

Council Meeting of
May 11, 2010

Honorable Mayor and Members
of the Torrance City Council
City Hall
Torrance, California

Members of the Council:

SUBJECT: Public Works - Recommendation to approve Amendment to extend the existing Agreement for transfer station service with Allied Waste. Expenditure: Approximately \$2 Million Annually

RECOMMENDATION

Recommendation of the Public Works Director that City Council approve a Second Amendment to Agreement C2005-216 with Allied Waste Services of North America, LLC to provide transfer station services for the City's waste stream. All terms will remain the same. The Amendment will extend the term for an additional three years, with two additional one-year extension options and include an annual CPI adjustment with a 5% cap.

Funding

Funding is available in the Sanitation Enterprise and Public Works General Fund Operating budgets.

BACKGROUND/ANALYSIS

Securing transfer station services is a vital operational component for the Sanitation Division of the Public Works Department. As transporting our residential and municipal waste to landfills for proper disposal is cost prohibitive due to the distances involved, local transfer stations are a safe, legal and cost effective option.

Staff approached Allied Waste, our current transfer station provider, to extend our existing Agreement with the identical terms. Allied agreed, and also agreed to forgo the annual CPI increase this July, holding rates steady for another year. The next CPI rate adjustment would not occur until July, 2011. The extension would take affect on November 1, 2010, and would be the same terms as the existing Agreement: a term of three years with two one-year extension options and an annual CPI rate adjustment, with a 5% annual cap.

The last bid process was in August, 2005. Four bids were received, as follows:

<u>RATE PER TON</u>	<u>BFI</u>	<u>CONSOLIDATED</u>	<u>PHOENIX</u>	<u>WASTE MGMT</u>
Refuse	\$36.90	\$39.85	\$42.00	\$48.00
Green Waste	\$36.50	\$19.75	\$49.00	\$40.00
Street Sweeping	\$39.00	\$39.85	\$49.00	n/a
Construction/ Demolition	\$39.00	\$19.75	\$55.00	\$19.00

The bid from BFI was the lowest for refuse disposal, resulting in the lowest overall cost option for the City. Since the award date, BFI has lowered rates for green waste (now \$26/ton) and separated construction and demolition material (now \$22.43/ton) to the City's benefit. In addition, our green waste is now being used for more environmentally beneficial uses such as mulch in orchards and for erosion control instead of Alternative Daily Cover (ADC), which technically is placed in a landfill. Allied Waste acquired BFI, and an Amendment was processed for that name change. Allied Waste is owned by Republic, but also operates under its own name.

Even five years ago, the refuse rates at two of the competing stations were higher than our current rate. Historically, solid waste rates have not decreased, therefore stability in this area can be of benefit to the City. Rates for refuse disposal have been increasing due to the ongoing reduction of disposal capacity in the area, market instability, the economic downturn lowering waste generation, which lowers disposal revenue, and the eminent closing of largest disposal site in the waste shed, the Puente Hills Landfill, in 2013. Once that landfill is turned into a hub for waste to rail disposal out of the County, rates are projected to increase even more. Puente Hills rates increased by 15% last year alone. Other disposal options have already exceeded our current contracted rates. Additionally, green waste disposal options are averaging \$48 to \$52 per ton, whereas we are currently paying \$26 per ton.

Recent transfer station rate history for Torrance:

1999-02	\$29.00	Waste Management
2002-05	\$27.80	Waste Management
2005 (6mo)	\$35.75	Waste Management
2005	\$36.90	Allied Waste
2006	\$38.75	Allied Waste
2007	\$39.91	Allied Waste
2008	\$41.39	Allied Waste
2009	\$41.39	Allied Waste

Disposal costs are one of the largest expenses for the Sanitation Division at approximately \$2 million dollars annually. The disposal rates negotiated by the Sanitation Division affect other City department and divisions, including Parks, Street Operations and Streetscape.

It is likely that if we go out to bid, the bids we receive will be higher than what we are currently paying. By extending our Agreement with Allied Waste, the City will benefit by mitigating our disposal cost exposure. In addition, we are currently utilizing two Allied Waste transfer stations to maximize operational efficiencies; this reduces driving time, thus improving route productivity.

Staff believes it is in the best interests of the City to extend the existing Agreement with Allied Waste for transfer station services. This will secure rate stability for the next five years, providing cost containment for a large part of our operating expenses.

Respectfully submitted,

ROBERT J. BESTE
Public Works Director


By Matthew Knapp
Sanitation Services Manager

CONCUR:



Robert J. Beste
Public Works Director



LeRoy J. Jackson
City Manager

- Attachments: A. 2nd Amendment – C2005-216
B. Agreement C2005-216
C. 1st Amendment – C2005-216

SECOND AMENDMENT TO AGREEMENT (C2005-216)

This Second Amendment to Agreement C2005-216 is made and entered into as of _____, 2010, by and between the CITY OF TORRANCE ("CITY"), a Municipal Corporation, and ALLIED WASTE SERVICES OF NORTH AMERICA, LLC, a Delaware Corporation ("CONTRACTOR"), the successor in interest to BFI Waste Management Systems of North America. CONTRACTOR is a wholly-owned subsidiary of REPUBLIC SERVICES, INC.

RECITALS:

- A. CITY and CONTRACTOR entered into an Agreement on November 1, 2005 whereby CONTRACTOR agreed to provide transfer station services for the Torrance municipal waste stream.
- B. The Agreement was through November 1, 2008 with two automatic one-year extensions on the same terms and conditions unless CITY notifies the CONTRACTOR in writing of its decision not to extend at least 90 days prior to the end of the original term or 90 days prior to the end of the first one-year extension, if exercised.
- C. CITY and CONTRACTOR exercised the two automatic one-year extensions through November 1, 2010.
- D. CITY and CONTRACTOR amended the Agreement on February 26, 2008 in order to reflect the CONTRACTOR'S change in name and corporate status. BFI Waste Management Systems of North America reorganized as Allied Waste Services of North America, LLC, a Delaware Corporation.
- E. Both parties now wish to extend the term of the contract through November 1, 2013 with two one-year extensions.
- F. Both parties also wish to amend the compensation amount and CONTRACTOR'S contract representative.

AGREEMENT:

1. Paragraph 2, entitled "TERM" is amended to read in its entirety as follows:

"2. **TERM**

Unless earlier terminated in accordance with Paragraph 4 below, this Agreement will continue in full force and effect from the Effective Date through November 1, 2013 with two automatic one-year extensions unless CITY notifies the CONTRACTOR in writing of its decision not to extend at

least 90 days prior to the end of the original term or 90 days prior to the end of the first one-year extension, if exercised.”

2. Paragraph 3(A), entitled “COMPENSATION” is amended to read in its entirety as follows:

“3. **COMPENSATION**

A. **CONTRACTOR’s Fee.**

For services rendered pursuant to this Agreement, CONTRACTOR will be paid in accordance with CONTRACTOR’s Fee Schedule provided as Exhibit A-1 to the Second Amendment, however, that in no event will the total amount of money paid the CONTRACTOR, for services initially contemplated by this Agreement, exceed the sum of \$41.39/ton for refuse for the first year, and a CPI adjustment each July 1 thereafter (“Agreement Sum”), unless otherwise first approved in writing by CITY.”

3. Paragraph 8, entitled “CONTRACTOR REPRESENTATIVE(S)” is amended to read in its entirety as follows:

“8. **CONTRACTOR REPRESENTATIVE(S)**

The following principal(s) of CONTRACTOR are designated as being the principal(s) and representative(s) of CONTRACTOR authorized to act in its behalf with respect to the work specified in this Agreement and make all decisions in connection with this Agreement:

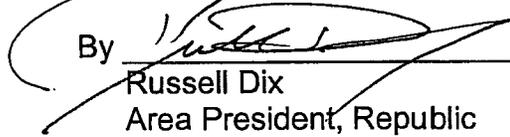
Kurt Bratton, Market Vice President of Republic Services”

4. The persons executing this Agreement on behalf of the CONTRACTOR warrant that (i) the CONTRACTOR is duly organized and existing; (ii) they are duly authorized to execute this Agreement on behalf of the CONTRACTOR; (iii) by so executing this Agreement, the CONTRACTOR is formally bound to the provisions of this Agreement; and (iv) the entering into this Agreement does not violate any provision of any other Agreement to which the CONTRACTOR is bound.
5. In all other respects, the Agreement entered into as of November 1, 2005 and First Amendment between CITY and CONTRACTOR is ratified and reaffirmed and is in full force and effect.

CITY OF TORRANCE,
A Municipal Corporation

ALLIED WASTE SERVICES
OF NORTH AMERICA, LLC
A Delaware Corporation

By _____
Frank Scotto
Mayor

By  _____
Russell Dix
Area President, Republic
Services

ATTEST:

By _____
Sue Herbers
City Clerk

APPROVED AS TO FORM:

JOHN L. FELLOWS III
City Attorney

By _____

Attachment: Exhibit A-1: Fee Schedule

EXHIBIT A-1
FEE SCHEDULE

<u>Material</u>	<u>Rate Per Ton</u>
Municipal Solid Waste	\$41.39
Construction and Demolition	\$39.41
Bulky Items	\$43.13
Yard Waste	\$26.00
Street Sweeping	\$39.41
Clean Dirt & Asphalt	\$22.42

AMENDMENT TO AGREEMENT

This Amendment to Agreement is made and entered into as of Feb. 26, 2008 by and between the CITY OF TORRANCE, a municipal corporation ("CITY") and Allied Waste Services of North America, LLC, a Delaware Corporation ("CONTRACTOR").

RECITALS:

- A. CITY and BFI Waste Management Systems of North America entered into an Agreement on November 1, 2005, whereby CONTRACTOR agreed to provide transfer stations for Torrance municipal waste stream.
- B. The original Agreement is effective through November 1, 2008.
- C. Contractor BFI Waste Management Systems of North America has reorganized as Allied Waste Services of North America, LLC, a Delaware Corporation.
- D. The CITY is satisfied with the level of service provided by CONTRACTOR and wishes to amend the agreement to reflect contractor's change in name and corporate status.

AGREEMENT:

- 1. The first sentence of the Agreement is amended to read as follows:

This CONTRACT SERVICES AGREEMENT ("Agreement") is made and entered into as of November 1, 2005, (the "Effective Date") by and between the CITY OF TORRANCE, a municipal corporation ("CITY"), and Allied Waste Services of North America, LLC, a Delaware Corporation ("CONTRACTOR"), the successor in interest to BFI Waste Management Systems of North America.

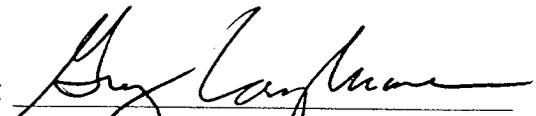
- 2. In all other respects, the Agreement dated November 1, 2005, between CITY and CONTRACTOR is ratified and reaffirmed and is in full force and effect.

CITY OF TORRANCE,

a Municipal corporation

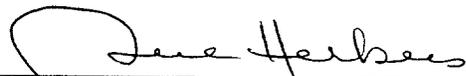

Frank Scott, Mayor

Allied Waste Services of
North America, LLC
a Delaware Corporation

By: 
MARK Vice President

C2005-216

ATTEST:



Sue Herbers, City Clerk

APPROVED AS TO FORM:

JOHN L. FELLOWS III

City Attorney

By:  _____

CITY OF TORRANCE
08 MAY 13 PM 1:03
FINANCE DEPT.

CONTRACT SERVICES AGREEMENT

This CONTRACT SERVICES AGREEMENT ("Agreement") is made and entered into as of November 1, 2005 (the "Effective Date"), by and between the CITY OF TORRANCE, a municipal corporation ("CITY"), and BFI Waste Systems of North America, a California Company ("CONTRACTOR").

RECITALS:

- A. CITY wishes to retain the services of an experienced and qualified CONTRACTOR to provide transfer station services for the Torrance municipal waste stream.
- B. In order to obtain the desired services, the CITY has circulated a Notice Inviting Bids ("NIB") for transfer station services.
- C. CONTRACTOR has submitted a Bid (the "Bid") in response to the NIB. CONTRACTOR represents that it is qualified to perform those services requested in the Specifications. Based upon its review of all Bids submitted in response to the NIB, the CITY is willing to award the Agreement to CONTRACTOR.

AGREEMENT:

1. **SERVICES TO BE PERFORMED BY CONTRACTOR**
CONTRACTOR will provide the services listed in the Specifications and Bid. CONTRACTOR warrants that all work will be performed in a competent, professional and satisfactory manner. The NIB and Specifications are made a part of this Agreement. A copy of the Bid is attached as Exhibit A.
2. **TERM**
Unless earlier terminated in accordance with Paragraph 4 below, this Agreement will continue in full force and effect from the Effective Date through November 1, 2008. This Agreement will extend automatically for two one-year extensions on the same terms and conditions unless the CITY notifies the CONTRACTOR in writing of its decision not to extend at least 90 days prior to the end of the original Term or 90 days prior to the end of the first one-year extension if exercised.
3. **COMPENSATION**
 - A. CONTRACTOR's Fee.

For services rendered pursuant to this Agreement, CONTRACTOR will be paid in accordance with CONTRACTOR's Bid provided, however, that in no event will the total amount of money paid the CONTRACTOR, for services initially contemplated by this Agreement, exceed the sum of

\$36.90/ton for the first year, and a CPI adjustment each July 1 thereafter ("Agreement Sum"), unless otherwise first approved in writing by CITY.

B. CPI Adjustment.

The CPI adjustment will be based on the Consumer Price Index ("CPI"), all items for Urban Wage Earners and Clerical Workers for the Los Angeles, Anaheim, Riverside, published by the United States Bureau of Labor Statistics, Department of Labor 1982-84=100. The CONTRACTOR'S rates will be adjusted in a percentage amount equal to the change in the CPI-W between the index published in May the adjustment year and the index published in May prior year (one year prior to the adjustment year). The adjusted amount will be rounded to the nearest cent. The CONTRACTOR'S rates will be adjusted every July per May CPI-W, but no single increase can exceed 5%. If there is no CPI increase or there is a decrease, the CONTRACTOR'S rates will not be changed.

C. Schedule of Payment.

Provided that the CONTRACTOR is not in default under the terms of this Agreement, upon presentation of an invoice, CONTRACTOR will be paid the fees described in Paragraphs 3.A. and 3.B. Payment will be due within 30 days after the date of the invoice.

4. **TERMINATION OF AGREEMENT**

A. Termination by CITY for Convenience.

1. CITY may, at any time, terminate the Agreement for CITY's convenience and without cause.
2. Upon receipt of written notice from CITY of such termination for CITY's convenience, CONTRACTOR will:
 - a. cease operations as directed by CITY in the notice;
 - b. take actions necessary, or that CITY may direct, for the protection and preservation of the work; and
 - c. except for work directed to be performed prior to the effective date of termination stated in the notice, terminate all existing subcontracts and purchase orders and enter into no further subcontracts and purchase orders.
3. In case of such termination for CITY's convenience, CONTRACTOR will be entitled to receive payment for work executed; and costs incurred by reason of such termination, along with reasonable overhead and profit on the work not executed.

B. Termination for Cause.

1. If either party fails to perform any term, covenant or condition in this Agreement and that failure continues for 15 calendar days after the nondefaulting party gives the defaulting party written notice of the failure to perform, this Agreement may be terminated for cause; provided, however, that if during the notice period the defaulting party has promptly commenced and continues diligent efforts to remedy the default, the defaulting party will have such additional time as is reasonably necessary to remedy the default.
2. In the event this Agreement is terminated for cause by the default of the CONTRACTOR, the CITY may, at the expense of the CONTRACTOR and its surety, complete this Agreement or cause it to be completed. Any check or bond delivered to the CITY in connection with this Agreement, and the money payable thereon, will be forfeited to and remain the property of the CITY. All moneys due the CONTRACTOR under the terms of this Agreement will be retained by the CITY, but the retention will not release the CONTRACTOR and its surety from liability for the default. Under these circumstances, however, the CONTRACTOR and its surety will be credited with the amount of money retained, toward any amount by which the cost of completion exceeds the Agreement Sum and any amount authorized for extra services.
3. Termination for cause will not affect or terminate any of the rights of the CITY as against the CONTRACTOR or its surety then existing, or which may thereafter accrue because of the default; this provision is in addition to all other rights and remedies available to the CITY under law.

C. Termination for Breach of Law.

In the event the CONTRACTOR or any of its officers, directors, shareholders, employees, agents, subsidiaries or affiliates is convicted (i) of a criminal offense as an incident to obtaining or attempting to obtain a public or private contract or subcontract, or in the performance of a contract or subcontract; (ii) under state or federal statutes of embezzlement, theft, forgery, bribery, falsification or destruction of records, receiving stolen property, or any other offense indicating a lack of business integrity or business honesty which currently, seriously, and directly affects responsibility as a public consultant or contractor; (iii) under state or federal antitrust statutes arising out of the submission of bids or proposals; or (iv) of violation of Paragraph 19 of this Agreement; or for any other cause the CITY determines to be so serious and compelling as to affect CONTRACTOR's responsibility as a public consultant or contractor, including but not limited to, debarment by another governmental agency, then the CITY reserves the unilateral right to

terminate this Agreement or to impose such other sanctions (which may include financial sanctions, temporary suspensions or any other condition deemed appropriate short of termination) as it deems proper. The CITY will not take action until CONTRACTOR has been given notice and an opportunity to present evidence in mitigation.

5. **FORCE MAJEURE**

If any party fails to perform its obligations because of strikes, lockouts, labor disputes, embargoes, acts of God, inability to obtain labor or materials or reasonable substitutes for labor or materials, governmental restrictions, governmental regulations, governmental control, judicial orders, enemy or hostile governmental action, civil commotion, fire or other casualty, or other causes beyond the reasonable control of the party obligated to perform, then that party's performance shall be excused for a period equal to the period of such cause for failure to perform.

6. **RETENTION OF FUNDS**

CONTRACTOR authorizes CITY to deduct from any amount payable to CONTRACTOR (whether or not arising out of this Agreement) any amounts the payment of which may be in dispute or that are necessary to compensate CITY for any losses, costs, liabilities, or damages suffered by CITY, and all amounts for which CITY may be liable to third parties, by reason of CONTRACTOR's acts or omissions in performing or failing to perform CONTRACTOR's obligations under this Agreement. In the event that any claim is made by a third party, the amount or validity of which is disputed by CONTRACTOR, or any indebtedness exists that appears to be the basis for a claim of lien, CITY may withhold from any payment due, without liability for interest because of the withholding, an amount sufficient to cover the claim. The failure of CITY to exercise the right to deduct or to withhold will not, however, affect the obligations of CONTRACTOR to insure, indemnify, and protect CITY as elsewhere provided in this Agreement.

7. **CITY REPRESENTATIVE**

The Public Works Director or their designee is designated as the "City Representative," authorized to act in its behalf with respect to the work and services specified in this Agreement and to make all decisions in connection with this Agreement. Whenever approval, directions, or other actions are required by CITY under this Agreement, those actions will be taken by the City Representative, unless otherwise stated. The City Manager has the right to designate another City Representative at any time, by providing notice to CONTRACTOR.

8. **CONTRACTOR REPRESENTATIVE(S)**

The following principal(s) of CONTRACTOR are designated as being the principal(s) and representative(s) of CONTRACTOR authorized to act in its behalf with respect to the work specified in this Agreement and make all decisions in connection with this Agreement:

Greg Loughnane, District Manager

9. **INDEPENDENT CONTRACTOR**

The CONTRACTOR is, and at all times will remain as to CITY, a wholly independent contractor. Neither CITY nor any of its agents will have control over the conduct of the CONTRACTOR or any of the CONTRACTOR's employees, except as otherwise set forth in this Agreement. The CONTRACTOR may not, at any time or in any manner, represent that it or any of its agents or employees are in any manner agents or employees of CITY.

10. **BUSINESS LICENSE**

The CONTRACTOR must obtain a City business license prior to the start of work under this Agreement, unless CONTRACTOR is qualified for an exemption.

11. **OTHER LICENSES AND PERMITS**

CONTRACTOR warrants that it has all professional, contracting and other permits and licenses required to undertake the work contemplated by this Agreement.

12. **FAMILIARITY WITH WORK**

By executing this Agreement, CONTRACTOR warrants that CONTRACTOR (a) has thoroughly investigated and considered the scope of services to be performed, (b) has carefully considered how the services should be performed, and (c) fully understands the facilities, difficulties and restrictions attending performance of the services under this Agreement. If the services involve work upon any site, CONTRACTOR warrants that CONTRACTOR has or will investigate the site and is or will be fully acquainted with the conditions there existing, prior to commencement of services set forth in this Agreement. Should CONTRACTOR discover any latent or unknown conditions that will materially affect the performance of the services set forth in this Agreement, CONTRACTOR must immediately inform CITY of that fact and may not proceed except at CONTRACTOR's risk until written instructions are received from CITY.

13. **CARE OF WORK**

CONTRACTOR must adopt reasonable methods during the term of the Agreement to furnish continuous protection to the work, and the equipment, materials, papers, documents, plans, studies and other components to prevent losses or damages, and will be responsible for all damages, to persons or property, until acceptance of the work by CITY, except those losses or damages as may be caused by CITY's own negligence.

14. **CONTRACTOR'S ACCOUNTING RECORDS; OTHER PROJECT RECORDS**

Records of the CONTRACTOR's time pertaining to the project, and records of accounts between CITY and the CONTRACTOR, will be kept on a generally recognized accounting basis. CONTRACTOR will also maintain all other records, including without limitation specifications, drawings, progress reports and the like, relating to the project. All records will be available to CITY during normal working hours. CONTRACTOR will maintain these records for three years after final payment.

15. **INDEMNIFICATION**

CONTRACTOR will indemnify, defend, and hold harmless CITY, the City Council, each member thereof, present and future, its officers, agents and employees from and against any and all liability, expenses, including defense costs and legal fees, and claims for damages whatsoever, including, but not limited to, those arising from breach of contract, bodily injury, death, personal injury, property damage, loss of use, or property loss however the same may be caused and regardless of the responsibility for negligence. The obligation to indemnify, defend and hold harmless includes, but is not limited to, any liability or expense, including defense costs and legal fees, arising from the negligent acts or omissions, or willful misconduct of CONTRACTOR, its officers, employees, agents, subcontractors or vendors. It is further agreed, CONTRACTOR's obligations to indemnify, defend and hold harmless will apply even in the event of concurrent negligence on the part of CITY, the City Council, each member thereof, present and future, or its officers, agents and employees, except for liability resulting solely from the negligence or willful misconduct of CITY, its officers, employees or agents. Payment by CITY is not a condition precedent to enforcement of this indemnity. In the event of any dispute between CONTRACTOR and CITY, as to whether liability arises from the sole negligence of the CITY or its officers, employees, agents, subcontractors or vendors, CONTRACTOR will be obligated to pay for CITY's defense until such time as a final judgment has been entered adjudicating the CITY as solely negligent. CONTRACTOR will not be entitled in the event of such a determination to any reimbursement of defense costs including but not limited to attorney's fees, expert fees and costs of litigation.

16. **NON-LIABILITY OF CITY OFFICERS AND EMPLOYEES**

No officer or employee of CITY will be personally liable to CONTRACTOR, in the event of any default or breach by the CITY or for any amount that may become due to CONTRACTOR.

17. **INSURANCE**

A. CONTRACTOR and its subcontractors must maintain at its sole expense the following insurance, which will be full coverage not subject to self insurance provisions:

1. Automobile Liability, including owned, non-owned and hired vehicles, with at least the following limits of liability:

- a. Primary Bodily Injury with limits of at least \$500,000 per person, \$500,000 per occurrence; and
 - b. Primary Property Damage of at least \$250,000 per occurrence; or
 - c. Combined single limits of \$1,000,000 per occurrence.
- 2. General Liability including coverage for premises, products and completed operations, independent contractors/vendors, personal injury and contractual obligations with combined single limits of coverage of at least \$1,000,000 per occurrence.
 - 3. Workers' Compensation with limits as required by the State of California and Employer's Liability with limits of at least \$1,000,000.
- B. The insurance provided by CONTRACTOR will be primary and non-contributory.
 - C. CITY, the City Council and each member thereof, members of boards and commissions, every officer, agent, official, employee and volunteer must be named as additional insured under the automobile and general liability policies.
 - D. CONTRACTOR must provide certificates of insurance and/or endorsements indicating appropriate coverage, to the City Clerk of the City of Torrance before the commencement of work.
 - E. Each insurance policy required by this Paragraph must contain a provision that no termination, cancellation or change of coverage can be made without thirty days notice to CITY.

18. SUFFICIENCY OF INSURERS

Insurance required by this Agreement will be satisfactory only if issued by companies admitted to do business in California, rated "B+" or better in the most recent edition of Best's Key Rating Guide, and only if they are of a financial category Class VII or better, unless these requirements are waived by the Risk Manager of CITY ("Risk Manager") due to unique circumstances. In the event the Risk Manager determines that the work or services to be performed under this Agreement creates an increased or decreased risk of loss to CITY, the CONTRACTOR agrees that the minimum limits of any insurance policies or performance bonds required by this Agreement may be changed accordingly upon receipt of written notice from the Risk Manager; provided that CONTRACTOR will have the right to appeal a determination of increased coverage by the Risk Manager to the City Council of CITY within 10 days of receipt of notice from the Risk Manager.

19. CONFLICT OF INTEREST

- A. No officer or employee of the CITY may have any financial interest, direct or indirect, in this Agreement, nor may any officer or employee participate in any decision relating to the Agreement that effects the officer or employee's financial interest or the financial interest of any corporation, partnership or association in which the officer or employee is, directly or indirectly interested, in violation of any law, rule or regulation.
- B. No person may offer, give, or agree to give any officer or employee or former officer or employee, nor may any officer or employee solicit, demand, accept, or agree to accept from another person, a gratuity or an offer of employment in connection with any decision, approval, disapproval, recommendation, preparation or any part of a program requirement or a purchase request, influencing the content of any specification or procurement standard, rendering of advice, investigation, auditing, or in any other advisory capacity in any way pertaining to any program requirement, contract or subcontract, or to any solicitation or proposal.

20. NOTICE

- A. All notices, requests, demands, or other communications under this Agreement will be in writing. Notice will be sufficiently given for all purposes as follows:
1. Personal delivery. When personally delivered to the recipient: notice is effective on delivery.
 2. First Class mail. When mailed first class to the last address of the recipient known to the party giving notice: notice is effective three mail delivery days after deposit in an United States Postal Service office or mailbox.
 3. Certified mail. When mailed certified mail, return receipt requested: notice is effective on receipt, if delivery is confirmed by a return receipt.
 4. Overnight delivery. When delivered by an overnight delivery service, charges prepaid or charged to the sender's account: notice is effective on delivery, if delivery is confirmed by the delivery service.
 5. Facsimile transmission. When sent by fax to the last fax number of the recipient known to the party giving notice: notice is effective on receipt. Any notice given by fax will be deemed received on the next business day if it is received after 5:00 p.m. (recipient's time) or on a non-business day.
 6. Addresses for purpose of giving notice are as follows:

CONTRACTOR BFI Waste Systems of North
America
14905 S. San Pedro Street
Gardena, CA 90248

Fax: (818) 504-3009

CITY: City Clerk
City of Torrance
3031 Torrance Boulevard
Torrance, CA 90509-2970
Fax: (310) 618-2931

- B. Any correctly addressed notice that is refused, unclaimed, or undeliverable because of an act or omission of the party to be notified, will be deemed effective as of the first date the notice was refused, unclaimed or deemed undeliverable by the postal authorities, messenger or overnight delivery service.
- C. Either party may change its address or fax number by giving the other party notice of the change in any manner permitted by this Agreement.

21. PROHIBITION AGAINST ASSIGNMENT AND SUBCONTRACTING

This Agreement and all exhibits are binding on the heirs, successors, and assigns of the parties. The Agreement may not be assigned or subcontracted by either CITY or CONTRACTOR without the prior written consent of the other.

22. INTEGRATION; AMENDMENT

This Agreement represents the entire understanding of CITY and CONTRACTOR as to those matters contained in it. No prior oral or written understanding will be of any force or effect with respect to the terms of this Agreement. The Agreement may not be modified or altered except in writing signed by both parties.

23. INTERPRETATION

The terms of this Agreement should be construed in accordance with the meaning of the language used and should not be construed for or against either party by reason of the authorship of this Agreement or any other rule of construction that might otherwise apply.

24. **SEVERABILITY**
If any part of this Agreement is found to be in conflict with applicable laws, that part will be inoperative, null and void insofar as it is in conflict with any applicable laws, but the remainder of the Agreement will remain in full force and effect.
25. **TIME OF ESSENCE**
Time is of the essence in the performance of this Agreement.
26. **GOVERNING LAW; JURISDICTION**
This Agreement will be administered and interpreted under the laws of the State of California. Jurisdiction of any litigation arising from the Agreement will be in Los Angeles County, California.
27. **COMPLIANCE WITH STATUTES AND REGULATIONS**
CONTRACTOR will be knowledgeable of and will comply with all applicable federal, state, county and city statutes, rules, regulations, ordinances and orders.
28. **WAIVER OF BREACH**
No delay or omission in the exercise of any right or remedy by a nondefaulting party on any default will impair the right or remedy or be construed as a waiver. A party's consent or approval of any act by the other party requiring the party's consent or approval will not be deemed to waive or render unnecessary the other party's consent to or approval of any subsequent act. Any waiver by either party of any default must be in writing and will not be a waiver of any other default concerning the same or any other provision of this Agreement.
29. **ATTORNEY'S FEES**
Except as provided for in Paragraph 15, in any dispute, litigation, arbitration, or other proceeding by which one party either seeks to enforce its rights under this Agreement (whether in contract, tort or both) or seeks a declaration of any rights or obligations under this Agreement, the prevailing party will be awarded reasonable attorney's fees, together with any costs and expenses, to resolve the dispute and to enforce any judgment.
30. **EXHIBITS**
All exhibits identified in this Agreement are incorporated into the Agreement by this reference.

31. CONTRACTOR'S AUTHORITY TO EXECUTE

The persons executing this Agreement on behalf of the CONTRACTOR warrant that (i) the CONTRACTOR is duly organized and existing; (ii) they are duly authorized to execute this Agreement on behalf of the CONTRACTOR; (iii) by so executing this Agreement, the CONTRACTOR is formally bound to the provisions of this Agreement; and (iv) the entering into this Agreement does not violate any provision of any other Agreement to which the CONTRACTOR is bound.

CITY OF TORRANCE
a Municipal Corporation



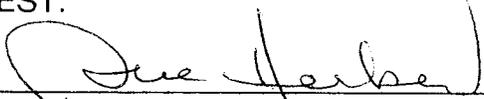
Dan Walker, Mayor

BFI Waste Systems of North America
a California Company

By: 

Greg Loughnane
District Manager

ATTEST:



Sue Herbers
City Clerk

APPROVED AS TO FORM:
JOHN L. FELLOWS III
City Attorney

By: 

Attachments: Exhibit A Bid

Revised: 1/30/01

EXHIBIT A

Bid

CITY OF TORRANCE
3031 Torrance Blvd.
Torrance, CA 90503

BID NO. B2005- 47

Bid to Provide Transfer Station Services

SECTION III BID PROPOSAL

FAILURE TO COMPLETE ALL ITEMS IN THIS SECTION MAY INVALIDATE BID.

In accordance with your "Invitation to Bid", the following bid proposal is submitted to the City of Torrance.

Bid Proposal Submitted By:

BFI WASTE SYSTEMS OF NORTH AMERICA, INC.
Name of Company

14905 South Son Pedro St.
Address

GARDENA, CA 90248
City/State/Zip Code

GREG LOUGHANE / DISTRICT MANAGER
Printed Name/Title

(818) 504 3077 / (818) 504 - 3089
Telephone Number/Fax Number

Form of Business Organization:

Please indicate the following (check one);

Corporation Partnership _____ Sole Proprietorship _____

Other: _____

Business History:

How long have you been in business under your current name and form of business organization?

30 plus Years

If less than three (3) years and your company was in business under a different name, what was that name?

Contact for Additional Information:

Please provide the name of the individual at your company to contact for any additional information

GREG LOUGHANE

Name

DISTRICT MANAGER

Title

818 504 3077 / 818 504 3089

Telephone Number/Fax Number

Addenda Received:

Please indicate addenda information you have received regarding this bid:

Addendum No. _____	Date Received: _____
Addendum No. _____	Date Received: _____
Addendum No. _____	Date Received: _____
Addendum No. _____	Date Received: _____

No Addenda received regarding this bid.

Payment Terms:

What are your discounted invoice terms? NONE

Renewal Option:

Please state, if requested by the City, if your company would agree to renewals of this contract, with terms and conditions unchanged.

Yes _____ We would agree to renewals with terms and conditions unchanged.

No We would not be interested in renewing this contract.

ANNUAL CPI FOR TWO, 1 YEAR OPTION YEARS OK.

References:

Please supply the names of companies/agencies for whom you recently supplied comparable goods as requested in this bid.

<u>CITY OF LONG BEACH</u>	<u>2929 E. Willow St., Long Beach 90806</u>	<u>JIM KUAL 5625702850</u>
Name of Company/Agency	Address	Person to contact/Telephone No.

_____	_____	_____
Name of Company/Agency	Address	Person to contact/Telephone No.

_____	_____	_____
Name of Company/Agency	Address	Person to contact/Telephone No.

Contractor's Information:

Contractor's License Number: 04002693 Expiration date: 6/30/06
CITY OF COMPTON

Sub Contractor's Information:

If subcontractor(s) is to be used in the performance of this project, please provide the following information:

1. Company Name:

Address: _____

Contractor's License Number: _____ Expiration date: _____

2. Company Name:

Address: _____

Contractor's License Number: _____ Expiration date: _____

3. Company Name:

Address: _____

Contractor's License Number: _____ Expiration date: _____

Charges:

Refuse disposal charge (tipping fee):

Thirty six dollars and ninety cents
(write out in words)

\$ 36.90 (per ton)
(figure)

Green Waste disposal charge:

Twenty nine dollars —
(write out in words)

\$ 29⁰⁰ (per ton)
(figure)

Street Sweepings disposal charge:

Thirty six dollars and ninety cents
(write out in words)

\$ 36⁹⁰ (per ton)
(figure)

Construction and Demolition materials disposal charge

Thirty six dollars and ninety cents
(write out in words)

\$ 36⁹⁰ (per ton)
(figure)

Composting/Diversion Charges:

Green Waste

Thirty six dollars and fifty cents
(write out in words)

\$ 36.50 (per ton)
(figure)

Composting/Diversion Charges:

Street Sweepings

Thirty nine dollars
(write out in words)

\$ 39⁰⁰ (per ton)
(figure)

Diversion Charges:

Construction and Demolition materials:

Thirty nine dollars
(write out/in words)

\$ 39⁰⁰ (per ton)
(figure)

(If not per ton, indicate other measure)

Additional charges (please specify)

Bidder shall complete each item with either a check mark to indicate that the item being bid is exactly as specified, or enter a description in the bidder's comments column to indicate any deviation from the specifications of the item being bid.

ITEM SPECIFICATION COLUMN	BIDDER'S COMMENTS COLUMN
<p>Successful Bidder must provide for the term of the agreement and any extension or renewal thereof, at least one facility consisting of land, buildings, machinery and personnel, wherein the City may deliver and unload refuse, as defined and from which Contractor/Operator will handle and properly dispose of said refuse in a safe, sane, legal and permanent manner. Said facility will be open and available for delivery for refuse by the City during all hours and days of City refuse collection operations: Monday through Friday, 7:00 a.m. to 5:30 p.m. except City holidays and when collection occurs on the Friday of the same week in which the holiday occurs.</p>	<p><i>BEE OFFERS TWO (2) FACILITIES:</i></p> <p><i>(1) FALCON PROCESSING AND TRANSFER STATION 3031 E. "I" STREET WILMINGTON, CO 90744</i></p> <p><i>(2) COMPTON TRANSFER STATION 2509 W. ROSECRANS AVE. LOS ANGELES, CA 90059</i></p>
<p>Successful Bidder must provide all equipment, both fixed and portable, together with all necessary tools, spare parts, maintenance, upkeep, repairs or modifications in order to keep the said facility operating, so as to fulfill the requirements of the agreement.</p>	<p><i>✓ OK</i></p>
<p>Successful Bidder's facility must be available to accommodate visitors from the Torrance community to the facility from time to time, and will include instructional tours during normal operation hours if given a minimum of one (1) week notice. Successful Bidder must make arrangements for a suitable place for viewing and will make available any safety equipment or apparel which may reasonably be required to accommodate visitors to the facility from time to time.</p>	<p><i>✓ OK</i></p>
<p>Prior to the commencement of refuse deliveries by the City, Successful Bidder will prepare, in consultation with the City, a written contingency plan(s) satisfactory to the City, for the disposal of the City's refuse for short periods of time, should Successful Bidder's facility(ies) become unavailable for refuse disposal for any reason during the term of the agreement or in the event of a strike or work stoppage by City employees.</p>	<p><i>BEE HAS TWO FACILITIES WITHIN PROXIMITY TO THE CITY. ONE CAN BE USED AS BACK-UP.</i></p>
<p>It is preferable that the Successful Bidder's facility be located within a 15-mile radius of Torrance City Hall. The City will consider mileage and other related expenses as an added cost to Successful Bidder's proposal.</p>	<p><i>BOTH WITHIN 15 MILES</i></p>

Successful Bidder must provide a driver stand-by time of no longer than 15 minutes (actual time taken for unloading of City trucks after arrival at Successful Bidder's facility)	✓
The City may offer residents of the City, as needed, "clean-up" days to dispose of hard-to-handle items. Successful Bidder must accept such items at the usual disposal rate as provided in the proposal. White goods will be handled in accordance with all State and Local regulations.	✓ OK
Successful Bidder must provide a diversion guarantee diversion of no less than 50% of all bulky item materials delivered by the City to the facility. The Successful Bidder must also provide a diversion guarantee of no less than 10% of all other material (minus bulky items) delivered by the City to the facility. Documented evidence of all diversion activity must be provided to the City for State reporting purposes, in the monthly summary report referenced below.	BFI REQUESTS THAT C&D, GREENWASTE, STREET SWEEPINGS BE SENT TO THE FALCON TRANSFER STATION FOR PROCESSING.
Successful Bidder must furnish a monthly summary report which lists total City refuse tonnage handled over the calendar month. The monthly report will be mailed to the City prior to the tenth (10th) day of the following month. Summary statement will be mailed together with validated tickets for each load handled.	✓ OK
Successful Bidder must provide in the above mentioned monthly summary report information on any additional tonnage that is recycled or diverted from the waste delivered by the City of Torrance.	✓ OK
Successful Bidder must provide demonstrated evidence of ability that their facility can adequately handle and process a minimum of 300 tons per day.	✓ OK
Successful Bidder must provide the City, as an optional service for the City, with costs for the diversion and/or composting of separated green waste and street sweeping materials delivered by the City of Torrance.	✓ OK
Successful Bidder must provide the City, as an optional service for the City, with cost for the diversion and/or disposal of construction and demolition materials delivered by the City of Torrance.	✓ OK - Falcon

Successful Bidder will allow the City to take test loads to other facilities for cost and services comparisons two times a year, for one month at a time.	✓ OK
The terms and conditions of this agreement will apply to all Torrance residents.	✓ OK
Successful bidder will take under consideration that a Consumer Price Index (CPI) adjustment will take place each July 1 of the contract term.	✓ OK

STATE OF CALIFORNIA

BIDDER'S AFFIDAVIT

COUNTY OF LOS ANGELES

GREG LUGHRANE being first duly sworn, deposes and says:

That he/she is the DISTRICT MANAGER of BFE WASTE SYSTEMS OF N.A. INC
(Title of Office) (Name of Company)

hereinafter called "Bidder", who has submitted to the City of Torrance a bid for

"BID FOR TRANSFER STATION SERVICES, B 2005-47"
(Title of BID)

- . That the bid is genuine; that the same is not sham; that all statements of fact in the bid are true;
- . That the bid was not made in the interest or behalf of any person, partnership, company, association, organization or corporation not named or disclosed;
- . That the Bidder did not, directly or indirectly, induce solicit or agree with anyone else to submit a false or sham bid, to refrain from proposing, or to withdraw his bid, to raise or fix the bid price of the Bidder or of anyone else, or to raise or fix any overhead, profit or cost element of the Bidder's price or the price of anyone else; and did not attempt to induce action prejudicial to the interest of the City of Torrance, or of any other Bidder, or anyone else interested in the proposed purchase order;
- . That the Bidder has not in any other manner sought by collusion to secure for itself an advantage over any other Bidder or to induce action prejudicial to the interests of the City of Torrance, or of any other Bidder or of anyone else interested in the proposed purchase order;
- . That the Bidder has not accepted any bid from any subpurchase order or materialman through any bid depository, the bylaws, rules or regulations of which prohibit or prevent the Bidder from considering any bid from any subpurchase order or materialman, which is not processed through that bid depository, or which prevent any subpurchase order or materialman from proposing to any purchase order or who does not use the facilities of or accept bids from or through such bid depository;
- . That the Bidder did not, directly or indirectly, submit the Bidder's bid price or any breakdown thereof, or the contents thereof, or divulge information or data relative thereto, to any corporation, partnership, company, association, organization, bid depository, or to any member or agent thereof, or to any individual or group of individuals, except to the City of Torrance, or to any person or persons who have a partnership or other financial interest with said Bidder in its business.
- . That the Bidder has not been debarred from participation in any state, federal or public works project.

Dated this 14 day of September, 2005

[Signature]
(Bidder Signature)

DISTRICT MANAGER
(Title)

AMENDMENT TO AGREEMENT

This Amendment to Agreement is made and entered into as of Feb. 26, 2008 by and between the CITY OF TORRANCE, a municipal corporation ("CITY") and Allied Waste Services of North America, LLC, a Delaware Corporation ("CONTRACTOR").

RECITALS:

- A. CITY and BFI Waste Management Systems of North America entered into an Agreement on November 1, 2005, whereby CONTRACTOR agreed to provide transfer stations for Torrance municipal waste stream.
- B. The original Agreement is effective through November 1, 2008.
- C. Contractor BFI Waste Management Systems of North America has reorganized as Allied Waste Services of North America, LLC, a Delaware Corporation.
- D. The CITY is satisfied with the level of service provided by CONTRACTOR and wishes to amend the agreement to reflect contractor's change in name and corporate status.

AGREEMENT:

- 1. The first sentence of the Agreement is amended to read as follows:

This CONTRACT SERVICES AGREEMENT ("Agreement") is made and entered into as of November 1, 2005, (the "Effective Date") by and between the CITY OF TORRANCE, a municipal corporation ("CITY"), and Allied Waste Services of North America, LLC, a Delaware Corporation ("CONTRACTOR"), the successor in interest to BFI Waste Management Systems of North America.

- 2. In all other respects, the Agreement dated November 1, 2005, between CITY and CONTRACTOR is ratified and reaffirmed and is in full force and effect.

CITY OF TORRANCE,
a Municipal corporation

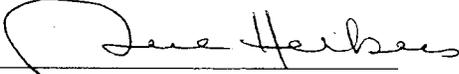

Frank Scotto, Mayor

Allied Waste Services of
North America, LLC
a Delaware Corporation

By: 
MARKET Vice President

C2005-216

ATTEST:

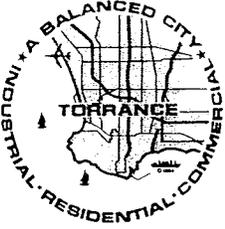


Sue Herbers, City Clerk

APPROVED AS TO FORM:

JOHN L. FELLOWS III
City Attorney

By:  _____



CITY OF TORRANCE

RECEIVED

JAN 11 2006

Public Works Department

PUBLIC WORKS DEPARTMENT
ROBERT BESTE
PUBLIC WORKS DIRECTOR

December 22, 2005

Greg Loughnane
Browning-Ferris Industries
14905 S. San Pedro
Gardena, CA 90247

REC'D CITY CLERK
2006 JAN 13 PM 4: 24
CITY OF TORRANCE

Dear Mr. Loughnane:

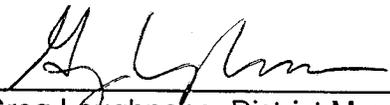
The City of Torrance greatly appreciates your offer to reduce the diversion rates for green waste, street sweepings and construction and demolition materials to encourage and promote recycling.

To clarify, the following rates will be in effect:

- **For recycling of green waste - \$29.00 per ton**
- **For recycling of street sweepings - \$36.90 per ton** (Recycling of street sweepings will be at your discretion, if materials are too contaminated, they will be disposed at the same rate.)
- **For recycling of construction/demolition materials - \$ 21.00 per ton** (This rate is for clean inerts such as concrete or asphalt without rebar. Other C/D materials may be recycled, but will be charged at the regular disposal rate.)

As in our contractual agreement, all rates will be subject to an annual CPI adjustment. All materials recycled by your facility will be indicated by type and tonnage in your monthly summary reports to the City.

If you concur with this information, please return this letter with your signature as indicated below:



Greg Loughnane, District Manager
BFI Waste Systems of North America

January 9, 2006
Date

Again, our sincere thanks for your support of the City's recycling efforts. We look forward to a successful and mutually beneficial partnership.

Sincerely,



Robert J. Beste
Public Works Director

ORIGINAL

C2005-216