

ADDENDUM TO CUSTOMER SERVICE AGREEMENT

This ADDENDUM TO CUSTOMER SERVICE AGREEMENT (the Customer Service Agreement dated as of the same date as amended by this addendum is referred to as the "**Agreement**"; a copy thereof is attached as **Exhibit A**) is entered into this ____ day of January, 2024 and shall be effective as of January 1, 2024 (the "**Agreement Effective Date**"), by and between BFI WASTE SERVICES, LLC d/b/a Republic Services (the "**Company**") and OCEAN PINES ASSOCIATION, INC. (the "**Association**"). To the extent the terms of the Customer Service Agreement conflict with the term of this Addendum, this Addendum shall control.

RECITALS

R-1. The Association desires to enter into a contract with the Company granting to the Company a franchise within Ocean Pines to provide to Ocean Pines residents/owners refuse removal, recycling and yard waste collection services.

R-2. The Company desires to provide refuse, recycling, and yard waste collection within the Association.

R-3. The Company warrants and represents that it has available to it a disposal site meeting the laws of the State of Maryland and/or other regulatory authorities of government having jurisdiction.

NOW, THEREFORE, in consideration of these premises and for other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the Association and the Company agree as follows:

1. **RECITALS.**

The above recitals are incorporated by reference into the Agreement as an integral part of the Agreement.

2. **DEFINITIONS.**

(a) **"Refuse"** shall mean the day-to-day accumulations of discarded and unwanted putrescible and non-putrescible household and kitchen wastes, including but not limited to food, food residues and materials necessarily used for packaging, storing, preparing, and consuming same, usually defined as "garbage", and all combustible and noncombustible waste materials resulting from the usual routine of domestic housekeeping including but not limited to boxes, cartons, wrapping, crockery, plastic containers, fixtures, and papers and small electronic appliances such as toasters, vacuum cleaners, televisions, and computers. Christmas trees, wreaths, and other ornamental indoor plants are included in this definition. For the purposes of the Agreement, the terms refuse, rubbish, garbage, solid waste, trash, and waste shall be synonymous unless otherwise more specifically defined herein (i.e. yard waste).

(b) **"Yard waste"** shall mean all accumulations of grass or shrubbery cuttings, leaves, tree limbs, branched, brush, vines, garden plants, and other similar organic materials as the result of the cultivation and maintenance of lawns, shrubbery, vines, trees, and gardens.

(c) **"Recyclable material"** shall mean materials to be discarded that may be commonly marketable recyclable commodities, including green, brown, blue, clear glass food and beverage bottles and jars, steel, aluminum and bi-metal food and beverage containers, paperboard milk, food and laundry refill cartons, drink boxes (aseptic packaging), polyethylene terephthalate (PET, plastic code #1), high density polyethylene (HDPE, plastic code #2), vinyl (V, plastic code #3), low density polyethylene (LDPE, plastic code #4), polypropylene (PP, plastic code #5), and other (plastic code #7) plastic food, beverage and household cleaning product containers, formed aluminum containers, trays and pans, clean aluminum foil, plastic beverage pack rings, empty paint and aerosol cans, old corrugated cardboard (OCC), dry and wet strength box board, white, colored, computer and mixed office and school paper, and newsprint, "junk mail", magazines, telephone directories, as well as any other materials designated or approved by the Association for recycling.

(d) **"Location"** shall mean all individual residences and all Association-owned properties within the entire subdivision of Ocean Pines, Maryland, including (without limitation) all Association offices, White Horse Park, the golf course, the sports core pool, swimming and racquet club pool, the country club, the yacht club, the marina and the community gardens, the public works facilities (including, without limitation, the Association police department and fire and rescue station), recreational and other facilities within the Association property. The Association shall have the discretion to include other types of residential units and facilities as deemed necessary or as it deems appropriate.

(e) **"Customer"** shall mean the owner or occupant of the individual residences within the entire subdivision of Ocean Pines, Maryland.

3. **COLLECTION SERVICES TO LOCATIONS.**

(a) The Company shall make refuse collection and disposal and recycling service available to all residential properties located within the entire subdivision of Ocean Pines, Maryland. The Company shall provide timely collection of refuse, yard waste and recyclable material collections for all covered Locations within the Association and, additionally, shall provide appropriate collection of yard waste from time to time during the year as seasonally appropriate. The Company shall acquire title to all refuse, yard waste and recyclable material once it is loaded on the Company's trucks. The Company will retain any and all proceeds from the sale of recyclable material and shall bear all costs and expenses of collection, storage, and marketing of the recyclable materials.

(b) Each of the Company's employees shall, at all times, have and carry a valid CDL operator's license for the type of vehicle he/she is driving.

(c) Nothing contained in this specification or the Agreement shall prevent any person, or household from personally disposing of its own trash, garbage or refuse so long as they do so

in a legal and lawful manner and in compliance with the laws, rules and regulations of the State of Maryland Health Department.

(d) All work performed by the Company, or any of its agents or employees, in connection with the Agreement shall comply with County and State health and safety regulations, as applicable.

(e) The Company shall not subcontract for residential collection within Ocean Pines, Maryland without the prior written consent of the Association which may be withheld, conditioned or delayed within the Association's sole discretion.

(f) Company shall at all times observe and comply with the provisions of the Bylaws and Regulations of the Association and State and Federal laws, rules and regulations which in any manner limit, control or apply to the actions or operations of Company, its subcontractors, or its or their employees, agents or servants, engaged upon the work or affecting the services supplied to or by them under the Agreement.

(g) Refuse shall be collected either once weekly or twice weekly (except as provided herein with regard to the Department of Public Works and the Marina) depending upon the Customer's arrangement with the Company. Recyclable materials shall be collected once weekly. The respective dates of collection shall be on such days as the Company and the Association mutually agree upon. The Company shall maintain the agreed upon schedule and shall not change said schedule without the expressed written approval of the Association. Collection times shall not begin before 7:00a.m., local time, nor continue past 5:00p.m., local time. Collection shall never be postponed longer than one (1) working day following the regular day of collection except in the case of a dire emergency and only with proper advance notice being given by the Company to the Association. No refuse or recyclable materials shall be collected on holidays observed by the Company. Collection shall be resumed the following business day. The Company will submit with the proposal the list of holidays the Company observes. Notice shall be given to all Customers of the holidays to be observed by the Company.

(h) Refuse and recyclable material shall be collected at the curb or end of driveway. Customers shall be required to place all items for collection at their regular place of collection prior to this scheduled collection time.

(i) The Company shall exercise reasonable caution in the handling of containers to avoid damage to them and shall return empty containers to the point of collection, in an upright position. Drippings from the trucks, to include any type of liquid/and or refuse spilled by the Company shall be immediately picked up, or swept up, by the Company. Containers which have been substantially damaged through the fault of the Company shall be replaced by the Company with containers of like-kind and quality as those damaged. Notwithstanding the foregoing, the Company will not be held responsible for plastic cans of insufficient strength that may crack from exposure to freezing temperatures.

(j) The quantity of refuse or household garbage from each Location shall not be limited. Household garbage and refuse shall not include furniture, appliances, mechanical equipment or machinery, including automotive machinery, sand, solid or other mineral matter and any other items or matters not resulting from ordinary and nominal household operations.

However, Company shall have the right to negotiate a separate price with any Customer with respect to the removal of the above excluded matter and will have the right to remove same.

(k) The Company shall collect up to a maximum of four (4) bags of leaves and/or yard waste per collection. Brush, tree limbs and shrub trimmings shall be collected provided that they are cut into 4-foot lengths and tied into bundles weighing not more than 50 pounds.

(l) The Company shall collect Christmas trees placed in one piece at the normal collection place for a two-week period following the Christmas holiday.

(m) The Company shall use enclosed, leak proof, packer-type truck bodies. The trucks shall be kept in good and efficient working order to ensure proper and efficient service. Each vehicle shall be clearly and visibly marked on each side with the name and telephone number of the Company. All equipment shall be maintained in good condition and washed and painted uniformly.

4. **BILLING FOR SERVICES AND COLLECTION.**

(a) (1) Company shall furnish refuse collection and disposal and recyclable material for each residential Customer who subscribes to the service of Company. Fees for the service shall be as reflected on **Exhibit B** attached hereto. Company shall bill and collect fees for services directly from the Customer. Contactor shall not be required to collect refuse from any property in the event payment is not received by the Company from such Customer within thirty (30) days of any billing.

(2) Company shall furnish refuse collection and disposal and recycling to the Association. Fees for the service shall be as reflected on **Exhibit C** attached hereto.

(b) Fees for services may be increased or decreased by any of the following factors:

(i) The portion of said fee fairly allocable to the Company's disposal charges may be increased or decreased by the proportionate percentage of increase or decrease in the charges paid by the Company for dumping of said refuse, but such increase shall be implemented only after mutual discussion, review and verification by and with the agreement of the Association.

(ii) Increases in Company's costs due to changes in local, state or federal rules, ordinances or regulations applicable to Company's operations or the services provided hereunder, and increases in taxes, fees or other governmental charges assessed against or passed through the Company (other than income, or real property taxes or gasoline taxes).

(iii) Company may only increase rates for reasons other than those set forth above with the consent of the Customer. Such consent may be evidenced in writing or by the actions and practices of the parties.

*Fees to increase 5% per year as per bid submission

5. **TERM.**

The term of the Agreement shall commence on the first day of January, 2024 and continue thereafter for a term of three (3) years therefrom and shall expire on December 31, 2027, unless sooner terminated as herein provided. These provisions shall be determinative of the parties' rights

of termination upon notice as herein set forth. Such notice shall be deemed to have been given and received if given in accordance with the Agreement to the other party at the address hereinafter specified.

6. INDEMNIFICATION.

(a) To fullest extent permitted by law, the Company shall indemnify, defend, and hold harmless the Association and each Customer and their respective officers, directors, employees and agents (the "**Indemnified Parties**") from and against all claims, damages, demands, losses, expenses, fines, causes of action, suits or other liabilities (including all costs and reasonable attorneys' fees including the fees arising out of the prosecution or the defense of any appeal, consequential damages, and punitive damages), arising out of or resulting from, or alleged to arise out of or arise from, caused in whole or in part by any act or omission of the Company, anyone directly or indirectly employed by any of them, or anyone for whose acts any of them may be liable (but not to the extent it is caused by the Association), the performance of the Company under the Agreement, whether such claim, damage, demand, loss or expense is attributable to bodily injury, personal injury, sickness, disease or death, or injury to or destruction of tangible property, including the loss of use resulting therefrom, but only to the extent attributable to the negligence of the Company or any entity for which it is legally responsible or vicariously liable regardless of whether the claim is presented by the Company's employee, his/her spouse, legal or domestic partner under applicable state law and/or dependents of the Company's employee (the "**Indemnity**"). Such Indemnity obligation shall not be in derogation or limitation of any other obligation or liability of the Company or the rights of the Company contained in the Agreement or otherwise. The Indemnity shall not be limited in any way by any limitation on the amount or type of damages, compensation or benefits payable by or for the Company under any worker's compensation acts, disability acts or other employee benefits acts and includes any loss or injury suffered by an employee of the Company or any others who claim to have directly or derivatively sustained injury or damages due to the injury sustained by the Company's employee. The Indemnity shall be in addition to any Indemnity liability imposed by the Agreement and shall survive the termination of the Agreement.

(b) The Company shall be responsible for the cost to repair any damage it causes to the property of the Association, its owners or residents during the performance of the agreement. The Association may proceed to repair the damage and deduct the amounts of such repair for which Company is responsible from any payments due to Company under the agreement, and pursue the appropriate legal action against Company to collect any remaining unpaid amounts of such repair or restoration.

(c) The Company will defend, save, and hold the Association, its duly elected and authorized officers and Customers free, harmless, and indemnified against any and all claims, suits, causes of any kind or nature whatsoever, hereafter which occur or arise out of the ownership, maintenance, use, operation, or control of any vehicle owned, maintained, controlled, or used by the Company and/or arising out of the services that Company is providing under the Agreement.

7. REPORTING REQUIREMENTS.

The Company shall prepare and submit to the Association a quarterly report, due by the 15th day of the month starting each new quarter, i.e., July, October, January and April. The report shall include the following information:

- (a) Total weight in tons of refuse, yard waste and recyclable material each quarter;
- (b) Total number of Locations; and,
- (c) Copy of all complaints filed by Association residents per month.

8. INSURANCE.

The Company shall take out and maintain insurance of such types and in such amounts as are necessary to cover its responsibilities and liabilities under the Agreement, in amounts and conditions not less than further specified, and it shall require all its agents and subcontractors to carry similar insurance. The Company shall not commence work under the Agreement until it has obtained all insurance required under this Section and the Association has approved such insurance, nor shall Company allow any subcontractor to commence work on its subcontract until the subcontractor has obtained the same insurance. The Company will provide certificates of insurance evidencing the following types and limits of insurance:

(a) General Liability - comprehensive general liability policy in form reasonably satisfactory to the Association, written by an insurance company reasonably acceptable to covering the Association and the Company and the Association's agents and the Customers with such minimum limits as the Association may from time to time reasonably require but in no event less than One Million Dollars (\$1,000,000.00) on account of bodily injuries to or death of one person and Two Million Dollars (\$2,000,000.00) on account of bodily injuries to or death of more than one person as a result of any one accident or disaster; and property damage insurance with limits of One Million Dollars (\$1,000,000.00) person and Two Million Dollars (\$2,000,000.00) in the aggregate.

(b) Business or Commercial Automobile Liability - Bodily injury and property damage combined - \$1,000,000 each occurrence. Aggregate - \$2,000,000. Personal injury - \$1,000,000.

(c) Worker's Compensation - Limits required by law.

(d) Excess or Umbrella Liability (to overlay General Liability, Business or Commercial Liability and Worker's Compensation liability coverage) in the amount of \$1,000,000.

All insurance policies required by this Agreement shall be underwritten by insurance companies with a minimum A- (excellent) rating by A.M. Best and be qualified to do business and issue the requisite lines of insurance in the state where the Association is located. All insurance noted below is primary, and in no event will be considered contributory to any insurance purchased by the Association. All insurance noted below will not be canceled, reduced or materially changed without providing the Association thirty (30) days advance notice, via certified mail. Thirty day notice of cancellation to Ocean Pines Association, Inc. except 10-day notice for non-payment will be added to each insurance policy.

The Association and each Customer, along with their respective officers, agents and employees, shall be named as additional insureds on the Business or Commercial Automobile Liability policy and the General Liability policy. It is expressly understood by the parties to the Agreement that it is the intent of the parties that any insurance obtained by the Company shall be deemed excess, non-contributory and not co-primary in relation to the coverages(s) procured by any subcontractor or agent of the Company. To the fullest extent permitted by applicable state law, a Waiver of

Subrogation Clause shall be added to the Business or Commercial Automobile Liability policy and the General Liability policy with respect to the Agreement.

9. PROPERTY DAMAGE.

The Company shall be responsible for any damage it causes to the property of the Association or any Location, unless such damage was caused by the gross negligence or willful misconduct of the Association or the Customer or residents. In the event the Company causes damage to the property of the Association, Customers or residents, the Company shall promptly remedy such damage and repair the same to a condition similar to that which existed before the damage was caused or resulted. In the event the Company fails to do so in a timely manner, the Association may proceed to repair the damage and deduct the amounts of such repair or restoration from any payments due to the Company under the Agreement and pursue the appropriate legal action against the Company to collect any remaining unpaid amounts of such repair or restoration. This Section 9 shall survive expiration or earlier termination of the Agreement.

10. TERMINATION.

(a) For Convenience. During the term of the Agreement, either party may withdraw from and cancel the agreement for cause by notification in writing to the other party at least ninety (90) days prior to the effective date of the cancellation.

(b) For Cause. This Agreement may be terminated by the Association before the expiration date of the Term on written notice:

(i) if the Company breaches any provision of the Agreement and either the breach cannot be cured or, if the breach can be cured, it is not cured by the Company within ten (10) days after delivery of notice of default to the Company.

(iii) if the Company (A) becomes insolvent, (B) is generally unable to pay, or fails to pay, its debts as they become due, (C) files, or has filed against it, a petition for voluntary or involuntary bankruptcy or pursuant to any other insolvency law, (D) makes or seeks to make a general assignment for the benefit of its creditors, or (E) applies for, or consents to, the appointment of a trustee, receiver or custodian for a substantial part of its property or business.

11. NOTICES

All notices, demands, instructions and other communications required or permitted to be given to or made upon any party hereto shall be in writing, personally delivered or sent by postage prepaid first class certified mail, return receipt requested or by overnight delivery service. All such notices shall be deemed to be given on the day such notice is received if sent by personal delivery or one (1) business day after such notice is sent by overnight courier or three (3) business days after such notice is sent by certified mail. Unless otherwise specified in a notice sent or delivered in accordance with the foregoing provisions of this section, notices, demands, instructions and other communications in writing shall be given to or made upon the respective parties hereto at their respective addresses indicated for such party below:

Send Association Notices To:

John Viola, General Manager
Ocean Pines Association, Inc.
239 Ocean Parkway

Ocean Pines MD 21811

Send Company Notices To:

BFI Waste Services
c/o Domine Fulginiti
9140 Ocean Highway
Delmar, MD 21875

The parties may, at any time, change their respective addresses for receipt of notices by written notice to the other party.

12. MISCELLANEOUS

(a) The Company and Association covenant and agree that its interest in the Agreement may not be assigned or transferred in any manner without the written approval of the other party.

(b) In the event that either fails to perform any of its obligations at the time required and as a result thereof the other party incurs attorneys' fees, court costs and expenses, then the non-prevailing shall pay the prevailing party's attorneys' fees, court costs and expenses. In the event either party hereto institutes legal proceedings to enforce the terms herein, or is made a party to any such proceeding, the prevailing party shall be entitled to reimbursement of reasonable attorneys' fees, court costs, if any, and all reasonable ancillary expenses reasonably incurred from the non-prevailing party.

(c) The Company certifies and acknowledges that it is an independent contractor and not agent or employee of the Association.

(d) This Agreement including any attachments (or other documents referenced herein) contains the entire agreement and understanding between the parties with respect to its subject matter. No modification or waiver of any of the terms and conditions of the Agreement shall be effective unless it is in writing and signed by both parties. This Agreement shall inure to the benefit of, and be binding upon, the parties to the Agreement and their respective successors and assigns. Failure of either party to exercise any right in the event of breach or default by the other party shall not constitute or operate as a waiver of any right of either party. Provisions of the Agreement are hereby declared to be severable. This Agreement shall be interpreted and enforced in and in accordance with the laws of the State of Maryland.

(e) This Agreement is a negotiated document drafted jointly but initially prepared by one party as a matter of convenience only; therefore, in the event of any dispute between the parties, as a matter of law the provisions of the Agreement shall not be construed against or in favor of any party solely as a consequence of such party's preparation, or lack of preparation, of this Contract.

(f) The parties hereby agree to mediate any disputes that arise in connection with the Lease and/or the Agreement. If no resolution is reached within sixty (60) days after the first meeting of the Parties with the mediator(s), then either party may take the dispute to any court having personal jurisdiction over the parties and the subject matter of the dispute. The obligation to mediate under this Section 12(f) does not apply to any claim for injunctive relief.

(i) This Agreement may be executed in one or more counterparts, each of which shall

be considered as an original and which together shall constitute one and the same original.

[Signature page follows.]

IN WITNESS WHEREOF, the parties have caused the Agreement to be executed by their duly authorized persons to be effective as of the Agreement Effective Date.

BFI WASTE SERVICES, LLC

By: Dominic Fulginiti
Name: Dominic Fulginiti
Title: Municipal Manager

OCEAN PINES ASSOCIATION, INC.

By: [Signature]
Name: Richard A. Farr
Title: President, OPA
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Plan A — Yearly Service (fill in the amount to be charged each customer per month).

A.1. Yearly service to each customer for twice per week collection and disposal of refuse on a schedule from Monday through Friday 27.50 per month.

A.2. Yearly service to each customer for once per week collection and disposal of refuse on a schedule from Monday through Friday 27.00 per month

A.3. Yearly service to each customer for twice per week collection and disposal of recycling on a schedule from Monday through Friday No bid per month.

A.4. Yearly service to each customer for once per week collection and disposal of recycling on a schedule from Monday through Friday 1.40 per month.

Plan B — Six-Month Service — May 1st to October 31st

B.1. Six-month service to each customer for twice per week collection and disposal of refuse on a schedule from Monday through Friday 27.50 per month.

B.2. Six-month service to each customer for once per week collection and disposal of refuse on a schedule from Monday through Friday 27.00 per month.

B.3. Six-month service to each customer for twice per week collection and disposal of recycling on a schedule from Monday through Friday No bid per month.

B.4. Six-month service to each customer for once per week collection and disposal of recycling on a schedule from Monday through Friday 1.40 per month.

*Pricing adjusted 5% annually.





**OPA REFUSE SCHEDULE
ASSOCIATION BLDGS
BID CALCULATION SHEET**

LOCATION	#	SIZE	WASTE TYPE	SERVICE PERIOD	TIMES PER WK	# MONTHS	TOTAL AMOUNT
WHITE HORSE PARK	1	1 X 8	REFUSE	05-01 TO 04-30	2	12	\$ 3,527.96
GOLF MAINTENANCE	2	1 X 8	REFUSE	05-01 TO 04-30	1	12	\$ 1,763.98
SPORTS CORE POOL	3	1 X 8	REFUSE	05-01 TO 04-30	1	12	\$ 1,763.98
SWIM / RACQ POOL	4	1 X 8	REFUSE	05-15 TO 09-15	1	4	\$ 587.99
GOLF CLUBHOUSE	5	1 X 8	REFUSE	5-01 TO 10-31	2	6	\$ 1,763.98
		1 X 8	REFUSE	11-01 TO 04-30	1	6	\$ 881.99
YACHT CLUB	6	1 X 8	REFUSE	5-01 TO 10-31	3	6	\$ 2,645.97
		1 X 8	REFUSE	5-01 TO 10-31	2	6	\$ 1,874.23
		1 X 8	REFUSE	11-01 TO 04-30	2	6	\$ 1,874.23
MARINA	7	1 X 4	REFUSE	5-01 TO 10-31	3	6	\$ 1,322.98
						TOTAL	\$ 18,522.66
PICKUP / HAUL			ROLL-OFFS				
PUBLIC WORKS	8	1 X 30	REFUSE	05-01 TO 04-30	ON CALL	HAUL CHARGE PER TON	\$ 300.00
							\$ 85.00
			OTHER				
COMMUNITY GARDENS	9	1 X 4	REFUSE	4-01 TO 10-31	1	7	\$ 515.27

Addendum 2

**OPA RECYCLING SCHEDULE
ASSOCIATION BLDGS
BID CALCULATION SHEET**

LOCATION	#	SIZE	WASTE TYPE	SERVICE PERIOD	TIMES PER WK	# MONTHS	TOTAL AMOUNT
WHITE HORSE PARK CAMPUS	1	1 X 8	REC	05-01 TO 04-30	1	12	<u>\$ 1,763.98</u>
GOLF MAINTENANCE	2	1 X 4	REC	05-01 TO 04-30	1	12	<u>\$ 881.99</u>
SPORTS CORE POOL	3	1 X 4	REC	05-01 TO 04-30	1	12	<u>\$ 937.11</u>
SWIM / RACQ POOL	4	1 X 4	REC	05-15 TO 09-15	1	4	<u>\$ 312.37</u>
GOLF CLUBHOUSE	5	1 X 4	REC	5-01 TO 4-30	1	12	<u>\$ 881.99</u>
YACHT CLUB	6	1 X 8	REC	5-01 TO 10-31	2	6	<u>\$ 1763.98</u>
		1 X 8	REC	11-01 TO 04-30	1	6	<u>\$ 881.98</u>
MARINA	7	1 X 4	REC	5-01 TO 10-31	1	6	<u>\$ 440.99</u>
PUBLIC WORKS	8	1 X 8	REC	05-01 TO 04-30	1	12	<u>\$ 1763.98</u>
TOTAL							<u><u>\$ 9628.39</u></u>