SURETY shall not be discharged from liability on this BOND, nor this BOND surrendered until such PRINCIPAL files with the OBLIGEE a certificate from the Pennsylvania Department of Revenue evidencing the payment in full of all bonus taxes, penalties and interest, and a certificate from the Bureau of Employment and Unemployment Compensation of the Pennsylvania Department of Labor and Industry, evidencing the payment of all unemployment compensation, contributions, penalties and interest due the Commonwealth from said PRINCIPAL or any foreign corporation,

SUBCONTRACTOR thereunder or for which liability has accrued but the time for payment has not arrived, all in accordance with provisions of the Act of June 10, 1947, P.L 493, of the Commonwealth of Pennsylvania.

In Witness Whereof, the PRINCIPAL and the SURETY cause this BOND to be signed, sealed and delivered this \_\_\_\_\_ day of \_\_\_\_\_, 20 \_\_.

(INDIVIDUAL PRINCIPAL)

\_\_\_\_\_(Seal)  
(Signature of Individual)

WITNESS:

\_\_\_\_\_

Trading and Doing Business as:

\_\_\_\_\_

(PARTNERSHIP PRINCIPAL)

\_\_\_\_\_  
(Name of Partnership)

WITNESS:

\_\_\_\_\_ By: \_\_\_\_\_  
Partner

\_\_\_\_\_ By: \_\_\_\_\_  
Partner

\_\_\_\_\_ By: \_\_\_\_\_  
Partner

\_\_\_\_\_ By: \_\_\_\_\_  
Partner

(CORPORATION PRINCIPAL)

\_\_\_\_\_  
(Name of Corporation)

By: \_\_\_\_\_  
(Officer or \*Authorized Representative)

ATTEST:

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

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

(Corporate Seal)

Witness:

/S/ \_\_\_\_\_

\*Attach appropriate proof, dated as of the same date as the BOND, evidencing authority to execute in behalf of the Corporation.

(CORPORATION SURETY)

(Corporate Seal)

\_\_\_\_\_  
(Name of Corporation)

Witness:

\_\_\_\_\_  
Asst. or Secretary

By: \_\_\_\_\_  
\*\* Attorney-in-Fact

\*\* Attach an appropriate Power of Attorney, dated as of the same date as the BOND, evidencing the authority of the Attorney-in-Fact to act in behalf of the Corporation.

STATEMENT ACCEPTING PROVISIONS OF WORKERS' COMPENSATION ACT

STATE OF \_\_\_\_\_

ss.

COUNTY OF \_\_\_\_\_

The undersigned contractor has accepted the provisions of the Workers' Compensation Act of Pennsylvania, with all supplements, and has insured liability thereunder in accordance with the terms thereof with the insurance company whose signature is attached hereto.

For Individual

\_\_\_\_\_ (SEAL)

For Corporation

\_\_\_\_\_  
(Name of Corporation)

By: \_\_\_\_\_  
(Official Title)

Attest: \_\_\_\_\_  
(Secretary or Asst. Secretary)

For Partnership

\_\_\_\_\_  
(Name of Partnership)

By: \_\_\_\_\_ (SEAL)

\_\_\_\_\_  
(Partners)

\_\_\_\_\_  
(Name of Insurance Company)

By: \_\_\_\_\_  
Attorney-in-Fact

STIPULATION AGAINST LIENS

WHEREAS, \_\_\_\_\_, hereinafter called the CONTRACTOR, has entered into a CONTRACT, dated \_\_\_\_\_, 20\_\_\_\_, with \_\_\_\_\_ hereinafter called the CITY, to provide materials and perform labor necessary for the manufacture and furnishing of the: as set forth in the CONTRACT DOCUMENTS as prepared by the City of Reading.

NOW, THEREFORE, it is hereby stipulated and agreed by and between the said parties, as part of the said CONTRACT, and for the consideration therein set forth, that neither the undersigned CONTRACTOR, any SUBCONTRACTOR or material man, nor any other person furnishing labor or materials to the said CONTRACTOR under this CONTRACT shall file a lien, commonly called a mechanic's lien, for WORK done or materials furnished for the above manufacture.

This stipulation is made and shall be filed with the Berks County Prothonotary within ten (10) days after execution, in accordance with the requirements of Section 1402 of the Mechanics Lien Law of 1963 of the Commonwealth of Pennsylvania in such case provided.

IN WITNESS WHEREOF, the parties hereto have caused the signature of their proper officers to be affixed thereto on this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

(SEAL)

\_\_\_\_\_  
(CITY OF READING)

BY: \_\_\_\_\_

TITLE: \_\_\_\_\_

ATTEST:

BY: \_\_\_\_\_

TITLE: \_\_\_\_\_

(SEAL)

\_\_\_\_\_  
(CONTRACTOR)

ATTEST:

BY: \_\_\_\_\_

TITLE: \_\_\_\_\_

INDEMNITY AGREEMENT & HOLD HARMLESS

KNOW ALL MEN BY THESE PRESENTS:

WHEREAS, the undersigned has entered into a contract with the CITY OF READING, dated \_\_\_\_\_, 20 \_\_, providing for the

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

City of Reading, Pennsylvania.

NOW, THEREFORE, in consideration of the award of said contract to the undersigned, \_\_\_\_\_, as well as in further consideration of the sum of ONE DOLLAR (\$1.00) in hand paid to the said \_\_\_\_\_ by the City of Reading, receipt whereof is hereby acknowledged, the said \_\_\_\_\_ agrees to indemnify and save harmless the CITY OF READING, its officers, agents, servants, and employees against any and all loss, damage, costs and expenses to the extent of Contractor's fault which the said CITY may hereafter suffer, incur, be put to or pay by reason of any bodily injury (including death) or damage to property arising out of any negligent act or omission in performance of the work undertaken under the aforesaid contract.

EXECUTED this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_.

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

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

ATTEST:

\_\_\_\_\_

\_\_\_\_\_

(Title)



NOTICE TO PROCEED

TO:

Project \_\_\_\_\_

Contract No. \_\_\_\_\_

Amount of Contract \_\_\_\_\_

You are hereby notified to commence work on the referenced contract on or before \_\_\_\_\_, 20\_\_\_\_, and shall fully complete all of the work of said contract within \_\_\_\_\_ consecutive calendar days thereafter. Your completion date is therefore \_\_\_\_\_, 20\_\_\_\_.

The contract provides for an assessment of the sum of \$ \_\_\_\_\_ as liquidated damages for each consecutive calendar day after the above established contract completion date that the work remains incomplete.

Dated this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

By \_\_\_\_\_

Title \_\_\_\_\_

ACCEPTANCE OF NOTICE

Receipt of foregoing Notice to Proceed is hereby acknowledged

By \_\_\_\_\_

this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

By \_\_\_\_\_

Title \_\_\_\_\_

# GENERAL PROVISIONS

## GENERAL PROVISIONS

G.1 SUB-HEADINGS. The paragraph headings are inserted in these provisions and the following specifications for convenience only and shall not be considered as interpreting or limiting the application of paragraphs.

G.2 DEFINITIONS. The following terms and expressions used in this contract and specifications shall be understood as follows:

The term "Applicable Law" Applicable Law means any applicable law (whether statutory or common), including statutes, ordinances, regulations, rules, governmental orders, governmental decrees, judicial judgments, constitutional provisions, and requirements of any kind and nature promulgated or issued by any governmental authority claiming or having jurisdiction.

The expression "The City" shall mean the City of Reading, Pennsylvania, the party of the first part to this contract.

The word "Engineer" shall mean the Engineer, Architect, or other official in direct charge of the work for the City or his authorized representative as designated by the applicable Director.

The word "Inspector" shall mean an inspector of the City assigned to the inspection of materials, structures and workmanship under this contract.

The word "Contractor" shall mean the party of the second part to this contract, whether a corporation, partnership, or individual.

The word "Specifications" shall mean the specifications describing the work, the drawings, and the general provisions.

The word "Drawings/Plans" shall mean the general drawings, plans, maps, diagrams or illustrations accompanying these specifications, and such supplementary drawings as may be furnished from time to time.

Excluded Waste – Excluded Waste consists of Special Waste, Hazardous Waste, and any other material not expressly included within the scope of this Agreement including, but not limited to, any material that is hazardous, radioactive, volatile, corrosive, highly flammable, explosive, biomedical, infectious, biohazardous, toxic or listed or characteristic hazardous waste as defined by Applicable Law or any otherwise regulated waste.

The term "Materials" as used herein includes, in addition, to materials incorporated in the project used or to be used in the operation thereof, equipment and other materials used and/or consumed in the performance of the work.

The term "Waste Material" means all non-hazardous solid waste and Recyclable

Material. Waste Material excludes all radioactive, volatile, flammable, corrosive, explosive, regulated medical, infectious, biomedical, biohazardous, pollutants, contaminates, or hazardous waste, toxic substance or material, each as defined by, characterized or listed under Applicable Law (collectively, "Excluded Waste"). "Recyclable Material" is material that Contractor determines can be recycled such as aluminum, used beverage containers, cardboard (free of wax), ferrous metal cans, mixed office paper, newspaper, and plastics containers.

Wherever in the specifications the words "to be," "to be done," "if," "as," "directed," "required," "permitted," "ordered," "instructed," "designated," "considered necessary," or words of like import are used, it shall be understood that the direction, requirement, permission, order, instruction, designation or decision of the Engineer is intended, and similarly the words "approved," "acceptable," "satisfactory," or words of like import, shall mean approved by, acceptable or satisfactory to, the applicable Director or the Engineer, unless the context show that another meaning is plainly intended.

**G.3 SPECIFICATIONS AND DRAWINGS.** The specifications and drawings are intended to cover all of the work that is known to be required to effect a complete installation. They are intended to be mutually explanatory of each other, but should any discrepancy or inconsistency appear or any misunderstanding arise as to the import of anything contained in either the specifications or the drawings, the interpretation of the doubtful portions will be made by the Engineer, whose decision shall, in all cases, be final and binding on the Contractor.

Any materials or workmanship obviously necessary to satisfactory completion shall be furnished and installed whether or not specifically shown or mentioned. Any corrections of errors or omissions in the specifications or drawings, or both, may be made by the Engineer when such correction is necessary for the proper fulfillment of their intention as determined by him/her. Figures shall have preference over scale in reading dimensions. Copies of the specifications and drawings shall be kept constantly at the work. Any supplementary or detail drawings which may be made by the Engineer subsequent to the date of this contract, relating to the work herein contemplated, as showing more particularly the details of the work to be done, or specifications and the drawings furnished by the Contractor and approved by the Engineer, are, and are to be held to be, controlling parts of this contract insofar as they do not conflict with other provisions of the contract.

If the Contractor, in the course of the work, finds any discrepancy between the plans and the physical conditions of the locality, or any errors or omissions in the plans or in the layout as given by the points and instructions furnished by the Engineer, it shall be his duty to inform the Engineer, in writing, and the Engineer shall promptly verify the same. Any work done after such discovery, until authorized, will be done at the Contractor's risk.

**G.4 ENGINEER TO DECIDE.** All work under this contract shall be done in a manner acceptable to the Engineer, who shall determine the amount, quality, acceptability and fitness of the several kinds of work and material which are to be paid for hereunder, and shall decide all questions which may arise as to measurements of quantities and the

fulfillment of the conditions of this contract on the part of the Contractor.

**G.5 WORK TO BE DONE IN ACCORDANCE WITH SPECIFICATIONS AND DRAWINGS.** The work at all stages of its completion must conform with the specifications and drawings and with the lines and grades and other instructions of the Engineer, as given from time to time during the progress of the work. In no case will any work in excess of the requirements of the drawings as interpreted by the Engineer be paid for unless authorized in writing by the Engineer.

**G.6 RIGHT TO MAKE CHANGES IS RESERVED.** The City reserves the right to make alterations in the location, lines, grade, plan, form dimensions, numbers or materials of the work herein contemplated, either before or after the commencement of construction. If such alterations diminish the amount of work to be done, they shall not form the basis for a claim for damage or for loss of anticipated profits from the work which may be dispensed with; if they increase the amount of work, such increase shall be paid for according to the quantity of work actually done and at prices stipulated for such work under this contract. All work actually done under a unit price (where applicable) contract, whether more or less than the quantity estimated or specified, shall be paid for by the determined units, on the basis of the bid per unit in the proposal.

**G.7 EXTENSION OF TIME.** If the Contractor is delayed at any time in the progress of the work by any act or neglect of the City, or by City employees, or by any other contractor employed by the City, or by changes ordered in the work, or by strikes, lockouts, fire, unusual delay in transportation, unavoidable casualties or any causes beyond the Contractor's control, or by any cause which the Engineer shall decide to justify the delay, then the time of completion shall be extended for such reasonable time as the Engineer may decide subject to the approval of the applicable Director.

No such extension shall be made for delay due to rejection of defective materials or workmanship or for any delay occurring more than seven (7) days before claim therefore is made in writing to the Engineer. In the case of a continuing cause of delay, only one claim is necessary.

If no schedule or agreement stating dates upon which drawings shall be furnished is made, then no claim for delay shall be allowed because of any delay in the furnishing of drawings to the Contractor.

**G.8 ADEQUATE PLANT AND METHODS.** The Contractor shall furnish such construction plant and use such methods and appliances as will secure a satisfactory quality of work and a rate of progress which will insure the completion of the work within the time specified. Before starting the installation of the construction plant, the Contractor shall submit to the Engineer, for approval, a plan showing the general arrangement of the plant to be installed and the proposed facilities for storage of materials and equipment. If at any time the plant or any portion of it shall appear to the Engineer to be, or likely to become, inadequate, incomplete, faulty or unsafe, the Contractor shall promptly obey the orders of the Engineer to supplement or to remove or replace the same; but the failure of the Engineer to issue such orders shall not relieve the Contractor of his responsibility for the efficiency, adequacy and safe operation of the plant.

He shall cover and protect his work from damage, and all injury to the same, before completion of the contract.

He shall be financially responsible for all damage to the party of the first part or its property, to other contractors, to the neighboring premises, or to any private or personal property, for any cause whatsoever, during the period of the contract.

**G.9 WORKERS.** The Contractor shall employ only competent and skillful employees to do the work, and whenever the Engineer shall notify the Contractor, in writing, that any person on the work is, in his/her opinion, incompetent, unfaithful or disorderly, uses threatening or abusive language to any official having supervision of the work, or is in any other way unsatisfactory, such person shall be discharged from the work and shall not again be employed on it except with the consent of the Engineer.

Neither party shall employ or hire any employee of the other party without the latter's consent.

**G.10 WAGES.** All employees directly employed on this work shall be paid wages which shall in no event be less than the minimum hourly wage rates for skilled, semi-skilled, and

unskilled labor prescribed by the Commonwealth of PA Prevailing Wage Act, P.L. 987 as may be amended, if applicable.

**G.11 PENALTY FOR FAILURE TO LIVE UP TO MINIMUM WAGE CONTRACT.** A penalty shall be exacted from the Contractor in an amount equal to twice the difference between the minimum wage contained in the prescribed wage rates, and the wage actually paid to each laborer or mechanic for each day during which he has been employed at a wage less than that prescribed.

**G.12 INSPECTORS TO REPORT VIOLATIONS.** Every person assigned as an Inspector of the work to be performed under this contract, in order to aid in enforcing the fulfillment of the minimum wage requirements thereof, shall, upon observation or investigation, report to the applicable Director, all violations of minimum wage stipulations, together with the name of each laborer or mechanic who has been paid a wage less than that prescribed, and the day or days of such violation.

**G.13 PENALTIES TO BE WITHHELD FROM MONEYS DUE THE CONTRACTOR.** All minimum wage violation penalties shall be withheld and deducted for the use of the City from any moneys due the Contractor by the City; provided, that if the Contractor subsequently pays to all laborers and mechanics the balance of the amounts stipulated as minimum wages, the City shall pay to the Contractor the amounts so withheld.

**G.14 CONTRACTOR'S RESPONSIBILITY FOR EMPLOYEES.** The Contractor hereby assumes all responsibility for himself/herself, his/her agents and employees growing out of connection with the execution of the work called for by this contract, for the violation of, City ordinances and the laws governing contract work in the

Commonwealth of Pennsylvania. The Contractor further agrees to hold the City of Reading harmless from all responsibility for employees on this work under the Workmen's Compensation Act of the Commonwealth of Pennsylvania, and to carry insurance on his/her employees, as provided thereby.

**G.15 CONTRACTOR REPRESENTED ON THE WORK.** The Contractor shall give personal attention constantly to the faithful prosecution of the work and shall be present, either in person or by a competent superintendent, on the site of the work, continuously during its progress. Such representative shall have authority to receive and to act without delay upon all instructions of the Engineer or assistants in the prosecution of the work in conformity with the contract.

Insofar as it is practicable, all orders given by the Engineer to the Contractor shall be in writing. In those cases where orders are given orally they shall be confirmed in writing. Orders or directions, written or oral, from the Engineer, delivered to the Contractor's office shall be considered as delivered to the Contractor.

**G.16 REPRESENTATIVE MUST BE PRESENT.** In case the Engineer or a representative may at any time have occasion to give directions regarding the work for the reason that the same is not, in the Engineer's opinion, being carried out in accordance with the provisions of this contract, and should there be no responsible representative of the Contractor on the ground empowered to receive such instructions, the Engineer or a representative shall order that particular portion of the work to be stopped until such representative of the Contractor appears and receives instructions. It is hereby agreed that suspensions of the work for such cause shall not entitle the Contractor to claims for damage of any kind, nor to an extension of the time in which to complete the work to be done under this contract.

**G.17 LEGAL ADDRESS OF CONTRACTOR.** The address given in the bid or proposal upon which this contract is based is hereby designated as the legal address where all notices, letters and other communications to the Contractor shall be mailed or delivered prior to the beginning of the work provided for in this contract. The delivery at the above-named place, or depositing in a post-paid wrapper directed to the above place, in any post office box regularly maintained by the post office, of any notice, letter or other communication to the Contractor, shall be deemed sufficient service thereof upon the Contractor and the date of said service shall be the date of such delivery or mailing.

**G.18 CHANGE IN ADDRESS.** Such address may be changed at any time by an instrument in writing executed and acknowledged by the Contractor and delivered to the City. Nothing herein contained shall be deemed to preclude or render inoperative the service of any notice, letter or other communication upon the Contractor personally.

**G.19 LAWS, ORDINANCES AND REGULATIONS.** The Contractor shall be fully informed as to all laws, ordinances and regulations in any manner affecting those engaged or employed in the work, or the materials used in the work, or in any way affecting the conduct of the work, and of all orders and decrees of bodies or tribunals having any jurisdiction over the same, if any discrepancy or inconsistency shall be discovered in this contract, specifications or drawings, in relation to any such law,

ordinance, population, order or decree, the contractor shall immediately report the same in writing to the Engineer. At all times the Contractor shall observe and comply with all laws, ordinances, regulations, orders and decrees which may be in effect during the progress of this contract; and shall indemnify and save harmless the City and its officers and employees against any claim or liability arising from the violation of any legal requirement in the prosecution of this contract.

**G.20 INDEMNIFICATION OF CITY.** In case any action at law, proceeding in eminent domain, or suit in equity may or shall be brought against the party of the first part, or any of its offices or agents, for or on account of the failure, omission or neglect of the Contractor or the subcontractors, his/her or their employees or agents, to do and perform any of the covenants acts, matters, or things by this contract undertaken to be done or performed by the Contractor or subcontractors, his/her or their employees or agents, or for any injury or damage caused by the negligence of the Contractor or subcontractors, his/her or their employees or agents, or for damage or injury for which the Contractor undertakes responsibility under the provisions of this contract, the Contractor shall immediately assume and take charge of the defense to such actions, proceedings or suits in like manner and to all intents and purposes, as if said actions, proceedings or suits had been brought directly against the Contractor; and the Contractor shall also indemnify and save harmless the party of the first part, its officers and agents, of and from all loss, cost or damage whatever arising out of such actions, proceedings or suits as may or shall be brought as aforesaid to the extent of Contractor's fault.

**G.21 SUITS AND CLAIMS.** The Contractor agrees to indemnify and save harmless the City of Reading, the applicable Director, the Engineer, and their assistants, from all suits or actions of every name and description, either in law or in equity, including proceedings in eminent domain for the recovery of consequential damages, or for or on account of use of patented appliance, brought against them or either of them, or for any damage or injuries received or sustained by any party or parties, person or persons, natural or artificial, as a result of the willful misconduct or negligence in the performance of the work under this agreement, regardless of whether such suits, actions or proceedings brought are based or grounded upon negligence of the Contractor, the subcontractors, or his/her or their agents, servants or employees.

**G.22 RESPONSIBILITY FOR INJURY.** The Contractor shall assume all responsibility for loss, damage or injury to persons or property arising out of willful misconduct or negligence in the performance of the work, in addition to and without limiting the Contractor's liability under the other provisions of the contract.

**G.23 CONTRACTOR'S CLAIMS FOR DAMAGE.** If the Contractor claims compensation for any damage alleged to have been sustained by reason of any act or omission on the part of the City or any of its agents, he shall, within one (1) week after the sustaining of such damage, make a written statement to the Engineer of the nature of the damage sustained, and shall, on or before the fifteenth (15th) day of the month succeeding that in which any such damage shall have been sustained, file with the Engineer an itemized statement of the details and amounts of such damage, and unless such statement shall be made as so required, the claim for compensation shall be forfeited and invalid, and the Contractor shall not be entitled to payment on account of any such



damage.

**G.24 LINES AND GRADES.** All lines and grades will be given by the Engineer, but the Contractor shall provide such material and give such assistance therefore as may be required by the Engineer, and the marks so given shall be carefully preserved. The Contractor shall keep the Engineer informed, a reasonable time in advance, of the time and places a which he/she intends to work, in order that lines and grades may be furnished and necessary measurements for record and payment made with the minimum inconvenience to the Engineer or delay to the Contractor. No claim for extra payment will be allowed for the cost to the Contractor of any material, work or delay occasioned by giving lines and grades, or making necessary measurements or inspections, as all such cost shall be considered to have been included in the price bid for the work.

**G.25 INSPECTION.** The Engineer will appoint such person or persons as may be deemed necessary to inspect properly the materials furnished and the work done under this contract, and to see that the same correspond strictly with these specifications. Such materials and workmanship shall always be subject to the approval of the Engineer, but no inspection, approval or acceptance of any part of the work herein contracted for or of the materials used therein, nor any payment on account thereof, shall prevent the rejection of said work or materials at any time thereafter during the existence of this contract, should said work or materials be found to be defective, or not in accordance with the requirements of the contract.

The Contractor shall permit, or secure permission for the Engineer or a duly authorized Inspector or representative to enter any manufactory, shop or other place where any material for, or part of the work is being prepared, manufactured or constructed, at any time when such work is in progress. The Contractor shall furnish and prepare, or cause to be furnished or prepared, without charge, all such assistance, appliances, samples of materials and test specimens as may be ordered by the Engineer or such Inspector or representative for the purpose of making official tests and investigations. The Engineer shall be notified of the time and place of preparation, manufacture or construction of any material for, or part of the work which he/she may wish to inspect before delivery at the site of the work. Such notification shall be give a sufficient time in advance of the beginning of the work on such material or part to allow arrangements to be made for inspection and testing.

**G.26 NIGHT WORK.** No night work, except for the inspection of lighting, requiring the presence of the Engineer or Inspector will be permitted except in case of emergency, and then only with the written consent of the Engineer and to such an extent as may be judged necessary.

**G.27 SUNDAY WORK.** No Sunday work will be permitted, except in case of great emergency, and then only with the written consent of the Engineer, and to such extent as is absolutely necessary.

**G.28 NO WORK IN BAD WEATHER.** No work shall be done under this contract when, in the opinion of the Engineer, the weather is unsuitable for good and careful work to be performed. No concrete work shall be done on days on which the temperature falls

below 25 degrees Fahrenheit. Should the severity of the weather continue such that the work cannot be prosecuted successfully, the Contractor, upon order of the Engineer, shall cease all such work until directed to resume the same. In the latter case, suitable extension of time shall be allowed to compensate for time actually lost as provided for in Article G.7.

**G.29. NOT TO SUBLET OR ASSIGN.** The Contractor shall give personal attention constantly to the faithful prosecution of the work and shall not assign, transfer, convey, sublet or otherwise dispose of this contract, or his/her title, right or interest in or to the same or any part thereof, nor shall the Contractor assign, by power of attorney or otherwise, any of the monies due or to become due, nor issue any order or orders or drafts on the Controller or Treasurer of the City of Reading for any monies due or to become due under this contract, unless by and with the consent of the City first duly had and obtained by resolution entered upon the minutes of said City.

**G.30 RIGHT OF PROPERTY IN MATERIALS.** Nothing in this contract shall be considered as vesting in the Contractor any right of property in materials used, after they shall have been attached to or incorporated in the work, nor in materials which have been estimated for partial payment, but all such materials, upon being so attached, incorporated or estimated, shall become the property of the City, whose consent will not be unreasonably withheld.

**G.31 DEFECTIVE MATERIALS AND WORKMANSHIP.** No materials of any kind shall be used until they have been examined and approved by the Engineer, who shall have full power to condemn any work and materials not in accordance with the specifications, and to require the Contractor to remove any work or materials so condemned. Inspections of the work shall not relieve the Contractor from any of his/her obligations to fulfill the contract as herein described, and defective work shall be made good, and unsuitable materials may be rejected, notwithstanding that such work or materials may have been previously overlooked by the Engineer and accepted or estimated for payment if the work or any part thereof shall be found defective at any time before the final acceptance of the whole work, the Contractor shall immediately make good such defect in a manner satisfactory to the Engineer, and if any material brought upon the ground for use in the work shall be condemned by the Engineer as unsuitable or not in conformity with the drawings or specifications, the Contractor shall forthwith remove such materials from the vicinity of the work. If the Contractor shall fail to remove or replace any defective or damaged materials or work after reasonable notice, the Engineer may cause such material or work to be removed or replaced, and the expense thereof shall be borne by the Contractor.

**G.32 RESPONSIBILITY FOR WORK.** The Contractor shall be held responsible for any or all materials or work to the full amount of all payments made thereon, and shall be required to make good, at his/her own cost, any injury or damage which said materials or work may have sustained from any source or cause whatever before its final acceptance.

**G.33 CONDITIONS UNDER WHICH CITY MAY COMPLETE WORK.** If the work to be done under this contract shall be neglected or abandoned, or the contract or any

claim thereunder shall be assigned by the Contractor otherwise than as herein specified, or if at any time the Engineer shall be of the opinion, and shall so certify in writing to the City's representative, that the rate of progress is insufficient or that the work, or any part thereof, is unnecessarily or unreasonably delayed, or that the Contractor is violating any of the provisions of this contract or carelessly executing any portion of the work, the City may notify the Contractor and surety in writing to fulfill the conditions of the Contract; and should the Contractor or the surety fail to comply with said notice within ten (10) days, the City may notify the Contractor and the surety to discontinue all work, or any part thereof; and thereupon the Contractor and the surety shall discontinue said work, or said part thereof as the City may designate; and the City may thereupon, by contract or otherwise, as it may determine, complete the work or such part thereof, and charge the expenses thereof to the Contractor or the surety; and may take possession of and use therein such materials, animals, machinery, equipment, implements and tools of every description as may be found upon the work. The expense so incurred shall be deducted and paid by the City out of any monies then due or to become due the Contractor under this contract; or any part thereof; and in case such expense is less than the sum which would have been payable under this contract if the same had been completed by the Contractor, the Contractor shall be entitled to receive the difference, and in case such expense shall exceed the latter sum, the Contractor or the surety shall pay the amount of such excess to the party of the first part.

**G.34 ALL PARTS OF WORK COVERED.** The Contractor further agrees that the following clauses relative to the construction of the work shall apply to each and all of the separate parts of the work, as though specially mentioned under the different headings in the specifications:

Delivery of Materials - The Contractor shall be entirely responsible for delivery of all materials to the site of the work, making the arrangements therefore.

Engineer Shall Measure - No work shall be covered over or filled in until it shall have been inspected by the Engineer.

Materials Properly Stored - The materials to be used in construction shall be protected from deterioration and damage, and shall be so disposed of as not to endanger the work and in such manner that full access may be had at all times to all work under construction or completed.

Surplus Materials Removed - All parts of the work shall be kept in as neat and orderly condition as circumstances will permit and upon completion of the work, all surplus materials, earth, sand, rubbish and refuse of every kind, and all tools, machinery, equipment and other materials belonging to the Contractor shall be removed from the construction works and adjoining premises so as to leave everything in an acceptable condition, within a week after receipt of final certificate.

**G.35 ESTIMATED QUANTITIES APPROXIMATE.** In unit price contracts, the quantities of the various classes of work to be done and materials to be furnished under this contract, as estimated by the Engineer and listed in Specifications, attached hereto, are approximate and only for the purpose of comparing, on a uniform basis, the bids

offered for the work under this contract; and neither the City nor the Council nor any member of the Council of the City of Reading is to be held responsible if any of the said estimated quantities shall be found to be not even approximately correct in the construction of the work; and the Contractor shall make no claim for damages on anticipated profits or loss of profit, because of a difference between the quantities of the various items of work actually done or materials actually furnished and the estimated quantities stated in the Specifications, or because of the entire omission of any of the quantities or items stated in the Specifications.

**G.36 EXTRA WORK.** The Contractor shall do any work not herein otherwise provided for which, in the opinion of the Engineer, is necessary for the proper completion of the work, but not such work will be allowed or paid for except on a written order of the Engineer, and there shall be no claim for extra work or materials or for damage sustained except under this Article. The extra work order issued by the Engineer shall specify the basis of payment for the extra work. Any extra work or changes in the work involving changes in the plans and/or specifications shall be approved by the applicable Director, prior to the execution of the work.

~~**G.37 MONTHLY ESTIMATES.** Current payments for work done under this contract will be made as follows: on invoices submitted by the Contractor and approved by the Engineer or Architect. Ten percent (10%) of each General Contractor invoice request shall be retained by the City on this contract until it is completed up to City codes and contract specifications and approved by a City Official or person representing a City Official Architect or Engineer.~~

~~It is further agreed and understood that inclusion of any portion of the work in the monthly estimate shall not be construed as final approval or acceptance of the same.~~

**G.38 CONTRACTOR SHALL PREPARE FOR FINAL INSPECTION.** Upon the completion of the work the Contractor shall tear down and remove all temporary buildings and structures built by the Contractor, remove and thoroughly clear away all debris, forms and surplus materials and leave the site of the work in a neat and satisfactory condition, and shall notify the Engineer when the work is ready for final inspection.

**G.39 WORK TO BE PROPERLY PERFORMED.** It is expressly understood that acceptance of work and materials during construction will not imply final acceptance of the work, if the final inspection shall disclose faulty workmanship or materials; and all work of whatever kind that, during its progress and before it is finally accepted, may become damaged from any cause, shall be repaired in a manner satisfactory to the Engineer or, if necessary, shall be broken up and removed and replaced with good and satisfactory work by the Contractor at his own expense. All work of every description shall be the best of its respective kind; and everything not particularly specified herein shall be done and finished in the best manner, and as is usual in first-class work of the several kinds.

Failure or neglect on the part of the Engineer, or any authorized agents to condemn or reject any bad or inferior work or materials shall not be construed to imply an acceptance

of such work or materials, if such bad or inferior materials or work becomes evident at any time prior to the final acceptance of the work and the release of the Contractor by the Council of the City of Reading; nor shall it be construed as barring the City of Reading at any subsequent time from the recovery for damages of such sum of money as may be needed to build a new all portions of the work in which fraud was practiced or improper materials hidden, whenever found.

**G.40 ACCEPTANCE AND FINAL PAYMENT.** Upon receipt of written notice that the work is ready for final inspection and acceptance, the Engineer or Architect shall promptly make such inspection, and when he/she finds the work acceptable under the contract fully performed he/she shall promptly issue a final certificate, over his/her own signature, stating that the work provided for in this contract has been completed and is accepted under the terms and conditions thereof, and the entire balance found to be due the Contractor, including the retained percentage, shall be paid to the Contractor within (30) days after the execution of said final certificate.

**G.41 WAIVER.** Neither acceptance by the City, or any of its officers or employees, nor any order, measurement or certificate by the Engineer, nor any order by the City Council for payment of money, nor any payment for, nor any extension of time, nor any possession taken by the City or its officers or employees, shall operate as a waiver of any portion of this contract or of any power herein reserved to the City, or of any right to damage herein provided; nor shall any waiver of any breach of this contract be held to be a waiver of any other or subsequent breach. All remedies provided in this contract shall be taken and construed as cumulative; that is, in addition to each and every other remedy herein provided.

**G.42 ACCEPTANCE OF FINAL CERTIFICATE.** The acceptance by the Contractor of payment of the final estimate shall be conclusive evidence of acceptance and approval of estimates, accounting and deductions, and of full payment by the City for all work, labor, materials and services done or furnished hereunder, and of full satisfaction, discharge, release and waiver of all claims and demand of; or on behalf of the Contractor against the City, arising out of this agreement and the execution thereof. It is hereby further agreed that the Contractor shall not be entitled to demand or receive payment except in the manner set forth in this contract; and the Contractor further agrees that the final payment of the amount due under this contract and payment of the bills rendered for work done and materials furnished in accordance with any alterations of the same, shall release the City of Reading from any and all claims and liabilities on account of the work performed and materials furnished under said contract, or any alteration thereof.

**G.43 MAINTENANCE AFTER COMPLETION.** The Performance Bond shall remain in force for one (1) year from the date of completion and acceptance of the work under this contract, as security against any and all damage which may result from defects of materials or workmanship which may become apparent prior to the expiration of the one-year maintenance period. During this period the Contractor shall, promptly upon notification from the Engineer, repair all breaks and failures due to defects of material or workmanship at his own expense. If the Engineer shall deem it necessary and shall so direct, such repairs shall be made within twenty-four (24) hours after service of notice. If the Contractor unnecessarily delays making repairs ordered, or if delay would cause

serious loss or damage, the City may undertake to have such repairs made or defects repaired without previous notice, and the expense of such repairs shall be borne by the Contractor or the surety. The Contractor shall be responsible for any damage resulting to any person or property from any violation of the guarantee and from unnecessary delays in making repairs.

**G.44 PRICES.** The City agrees to pay, and the Contractor agrees to receive, the price specified in the proposal submitted, as full compensation for furnishing all the materials called for, and for all labor and use of all machinery, equipment and tools necessary for executing the work contemplated in this contract; for all royalties, for patents and patented materials, appliances and processes; also for all loss or damage arising out of the nature of the work, or from the action of the elements, or from any unforeseen reasons, obstructions or difficulties which may be encountered in the prosecution of the work, for all risks of every description connected with the work, and for all expenses incurred by or in consequence of the suspension or discontinuance of said work as herein specified, and for well and faithfully completing the work, and the whole thereof, according to the specifications and drawings and the requirements of the Engineer under them.

**G.45 NO EXTRA COMPENSATION.** The Contractor further agrees not to ask, demand, sue for, or recover for any extra compensation, for any materials furnished or work done under this contract, beyond the amounts payable for the several classes of work or kinds of materials herein enumerated, which shall be actually performed and furnished at the prices therefore herein agreed upon and fixed.

**G.46 CONTRACTOR TO TAKE OUT ALL PERMITS.** The Contractor shall take out all necessary permits required by agencies of the City of Reading and/or all other governmental agencies; shall give all notices required by law or ordinances; shall pay all fees and charges incident to the due and lawful prosecution of the work covered by the contract, and shall comply with all laws and regulations relating to buildings and public highways. All permits shall be at his expense.

**G.47 NO CLAIM FOR EXTRA WORK.** No claim for extra work or material shall be allowed to the Contractor, unless before the performance of all such extra work the applicable Director shall have first authorized the same in writing, and the price or prices to be paid therefore shall first have been agreed upon in writing between the Director and the Contractor, and the same shall have been done or furnished under a written order from the Director given before the performance of such extra work or the furnishing of such extra materials. All claims for extra work or materials in any month shall be made to the Director in writing before the fifteenth (15th) day of the following month, and failing to make such claim within the time required, the right of the Contractor to extra pay for such extra work or materials shall be deemed to have been waived and forfeited.

**G.48 WORK TO BE DONE TO THE SATISFACTION OF THE CITY ENGINEER.** All the work under this contract shall be done to the satisfaction of the City Engineer, who shall in all cases determine the amount, quality, acceptability and fitness of the several amounts of work and materials which are to be paid for hereunder and shall decide all questions which may arise as to the measurement of quantities in the fulfillment of this contract on the part of the Contractor, and shall determine all questions

respecting the true construction or meaning of the plans and specifications, and the determination and decision thereon shall be final and conclusive; and such determination and decision, in case any question shall arise, shall be a condition precedent to the right of the Contractor to receive any money hereunder.

**G.49 ENGINEER TO INSPECT AND REJECT.** The Engineer shall inspect the materials furnished and the work done, and see that the same strictly correspond to the specifications, and he shall at all times have free access to the works, storehouse and yard of the Contractor, and shall be privileged to take such samples therefrom as he may deem necessary; and if the work, or any material brought on the grounds for the use of the work, or selected for the same, shall be condemned by the Engineer, as unsuitable or not in conformity with the specifications, the Contractor shall forthwith remove such materials from the work.

Before issuance of the final certificate the Contractor shall furnish evidence satisfactory to the Engineer that all payrolls, materials, bills and other indebtedness connected with the work have been paid.

It is understood and agreed by the parties hereto that the final estimate of the Engineer shall be evidence of the amount of work performed by the Contractor under and by virtue of this agreement, and shall be taken as the full measure of the compensation to be received by the Contractor. The aforesaid estimate shall be based upon the contract price for the furnishing of all the different materials and labor, and the performance of all the work mentioned in this contract, including the specifications, and where there may be any ambiguity therein, the Engineer's instructions shall be considered explanatory and the decision shall be final.

No inspection, approval or acceptance of any of the work herein contracted for, or of the materials used herein, or any payment on account thereof shall prevent the party of the first part from objecting to the acceptance of said work or materials at any time during the existence of this contract. Neither the inspection of the applicable Director, or Division Head, or the City Engineer or any of their employees nor any order, measurement or certificate by the City Engineer nor any order by the Director for the payment of money, nor any payment for, or acceptance of, the whole or any part of the work, by the Director of the Division of Planning, nor any extension of time, nor any possession taken by the Director or his employees, shall operate as a waiver of any provision of this contract, or any power herein reserved to the party of the first part, or of any right to damage herein provided; nor shall any waiver of any breach of this contract be held to be a waiver of any other subsequent breach.

Any remedy provided in this contract shall be taken and construed as cumulative; that is, in addition to each and every other remedy herein provided; and in addition to all other suits, actions or legal proceedings the party of the first part shall be entitled to as of right.

**G.50 CONTRACTOR NOT TO DISCOMMODE PRIVATE COMPANIES.** The Contractor shall afford while the work is underway, the necessary facilities to any and all companies owning railway tracks, pipes, subway ducts, or other surface, sub-surface or super-surface construction on the line of the work, in the preservation of the same from injury, all without charge therefore the expense to the City.

G.51 **EXAMINATIONS.** At any time before or after completion of the work, should the City Engineer require it, the Contractor shall make such openings, and to such extent, through such part or parts of the work, as the City Engineer may direct, and shall restore the work so distributed to the satisfaction of the City Engineer; and should the work, in the opinion of the City Engineer, whose decision shall be final and conclusive therein, be found faulty in any respect, the whole of the expense incurred thereby shall be defrayed by the Contractor, according to and upon the prices herein set forth, but if otherwise, by the City.

G.52 **TITLE.** Title to Waste Material shall pass to Contractor when loaded into Contractor's collection vehicle or otherwise received by Contractor. Title to and liability for any Excluded Waste shall at no time pass to Contractor.

12. **EXCLUDED WASTE.** If Excluded Waste is discovered before it is collected by Contractor, Contractor may refuse to collect the entire waste container that contains the Excluded Waste. In such situations, Contractor shall contact the City and the City shall promptly undertake appropriate action to ensure that such Excluded Waste is removed and properly disposed of by the depositor or generator of the Excluded Waste. In the event Excluded Waste is present but not discovered until after it has been collected by Contractor, Contractor may, in its sole discretion, remove, transport, and dispose of such Excluded Waste at a facility authorized to accept such Excluded Waste in accordance with Applicable Law and, in Contractor's sole discretion, charge the City, depositor or generator of such Excluded Waste for all direct and indirect costs incurred due to the removal, remediation, handling, transportation, delivery, and disposal of such Excluded Waste. The City shall provide all reasonable assistance to Contractor to conduct an investigation to determine the identity of the depositor or generator of the Excluded Waste and to collect the costs incurred by Contractor in connection with such Excluded Waste. Subject to the City's providing all such reasonable assistance to Contractor, Contractor shall release City from any liability for any such costs incurred by Contractor in connection with such Excluded Waste, except to the extent that such Excluded Waste is determined to be attributed to the City.

13. **EQUIPMENT; ACCESS.** Any equipment that Contractor furnishes or uses to perform the Services under this Agreement shall remain Contractor's property. The City shall be liable for all loss or damage to such equipment, except for normal wear and tear, or loss or damage resulting from Contractor's handling of the equipment. City and Customers shall use the equipment only for its proper and intended purpose and shall not overload (by weight or volume), move, or alter the equipment. The City shall fully reimburse Contractor for any and all claims resulting from personal injuries or death, or the loss of or damage to property (including the equipment) arising out of the use, operation, or possession of the equipment by the City or the Customers. If the equipment and/or Waste Material is not accessible so that the regularly scheduled pick-up cannot be made, such Waste Material will not be collected until the next regularly scheduled pick-up, unless the Customer calls Contractor and requests an extra pick-up, in which case an extra service charge will apply. Contractor shall not be responsible for any damages to any property or equipment located adjacent to the collection receptacles, nor to any pavement, curbing, or other driving surfaces resulting from Contractor's providing the Services under this Agreement.



Force Majeure. Except for City's obligation to pay amounts due to Company, any failure or delay in performance under this Agreement due to contingencies beyond a party's reasonable control, including, but not limited to, strikes, riots, terrorist acts, epidemic or pandemic, compliance with Applicable Laws or governmental orders, fires, bad weather and acts of God, shall not constitute a breach of this Agreement, but shall entitle the affected party to be relieved of performance at the current pricing levels under this Agreement during the term of such event and for a reasonable time thereafter. The collection or disposal of any increased volume resulting from a flood, hurricane or similar or different Act of God over which Company has no control, shall not be included as part of Company's service under this Agreement. In the event of increased volume due to a Force Majeure event, Company and the City shall negotiate the additional payment to be made to Company. Further, the City shall grant Company variances in routes and schedules as deemed necessary by Company to accommodate collection of the increased volume of Waste Materials.

Miscellaneous. (a) This Agreement represents the entire agreement between the Parties and supersedes all prior agreements, whether written or verbal, that may exist for the same Services. (b) Company shall have no confidentiality obligation with respect to any Waste Materials. (c) Neither party shall assign this Agreement in its entirety without the other party's prior written consent, which consent shall not be unreasonably withheld. Notwithstanding the foregoing, Company may assign this Agreement without the City's consent to its parent company or any of its subsidiaries, to any person or entity that purchases any operations from Company or as a collateral assignment to any lender to Company. This Agreement shall be binding upon and inure solely to the benefit of the Parties and their permitted successors and assigns. (d) Company may provide any of the Services covered by this Agreement through any of its affiliates or subcontractors, provided that Company shall remain responsible for the performance of all such services and obligations in accordance with this Agreement. (e) No intellectual property rights in any of Company's IP are granted to City under this Agreement. (f) All provisions of the Agreement shall be strictly complied with and conformed to by the Parties, and this Agreement shall not be modified or amended except by written agreement duly executed by the undersigned parties. (g) If any provision of this Agreement is declared invalid or unenforceable, it shall be modified so as to be valid and enforceable but so as most nearly to retain the intent of the Parties. If such modification is not possible, such provision shall be severed from this Agreement. In either case, the validity and enforceability of the remaining provisions of this Agreement shall not in any way be affected thereby. (h) Failure or delay by either party to enforce any provision of this Agreement will not be deemed a waiver of future enforcement of that or any other provision. (i) If any litigation is commenced under this Agreement, the successful party shall be entitled to recover, in addition to such other relief as the court may award, its reasonable attorneys' fees, expert witness fees, litigation related expenses, and court or other costs incurred in such litigation or proceeding. (j) This Agreement shall be interpreted and governed by the laws of the State where the Services are performed. (k) Customer and Company agree that electronic signatures are valid and effective, and that an electronically stored copy of this Agreement constitutes proof of the signature and contents of this Agreement, as though it were an original.

## **ADDENDUM**

1. Pricing

2. Technical Specifications

3. Proposal

**Instructions**

The Contract pricing structure shall be a monthly Unit Fee representing the total collection, transportation, and disposal/processing cost per Contracted Unit receiving curbside service. The Contracted Units provided as a basis for pricing are reasonable estimates based data available to the City. For the purpose of transparency and cost calculations, the City Requests breakdowns of these cost components within the Unit Fee: Collection and Transportation (Table A-1.1), disposal and processing cost per ton (Table A-1.2), and disposal and processing cost per unit at the provided generation rates for trash and recyclables. Respondents shall not include any escalators on the Pricing form since only year one pricing is requested, and the method of annual contract pricing escalation is provided in the Technical Specifications in Section 4.16 Rate Adjustments.

**Unit Fee Pricing**

In Table A-1.1, provide a cost per unit, per month to collect and transport curbside trash and recyclables. Do not include disposal and processing costs in the price provided in Table A-1.1.

**Table A-1.1 Residential Collection Cost**

Service	Collection and Transportation Cost (\$/Unit/Month)
Curbside Trash (27,200 Contracted Units)	\$11.03
Curbside Recyclables (28,000 Contracted Units)	\$6.85
<b>Total Monthly Unit Cost</b>	<b>A-1.1 + A-1.3 = \$23.68</b>

(1) Refer to Table 3 of Technical Specifications for unit counts.

In Table A-1.2, provide a cost per ton to dispose of trash and to process recyclables. Specify the intended facility to be used for disposal/processing.

**Table A-1.2 Disposal and Processing Cost per Ton**

Service		\$ per Ton	Designated Facility
Trash Disposal	(A)	\$45.00	Conestoga Landfill
Recyclables Processing	(B)	\$65.00	Cougles Recycling

Table A-1.3 displays the estimated annual tons of trash/recyclables generated per unit. Multiply the appropriate disposal or processing cost per ton in Table A-1.2 by the estimated annual tons per unit shown. Then divide by 12 months to calculate the disposal and processing cost per unit, per month.

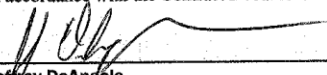
**Table A-1.3 Disposal and Processing Cost per Unit**

Material	Est. Annual Tons per Unit <sup>(1)</sup>		Disposal/Processing Cost (\$/Unit/Month)
Trash	1.30	x (A) / 12 =	\$4.88
Recyclables	0.17	x (B) / 12 =	\$0.92

(1) Assumption for calculation purposes using available information. The actual generation is unknown.

**Signing**

I hereby certify that the rates and fees given in this pricing form shall be the only basis for compensation and to be billed and collected in accordance with the Contract Documents.

BY:   
Jeffrey DeAngelo

DATED: 10/8/2021

TITLE: General Manager

COMPANY: BFI Waste Services of Pennsylvania, LLC dba Republic Services of Schuylkill Valley

84