

**FIRST AMENDMENT TO MUNICIPAL SOLID WASTE COLLECTION AND
DISPOSAL AGREEMENT**

THIS FIRST AMENDMENT TO MUNICIPAL SOLID WASTE COLLECTION AND DISPOSAL AGREEMENT (this “First Amendment”) is made this ___ day of _____, 2020, between THE COMMISSIONERS OF CAMBRIDGE, a body politic and corporate of the State of Maryland (the “City”), and CHESAPEAKE WASTE INDUSTRIES LLC, a Maryland limited liability company (the “Contractor”).

RECITALS

WHEREAS, on June 19, 2017, the City and the Contractor entered into a Municipal Solid Waste Collection and Disposal Agreement (the “Agreement”), pursuant to which the City engaged the Contractor for the bi-weekly collection and disposal of Municipal Solid Waste generated within the corporate limits of the City upon the terms and conditions set forth therein; and

WHEREAS, pursuant to Section 4(A) of the Agreement, the term of the Agreement is scheduled to expire on June 30, 2020; provided, however, that the City may renew the Agreement for up to two additional one-year terms; and

WHEREAS, pursuant to Section 12(D) of the Agreement, the parties may agree to amend or modify the Agreement’s terms; and

WHEREAS, the parties are desirous of renewing the Agreement for an additional one-year term, with the option for an additional one-year term, upon the amended terms and conditions set forth herein.

NOW, THEREFORE, in consideration of the mutual covenants and obligations contained herein, the recitals hereto, which are not merely prefatory but are a substantive part of this First Amendment, and other good and valuable consideration, the sufficiency of which is hereby acknowledged, the City and the Contractor hereby covenant and agree to amend the Agreement as follows:

SECTION I. Section 2 (Scope of Work) of the Agreement is hereby amended as follows:

SECTION 2. SCOPE OF WORK.

A. Municipal Solid Waste shall be collected twice each week, with all Customers receiving collection on either Mondays and Thursdays or on Tuesdays and Fridays. Municipal Solid Waste shall be placed in Carts to be provided by the Contractor, which shall not exceed a capacity of ninety-six (96) gallons, nor weigh more than sixty-five (65) pounds when empty.

B. Carts shall be distributed to all Residential Units. For Residential Units with multiple Dwelling Units (e.g., apartments, duplexes, fourplexes, and condominiums), one Cart shall be distributed to each Dwelling Unit. Each Cart shall bear the name of the Contractor. This subsection supersedes Section 3.0.1(c) of the RFP.

C. One (1) Cart will be provided to each Residential Unit or Dwelling Unit, as applicable, at no charge. **Subject to Section 3(B) below, Residents residents** requesting more than one Cart may be charged a nominal fee by the Contractor; provided, however, that no Residential Unit shall have more than two (2) ninety-six (96) gallon Carts and no apartment shall have more than one (1) ninety-six (96) gallon Cart, **and further provided that the Contractor shall replace a Cart at no charge for a new Resident whose Cart is missing or has been stolen.**

D. Municipal Solid Waste shall be collected Curbside.

E. The Contractor shall maintain communication with its drivers to alert drivers of problems which may occur during collection days and times. One-lane traffic must be maintained at all times and the Contractor shall minimize impact on motorists.

F. Nothing contained in this Agreement shall prevent any individual, firm, or corporation within the corporate limits of the City from personally disposing of their own Municipal Solid Waste.

SECTION II. Section 3 (Agreement Price) is hereby amended as follows:

SECTION 3. AGREEMENT PRICE.

A. For the ~~2018-2020~~ **2020-2021** fiscal years, the Contractor shall provide Municipal Solid Waste collection and disposal services to the City for a per-customer price of Thirteen and 53/100 Dollars (\$13.53), payable monthly by the thirtieth (30th) day of the month following the month in which service was rendered. The parties agree that the number of Customers shall be based upon the number of active residential water meters in the City plus multi-family units, apartments, and a trailer park each utilizing one (1) water meter. The number of Customers shall be set forth in an addendum hereto signed by the parties. The parties shall evaluate the number of active residential water meters in the City and the number of residential trailers no less than once per fiscal year and amend the addendum to adjust the total monthly payment accordingly based upon any change in the number of such meters.

B. **The City shall reimburse the Contractor for the cost of any thirty-five (35) gallon Carts purchased at the direction of the City for a program of distribution as determined by the City. The Contractor shall pick up such Carts on the same dates at no additional charge and subject to the same terms and conditions as the ninety-six (96) gallon Carts. The City shall be responsible for storing any such Carts that have not been distributed to such Residents. Any such Carts purchased under this Subsection shall be the property of the City.**

C. Municipal Solid Waste shall be disposed of at New Beulah Sanitary Landfill, 6815 E. New Market Ellwood Road, Hurlock, Maryland 21643; provided, however, that if such facility is unable to accept the waste collected hereunder for disposal, then disposal may be made at another legally operated landfill eligible for the disposal thereof. The City shall have no responsibility to pay any landfill disposal fees to any landfill authority.

SECTION III. Section 4 (Term of Agreement) is hereby amended as follows:

SECTION 4. TERM OF AGREEMENT.

~~A. This Agreement shall be for a term of three (3) years beginning July 1, 2017, and ending June 30, 2020. It is understood by the parties that the Contractor shall have no further rights to provide the aforesaid Municipal Solid Waste collection and disposal services or receive compensation therefor beyond June 30, 2020; provided, however, that the City reserves the option to renew this Agreement for up to two (2) additional one (1) year renewal terms.~~

~~B. Following the 2020 fiscal year, the Contractor may submit to the City a written proposal for a rate increase, which shall be based upon increases in the Consumer Price Index, landfill fees charged to the Contractor, or cost increases associated with applicable federal, State, or local laws, ordinances, or regulations then in effect. The City shall have the right to accept or reject the proposed increases for any renewal term.~~

This Agreement shall be for a term of one (1) year beginning July 1, 2020 and ending June 30, 2021 and shall automatically renew for one (1) additional one (1) year renewal term upon the same terms and conditions set forth herein unless the City provides written notice of its intent to cancel this Agreement prior to April 15, 2021. It is understood by the parties that the Contractor shall have no further rights to provide the aforesaid Municipal Solid Waste collection and disposal services or receive compensation therefor beyond the termination of this Agreement.

SECTION IV. Section 12 (Miscellaneous) is hereby amended as follows:

SECTION 12. MISCELLANEOUS.

A. The failure of either party to this Agreement to insist upon the performance of, or the waiver of any breach of, any of the terms and conditions herein shall not be construed as thereafter waiving any such terms and conditions, but the same shall continue and remain in full force and effect as if no forbearance or waiver had occurred.

B. The performance of this Agreement may be suspended and the obligations hereunder excused, in the event and during the period that such performance is prevented by a cause or causes beyond the control of the Contractor or the City. Such causes include acts of God, acts of war, riot, fire, explosion, accident, or sabotage; an unconditional prohibition of the performance of the services by the Contractor or the City as a result of

judicial order, administrative or governmental laws, regulations, rules, requirements, orders, or actions; national defense requirements; labor strike, lockout, or injunction.

C. Subject to subsections (1) through (3) below, the City may terminate this Agreement upon thirty (30) days advance written notice to the Contractor; provided, however, if any work or service hereunder is in progress but not completed as of the date of termination, then this Agreement may be extended upon written approval of the City until said work or services are completed and accepted by the City.

1. *Termination for Convenience.* The City may terminate this Agreement for convenience at any time, in which the case the parties shall negotiate a reasonable termination cost.

2. *Termination for Cause.* In the event of Termination for Cause, the thirty (30) days advance notice is waived and the Contractor shall not be entitled to termination cost. For purposes of this subsection, "for cause" means any failure on the Contractor's part to comply with the terms of this Agreement, which failure has not been cured within five (5) days written notice from the City.

3. *Termination Due to Unavailability of Funds in Succeeding Fiscal Years.* If funds are not appropriated or otherwise made available to support continuation of the performance of this Agreement in a subsequent fiscal year, then this Agreement shall be canceled and, to the extent permitted by law, the Contractor shall be reimbursed for the reasonable value of any non-recurring cost but not amortized in the price of the supplies or services delivered hereunder.

D. This Agreement, the RFP, and the Contractor's proposal, attached hereto as Exhibits A and B, respectively, and incorporated by reference as if fully set forth herein, constitute the entire agreement of the parties with respect to the subject matter described herein, and may not be changed or modified except by agreement in writing signed by the parties. In the case of any conflict between the provisions of this Agreement, the RFP, and the Contractor's proposal, the RFP shall be deemed to control except where expressly stated otherwise herein.

E. This Agreement shall be governed by and construed under the laws of the State of Maryland.

F. This Agreement shall inure to the benefit of the parties hereto, and their legal successors.

G. Any notice required under this Agreement shall be given in writing and shall be directed as follows:

If to the City: The City of Cambridge
 Attention: ~~Sandra Tripp Jones~~ **Patrick Comiskey**,
 City Manager
 410 Academy Street
 Cambridge, Maryland 21613

If to the Contractor: Chesapeake Waste Industries LLC
 Attention: William D. Roe, Member
 P.O. Box 2695
 Salisbury, Maryland 21804

SECTION V. All other terms and conditions of the Agreement shall remain unchanged an in full force and effect.

IN WITNESS WHEREOF, the parties hereto have caused this Amendment to be executed and sealed, on the day and year first above written.

CHESAPEAKE WASTE INDUSTRIES LLC,
a Maryland limited liability company

WITNESS:

By: _____ (SEAL)
Name: William D. Roe
Title: Authorized Member

THE COMMISSIONERS OF CAMBRIDGE,
a Maryland municipal corporation

WITNESS:

Patrick Comiskey, City Manager

By: _____ (SEAL)
Victoria Jackson-Stanley, Mayor

Approved as to form:

Patrick W. Thomas, Assistant City Attorney