

AMENDMENT NUMBER TWO TO SERVICE AGREEMENT

THIS AMENDMENT NUMBER TWO TO SERVICE AGREEMENT (this “Amendment”) is made and entered into as of _____, 2020, by and between Covanta Projects, LLC, a Delaware limited liability company, having its principal place of business at 445 South Street Morristown, New Jersey 07960 (“Contractor”) and Pinellas County, Florida, a political subdivision of the State of Florida, acting by and through its Board of County Commissioners (the “County”). Contractor and the County are referred to herein, individually, as a “Party” and, collectively, as the “Parties.” Capitalized terms used in this Amendment but not defined herein shall have the meaning assigned to such terms in the Service Agreement (as defined below).

RECITALS

WHEREAS, the Waste to Energy (WTE) Operations and Maintenance Contract (Service Agreement) was awarded to Contractor on November 3, 2014 (RFP NO. 134-0171-P (LN)).

WHEREAS, on March 21, 2017, Schedule A of the Service Agreement was amended to define the Technical Recovery Plan (TRP) major repair and replacement projects list and estimated project costs totaling \$243,357,899.

WHEREAS, Schedule 19, Section 3.2 of the Service Agreement stipulates the replacement of superheater, evaporator, and economizer sections of boiler and water walls after the Initial Operating Period that may be subject to stress cracking or waterside corrosion are the responsibility of County.

WHEREAS, the Contractor has identified nine (9) additional water wall projects that have been inspected to determine the existence of waterside corrosion, which total \$11,332,487, inclusive of contingency and mark-up.

WHEREAS, Amendment 1 of the Service Agreement includes a requirement for Board of County Commissioners approval for any TRP expenditures exceeding \$243,357,899.

WHEREAS, TRP projects completed and/or obligated to be completed total \$231,341,791, inclusive of contingency and mark-up.

WHEREAS, the balance of the TRP Projects remaining is estimated to be \$12,016,108, including contingency and mark-up.

NOW, THEREFORE, in consideration of the mutual promises and covenants of the Parties contained in this Amendment and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, Contractor and the County do hereby covenant and agree as follows:

1. The Service Agreement is hereby amended consistent with the provisions set forth in paragraphs 2 through 9 below.
2. The authorized total cost for the TRP, under Section 10.6.8.2 of the Service Agreement, shall remain at \$243,357,899.

3. Due to the accessibility of existing operating equipment and systems it is possible that the values of the remaining projects identified in Schedule A of this Amendment 2 may change due to unforeseen circumstances and therefore left open ended except that the total value of the TRP will not exceed \$243,357,899.
4. During the course of TRP completion, it is possible for additional projects to be discovered which could impact facility performance, if not completed. Also, it may be determined some projects are not necessary or do not need to be completed at this time. Therefore, the list of Projects identified in Schedule A of this Amendment 2 is left open ended except the total TRP will not exceed \$243,357,899.
5. Schedule A to this Amendment 2 shall be appended to and part of Schedule 19 of the Service Agreement. Schedule A includes the list of all the TRP Projects together with:
 - (a) the current Maximum Project Price for each of the Commenced TRP Projects as set forth in Part I of Schedule A;
 - (b) the current Lump Sum Price for each of the Remaining TRP Projects as set forth in Part II of the attached Schedule A;
 - (c) the current value of the projects that have been completed and final invoice paid; and
 - (d) remaining projects that have not yet been completed.
6. Except as and to the extent specifically modified and amended by this Amendment, the Service Agreement and Amendment 1 otherwise remains unchanged and in full force and effect as of the date hereof.
7. This Amendment 2, of the Service Agreement and Amendment 1 contain the entire understanding of the Parties with respect to the subject matter hereof and thereof and supersede all prior agreements, arrangements, discussions and undertakings between the Parties (whether written or oral) with respect to the subject matter hereof and thereof.
8. The laws of the State of Florida (excluding the conflicts of law principles thereof) shall govern this Amendment.
9. This Amendment may be executed in more than one counterpart, each of which shall be deemed an original, and all of which shall constitute one and the same agreement.

[Signature Page Follows]

IN WITNESS WHEREOF, each of the Parties has caused this Amendment to be executed in its name by a duly-authorized person and has caused its seal to be affixed to this Amendment.

ATTEST:
CLERK

PINELLAS COUNTY, FLORIDA, by and through
its Board of County Commissioners

By: _____
Name:
Title:

By: _____
Pat Gerard, Chair

[Seal]

Approved as to Form:

OFFICE OF THE COUNTY ATTORNEY

By: _____
Name:
Title:

ATTEST:

COVANTA PROJECTS, LLC

[Seal]

By: _____
Name:
Title:

Witness

Witness

Schedule A

The spreadsheet contained in this Schedule A provides a listing of all current TRP Projects.

Part I – Commenced TRP Projects

The Commenced TRP Projects are those projects shown with a dollar value in the column labeled “Commenced TRP Projects PART I.” Payment for these projects shall be per the Service Agreement for TRP Projects.

Part II – Remaining TRP Projects and Milestone Payments

The Remaining TRP Projects are those projects shown with a dollar value in the column labeled “Lump Sum Price PART II.”

Milestone Payments for each Remaining TRP Project shall be as defined in Amendment 1 and shall be calculated as the percentage of the individual Lump Sum Price shown in the spreadsheet in this Schedule A or adjusted price due to approved changes.