

RESOLUTION NO.: 63 -2012
INTRODUCED BY: Alexander

A RESOLUTION EXTENDING A SOLID WASTE COLLECTION AND DISPOSAL CONTRACT WITH BROWNING FERRIS INDUSTRIES OF OHIO, INC., DBA REPUBLIC SERVICES, THROUGH DECEMBER 31, 2012; AND DECLARING AN EMERGENCY.

WHEREAS, pursuant to Resolution Nos. 98-2007 and 45-2010 of this Council, the City of Richmond Heights authorized a contract, and options to extend it, with Republic Waste Services of Ohio Hauling, LLC, and its successor in interest, Browning Ferris Industries of Ohio, Inc. (dba "Republic Services"), to perform solid waste collection and disposal services for the City for a term through August 31, 2012 (hereinafter the "Contract"); and

WHEREAS, it is necessary to extend the aforesaid Contract from September 1, 2012 through December 31, 2012 in order to continue to maintain solid waste collection and disposal services in furtherance of the public health, safety and welfare of the residents of the City and due to budget constraints, in order to have the funds available to continue these services to City residents;

NOW, THEREFORE, Be It Resolved by the Council of the City of Richmond Heights, State of Ohio, that:

Section 1: The term of the Contract set forth in the preamble to this Resolution shall be extended from September 1, 2012 through December 31, 2012, under the existing terms of said Contract and all addenda thereto.

Section 2: The Mayor is hereby authorized to execute on behalf of the City an extension agreement as referred to in Section 1 of this Resolution in the form of the Addendum to Contract, attached to and incorporated herein as Exhibit A, and the Director of Finance is authorized and directed to appropriate to a proper account the sums sufficient to cover the cost of said Addendum.

Section 3: It is found and determined that all formal actions of this Council concerning and relating to the adoption of this Resolution were adopted in an open meeting of this Council, and that all deliberations of this Council and any of its committees that resulted in such formal action, were in meetings open to the public, in compliance with all legal requirements, including Section 121.22 of the Ohio Revised Code.

Section 4: This Resolution is declared to be an emergency measure immediately necessary to preserve the public health, safety and general welfare of the citizens of the City and for the further reason that this Resolution is required to be immediately effective to continue to provide solid waste collection and disposal services which will eliminate existing and potential hazards to the health, safety and welfare the residents and visitors of the City as set forth in the

preamble to this Resolution; wherefore this Resolution shall be in full force and effect immediately upon its passage and approval by the Mayor.

PASSED: _____

Daniel J. Ursu, Mayor

APPROVED: _____

ATTEST: _____

Betsy Traben
Clerk of Council

David H. Roche
President of Council

EXHIBIT A

THIRD ADDENDUM TO CONTRACT FOR
RESIDENTIAL REFUSE COLLECTION, DISPOSAL AND RECYCLING
PURSUANT TO CITY OF RICHMOND HEIGHTS
BID NO. 01-2007

This Third Addendum to Contract for Residential Refuse Collection, Disposal and Recycling Pursuant To City of Richmond Heights Bid No. 01-2007 (“Third Addendum”) is made as of the _____ day of August, 2012, by and between the **City of Richmond Heights**, 26789 Highland Road, Richmond Heights, Ohio 44143 (hereinafter “City”) and **Browning Ferris Industries of Ohio, Inc., a Delaware corporation, dba Republic Services**, 8123 Jones Road, Cleveland, Ohio 44105 (hereinafter “Republic”) (the City and Republic are collectively referred to as the “Parties”).

WHEREAS, Republic Services of Ohio Hauling, LLC and the City entered into a three-year “Residential Refuse Collection, Disposal and Recycling Contract” pursuant to a competitive bid solicitation by the City (No. 01-2007) (hereinafter the “Refuse Contract”), with the initial term commencing on September 17, 2007 and ending September 16, 2010 and with two (2) one-year renewal options at the City’s sole discretion;

WHEREAS, the Parties also entered into an “Addendum to Contract for Residential Refuse Collection and Disposal Pursuant to City of Richmond Heights Bid No. 01-2007” on or about September 4, 2007, regarding a fuel adjustment surcharge related to the Refuse Contract (the “First Addendum”);

WHEREAS, an assignment of the Refuse Contract and the First Addendum from Republic Services of Ohio Hauling, LLC to Browning Ferris Industries of Ohio, Inc., was authorized by Resolution No. 45-2010 of the City’s Council on July 13, 2010;

WHEREAS, as authorized by Resolution No. 45-2010 of the City Council, passed on July 13, 2010, the Parties amended the Refuse Contract through a Second Addendum to provide for Republic to directly invoice City residents for refuse collection costs only, with Republic continuing to invoice the City for refuse disposal costs, to provide an option to City residents to obtain refuse pick-up service at the front building line or at the garage on the homeowner's property; to amend the Refuse Contract to change the termination date of the Refuse Contract from September 17, 2010 to August 31, 2010, with the one-year renewal periods, when exercised, to begin on the following September 1 and end on August 31 of the respective option years; and the City Council determined to exercise both option years under the terms and conditions set forth in that Second Addendum so that the current term of the Refuse Contract expires at the end of the day on August 31, 2012;

WHEREAS, the Parties wish to extend the term of the Refuse Contract, and also the First and Second Addenda, through December 31, 2012;

NOW, THEREFORE, pursuant to the mutual considerations set forth herein and in the Refuse Contract and First and Second Addenda, the Parties agree as follows:

1. The Parties agree that the term of the Refuse Contract shall be amended to expire on August 31, 2012.
2. This Third Addendum does not alter the existing provisions and terms of the Parties' agreement set forth in the Refuse Contract, except for the terms set forth herein which shall be added to, or shall amend, the Refuse Contract. The First Addendum and Second Addendum are not altered or amended by this Third Addendum, except as specifically set forth in this Third Addendum.

3. The Parties agreed in the Second Addendum that the final billing period for Owners of homes in the City under the extended Refuse Contract would be for only two months – July and August of 2012. Notwithstanding the foregoing, the billing period referred to above shall now be for July, August, and September 2012, and the final billing period for Owners under the Refuse Contract, as extended by this Third Addendum, shall be for October, November, and December 2012.
4. This Third Addendum shall not be revised or amended except in writing executed by both Parties.
5. This Third Addendum, as well as the Refuse Contract itself and all previous Addenda thereto, are for the benefit of the Parties only and not for the benefit of, and do not create any rights in, any third party and shall not be enforceable by any third party.

The Parties' authorized representatives have placed their signatures below as their voluntary act and deed and the voluntarily act and deed of the entities they represent.

**Browning Ferris Industries of
Ohio, Inc.**

By: _____

(Type or Print Name and Title)

Date: _____

City of Richmond Heights, Ohio

By: _____
Daniel J. Ursu, Mayor

Date: _____

Approved as to legal form and correctness

R. Todd Hunt, Director of Law

FISCAL OFFICER'S CERTIFICATE

As the fiscal officer of the City of Richmond Heights, I hereby certify that as of the date of execution of the foregoing Third Addendum to Contract for Residential Refuse Collection, Disposal and Recycling Pursuant to City of Richmond Heights Bid No. 01-2007, the amount required to satisfy payment under the Third Addendum has been fully appropriated, or authorized or directed for such purpose and is in the Treasury, or is in the process of collection and is free from any obligation or certification now outstanding.

Date: _____

Paul Ellis, Director of Finance
City of Richmond Heights, Ohio