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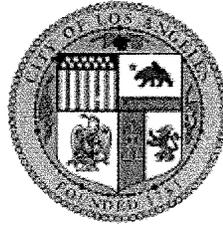
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# CITY OF LOS ANGELES

CALIFORNIA



ERIC GARCETTI  
MAYOR

OFFICE OF THE  
BOARD OF PUBLIC WORKS

DR. FERNANDO CAMPOS  
EXECUTIVE OFFICER

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<http://bpw.lacity.org>

February 15, 2019

BPW-2019-0135  
Council File No.: 10-1797-S17

Mayor Eric Garcetti  
Room No. 305  
City Hall  
Attn: Mandy Morales

City Council  
Room No. 395  
City Hall

## CONTRACT AMENDMENT – RECYCLA PROGRAM

As recommended in the accompanying report of the Director of the Bureaus of Sanitation and Contract Administration, which this Board has adopted, the Board of Public Works recommends that the Mayor and Council approve and authorize the President or two members of the Board of Public Works or designee to:

1. Execute Amendments to Personal Service Contracts for exclusive franchise to provide collection, transfer, processing and disposal for solid resources to commercial establishments and applicable multifamily establishments (recyclLA) with:
  - CalMet Services, Inc., (aka CalMet)
  - NASA Services, Inc. (aka NASA)
  - Ware Disposal, Inc. (aka Ware)
  - USA Waste of California, Inc. (dba Waste Management aka WM)
  - Arakelian Enterprises, Inc. (dba Athens Services aka Athens)
  - Consolidated Disposal Service, LLC (dba Republic Services or Republic)
  - Universal Waste Systems, Inc. (aka UWS)

## FISCAL IMPACT

The Citywide Recycling Trust Fund will have sufficient funds to support the Removing Barriers to Recycling program through Fiscal Year 2019-20. There will be no funding required from the General Fund through Fiscal Year 2019-20.

Sincerely,

A handwritten signature in black ink, appearing to read "FC" or similar initials.

DR. FERNANDO CAMPOS,  
Executive Officer, Board of Public Works

FC:jc

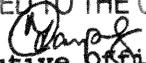


DEPARTMENT OF PUBLIC WORKS  
 BUREAU OF SANITATION  
 BUREAU OF CONTRACT ADMINISTRATION  
 JOINT BOARD REPORT NO. 1  
 FEBRUARY 15, 2019

ADOPTED BY THE BOARD  
 PUBLIC WORKS OF THE CITY  
 of Los Angeles California  
 AND REFERRED TO THE MAYOR

FEB 15 2019

AND REFERRED TO THE CITY COUNCIL

  
 Executive Officer  
 Board of Public Works

CD: ALL

AUTHORITY TO EXECUTE AMENDMENTS TO PERSONAL SERVICES CONTRACTS WITH RECYCLA SERVICE PROVIDERS (RSPS) (CALMET CONTRACT C-128875; NASA SERVICES, INC. CONTRACT C-128876; WARE DISPOSAL, INC. CONTRACT C-128877; USA WASTE OF CALIFORNIA, INC, DBA WASTE MANAGEMENT CONTRACT C-128878; ARAKELIAN ENTERPRISES, INC. DBA ATHENS SERVICES CONTRACT C-128879; CONSOLIDATED DISPOSAL SERVICE, LLC. DBA REPUBLIC SERVICES CONTRACT C-128880; AND UNIVERSAL WASTE SYSTEMS, INC. CONTRACT C-128881)

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### RECOMMENDATION

1. Approve and forward this report with transmittals to the Mayor and City Council (Council) with the request that the Board of Public Works (Board) be authorized to execute amendments to Personal Services Contracts for exclusive franchise to provide collection, transfer, processing and disposal for solid resources to commercial establishments and applicable multifamily establishments (recyclA) with:

CalMet Services, Inc., (aka CalMet) (C-128875)  
 NASA Services, Inc. (aka NASA) (C-128876)  
 Ware Disposal, Inc. (aka Ware) (C-128877)  
 USA Waste of California, Inc. (dba Waste Management aka WM) (C-128878)  
 Arakelian Enterprises, Inc. (dba Athens Services aka Athens) (C-128879)  
 Consolidated Disposal Service, LLC (dba Republic Services or Republic) (C-128880)  
 Universal Waste Systems, Inc. (aka UWS) (C-128881)

2. Upon the Mayor's and Council's authorization, the President or two members of the Board will execute the contract amendments.
3. Return the executed contract amendments to LA Sanitation and Environment (LASAN) for further processing. For pick up, contact Dan Meyers of Solid Resources Commercial Franchise Division (SRCFD) at 213-485-3774.

### TRANSMITTALS

1. Copy of the adopted LASAN and Bureau of Contract Administration Joint Board Report No. 1, dated September 26, 2016, awarding seven contracts for The Zero Waste LA Exclusive Franchise System for Commercial and Multifamily Solid Waste Collection and Handling.

2. Copy of City Council Action (Council File 10-1797-S17), dated December 26, 2016, approving award of seven contracts for The Zero Waste LA Exclusive Franchise System for Commercial and Multifamily Solid Waste Collection and Handling
3. Copies of the proposed Personal Services Contract Amendments between the City of Los Angeles (CITY) and:

CalMet Services, Inc., (aka CalMet) (C-128875)  
NASA Services, Inc. (aka NASA) (C-128876)  
Ware Disposal, Inc. (aka Ware) (C-128877)  
USA Waste of California, Inc. (dba Waste Management aka WM) (C-128878)  
Arakelian Enterprises, Inc. (dba Athens Services aka Athens) (C-128879)  
Consolidated Disposal Service, LLC (dba Republic Services or Republic) (C-128880)  
Universal Waste Systems, Inc. (aka UWS) (C-128881)

Originals will be delivered to the Board Office when Dan Meyers of Solid Resources Commercial Franchise Division (SRCFD) at 213-485-3774 is notified that the contract amendments are ready for execution.

## DISCUSSION

RecycLA is the City's exclusive waste and recycling collection program for commercial and large multifamily customers in the City. In September 2016, the Board approved the award of ten-year contracts (with options to extend for another ten years) that granted exclusive franchises to seven franchisees (now referred to as recycLA Service Providers or RSPs) (Transmittal 1). In December 2016, the City Council approved the recycLA contracts. The City executed the recycLA contracts in January 2017 with Athens Services, CalMet Services, Inc., Consolidated Disposal Service, LLC dba Republic Services, NASA Services, Inc., Universal Waste Systems Inc., USA Waste of California, Inc. dba Waste Management; and Ware Disposal Inc. (Council File 10-1797-S17).

From July 2017 through January 2018 (recycLA transition period) approximately 66,000 customers were transitioned into the recycLA program. Although there were significant service related issues during the recycLA transition period, the RSPs have made significant progress since this transition period, normalizing missed collections so that RSPs now have a 99.97 percent collection rate.

The recycLA contracts require minimum service levels for recycLA customers, including recycling. The contracts set rate maximums for a guaranteed base level of service, as well as for other additional services or extra service charges. RSPs may not charge any fees that are not contained in the contracts. Specifically, the contracts include an allowance for extra service charges for accessing secure areas or travelling longer distances to make collections, over and above the base services. Approximately 19,600 of the 66,000 recycLA customers are being assessed extra service charges associated with access and/or distance. These extra service charges may be applied to collection of black bins (refuse), blue bins (recycling), and green bins (green waste).

Following transition to recycLA, through billing inquiries and other oversight functions, LASAN and the RSPs disagreed on the application of certain extra service charges relating to accessing secure

areas or travelling longer distances to make collections (extra service charges) on black, blue, and/or green bins. To resolve this disagreement, the City began discussions with the RSPs and ultimately reached a settlement agreement. The settlement agreement was approved by City Council in February 2019. The settlement resolves the disagreement over the application of the seven extra service charges. The settlement agreement also addresses other subjects related to: describing liquidated damages assessments for "repeat missed collection"; clarifying Recycling not Provided fees (RNP) as liquidated damages; and staying contamination fees against recycLA customers in order to improve recycling. The settlement agreement also defers rate adjustments that the RSPs would otherwise be entitled to on January 1, 2019. A number of the approved settlement terms necessitate the need to amend the existing recycLA contracts with the seven RSPs. LASAN cannot fully implement the terms of the Council approved settlement agreement until the recommended contract amendments are executed by the Board.

### **Purpose of the Contract Amendment**

As part of the settlement agreement, many contract terms were renegotiated, therefore requiring a Contract Amendment (Transmittal No. 3). There are a number of positive outcomes from the settlement agreement, and the contract amendment includes the many contract changes to effectuate the settlement agreement terms, including: improved outreach and education through implementation of an Optimization Period and an avoidance of potential widespread assessment of contamination fees; phasing-in cost increases in a few years when the program is more mature (rather than having additional rate increases take effect beginning January 1, 2019); removing barriers to recycling by eliminating blue bin-related extra service charges; and further clarity on applicability of fees to eliminate present and future disagreement.

The following are key elements of the contract amendments necessitated by the approved settlement agreement:

### **Removing Barriers to Recycling Program**

The recommended contract amendment provides customers both short-term and long-term relief on extra service charges associated with blue bins. Under the proposed recycLA contract amendment, all customers (residential and commercial alike) will experience no extra service charges (for access or distance) associated with blue bin collection.

All customers with access or distance charges on blue bin service will receive credits on their invoices and the discontinuance of such charges immediately. RSPs will remove blue bin access and distance charges effective February 1, 2018, and the RSPs accordingly will issue credits to customers who paid for charges assessed after that date. Moreover, the City would expect blue bin service levels to change as the recycLA program matures and increased recycling takes place. Therefore, all customers are likely to benefit from the "removing barriers to recycling" program.

The RSPs and the City will jointly fund the reduction in customers' actual and/or potential bills by removing blue bin associated extra service charges, and thereby would equally bear the costs of the removal of barriers to recycling. On a quarterly basis (installments) the City would compensate (via payments or credits, at the City's sole discretion) 50 percent of the validated access and distance charges associated with recycLA customers' blue bin service. To manage City cost exposure, a baseline for each RSP was established for the installments and the baseline can be adjusted annually to account for actual cost to the RSPs.

In Year 1 of the settlement agreement's applicability (February 1, 2018 to June 30, 2019), the City's anticipated payments to offset these blue bin extra service charges are approximately \$9.12 million. Because the recycLA program requires continued diversion and movement from black bin use to blue and green bin use, the parties anticipate blue bin-related extra service costs to increase substantially over time. LASAN cannot project these amounts with certainty. Consequently, in order to normalize the yearly payments by the City, the parties agreed to annual baseline increases (rolling-cap) predicated on a contractually-determined baseline of charges and associated annual percentage increase through 2027.

The City will utilize special fund revenue (Citywide Recycling Trust Fund/AB 939 Fees) to fund the Removing Barriers to Recycling program. However, if such funds are unavailable or insufficient, other funding sources, including Franchise Fees, may be required should the City continue this program through the term of the contract. The funding source for this program will be determined through the City's annual budget process.

#### **Applicability of Extra Service Charges**

Other than the blue bin-associated extra service charges addressed by the "removing barriers to recycling program," RSPs may charge recycLA customers for access and distance extra service charges, with some modifications. The recommended amendments detail two additional scenarios where extra service charges are not applicable (and as to all container types). For example, the RSPs will not charge recycLA customers for accessing locked or secured premises that have been unlocked by the customer so long as the RSP's vehicle has unimpeded access to the premises, regardless of whether a gate is present. RSPs will also not charge recycLA customers for accessing premises via intercom or a security office that does not require the driver to leave the vehicle. However, if the intercom or security office does not provide access within five minutes, then the RSP can either treat the collection event as one with blocked access - requiring return if requested by the customer, or continue to idle with associated charges, if requested by the customer. RSPs cannot charge for both blocked access and idling for the same collection event without customer requests for both.

#### **Optimization Period**

Through December 31, 2020, the proposed amendments establish an Optimization Period of the recycLA program in which concerted and specific efforts will be made to engage recycLA customers and perform education and outreach to encourage diversion and recycling and instruct customers regarding proper recycling. During this Optimization Period, the RSPs must conduct a robust commercial and multifamily outreach and education campaign, which is quantifiable. The RSPs shall educate and train property owners, tenants, employees, and residents on proper recycling. The RSPs must corroborate that they have conducted this education and outreach to the City. The goal of the program optimization is to encourage the recycling or reuse of solid resources and to reduce contamination in the blue bins.

During this Optimization Period, RSPs may not assess their customers any contamination fees. To address chronic contamination, the RSPs may charge customers with chronically contaminated blue bins the cost associated with an additional black bin removal at an added cost to the customer. However, the RSPs cannot take such action until after at least four documented educational and outreach efforts fail to cure the chronic contamination.

**Recycling Not Provided Fee (RNP)**

The RSPs pay Recycling Not Provided Fees (RNPs) to the City when a RSP does not provide customers at least 50 percent recycling service of the solid waste service provided. Under the recommended amendment, RSPs owe no RNPs until conclusion of the Optimization Period and the City has recalculated the RNP to be assessed on a zone-basis (blue bin and green bin collection must be at least 50 percent of black bin collection zone-wide). RNPs are more clearly described as a liquidated damage, and the City will assess RNPs on a sliding scale.

**Postponement of Adjustments for Implementing Organics Collection and Adjustment for Blue Bin Costs**

Under the existing contracts the RSPs are entitled to a 3 percent rate increase in addition to Consumer Price Index (CPI), effective January 1, 2019 and January 1, 2020. Under the proposed amendments, these additional rate increases will be 3.5 percent, and will take effect on January 1, 2020 and January 1, 2021, respectively, in addition to other rate increases allowed under the recycLA agreements.

Under the existing contract the RSPs could have sought in 2018 (to be effective on January 1, 2019), adjustments for experiencing additional costs to process recyclables under Section 7.3.2 of the recycLA Franchise Agreements. (This section contemplates additional rate increases when there are demonstrated impacts related to downturns in the recycling markets.) Under the contract amendments there will not be an adjustment for the additional cost to process recyclables in 2019. In exchange for foregoing an expected increase under this section, the RSPs will receive a 0.25 percent rate increase effective January 1, 2020 and 2021, in addition to other rate increases allowed under the recycLA agreements. The RSPs cannot seek any further Section 7.3.2 adjustment to take effect before January 1, 2023.

**Timing of Measurements of Disposal Targets and Projections and Disposal Target Liquidated Damages**

The existing contract includes two different measuring periods to calculate RSPs' landfill diversion. If RSPs do not meet their contract-specific diversion goals, then the City can assess liquidated damages of \$100,000 for the first 1,000 tons from the disposal target, and \$10,000 for every 100 tons thereafter. The City can assess these liquidated damages on two occasions (at 48 and 84 months after the start of service date).

With implementation of the Optimization Period, in addition to other impacts of other terms of the settlement, the parties agreed to modify the schedule for measurements of disposal targets as well as assessment of target liquidated damages. The liquidated damages assessment points were moved from 48 and 84 months after the start of service date, to 61 and 85 months, respectively. In addition to allowing more time for the RSPs to meet their diversion targets, the associated liquidated damage will be substantially reduced, although they will still be substantial. Under the recommended amendments, if the RSPs fail to meet the first adjusted Disposal Target, then the RSPs will face liquidated damages of \$50,000 for the first 1,000 tons over the disposal target, and \$5,000 for every 100 tons thereafter. The diversion target for this first measuring period will also be reduced by ten percentage points (so disposal target is 35 percent). If RSPs fail to meet the second adjusted Disposal Target of 45 percent, then RSPs will face liquidated damages of \$25,000 for the first 1,000 tons over the disposal target, and \$2,500 for every 100 tons thereafter. (These modified liquidated damages represent a 50 percent and 75 percent reduction from the liquidated damages in the existing contract for the first and second diversion measuring periods, respectively).

### **Rates Look Back**

The current contract specifies that there shall be a possible rate increase for any documented cost of service increases, up to 3 percent at LASAN's discretion. Under the recommended amendments, instead, on January 1, 2022, RSPs shall be entitled to an automatic cost of service increase of 3 percent. The contract retains language about a possible rate look-back, up to 3 percent every 60 months thereafter.

### **Repeat Missed Collections**

The contract waives liquidated damages for missed collections during the transition period, but significant disagreement existed between the City and RSPs if a missed collection during the transition period can nevertheless be included as part of the factual record for a subsequent "repeat missed collection" outside the transition period. The proposed amendments addresses this by establishing the effective date of the amendment as the date after which a missed collection could be considered for a repeated missed collection liquidated damage.

In addition, liquidated damages related to repeat missed collections as well as other specific collection-related liquidated damages (failure to timely remove graffiti, failure to timely deliver customer containers, failure to repair or replace containers following customer report, failure to notify a customer of improper container set out or obstruction, and use of profanity or hate speech to customers) will not be assessable until following the effective date of the contract amendment.

### **Proposed Term of Agreement and Cost Ceiling**

The contract term is ten (10) years, expires January 31, 2027, with two (2) 5-year renewal option(s). There are no cost ceilings associated with these contracts.

### **Business Inclusion Program**

The status of the Business Inclusion Program will be addressed in a separate Board report.

### **Other City Policies and Requirements**

Athens Services, Republic Services, NASA Services, Universal Waste Systems, Waste Management, Ware Disposal, and CalMet shall comply with all City requirements, including:

- Mandatory Provisions Pertaining to Non-Discrimination In Employment
- Living Wage and Worker Retention Ordinances
- Business Tax Registration Certificate
- Child Support Obligations Ordinance
- Insurance and Performance Bond Requirements
- Slavery Disclosure Ordinance
- Americans with Disabilities Act
- Municipal Lobbying Ordinance
- Los Angeles Residence Information
- City of Los Angeles Contract History
- Non-Collusion Affidavit
- First Source Hiring Ordinance
- Contractor Bidder Campaign Contribution and Fundraising Restriction
- Iran Contracting Act of 2010
- City Contractor's Use of Criminal History for Consideration of Employment Applications

### **Disclosure of Border Wall Contracting Ordinance**

Contractors shall comply with Los Angeles Administrative Code Section 10.50 et seq., "Disclosure of Border Wall Contracting." City may terminate these contracts at any time if City determines that the Contractors failed to fully and accurately complete the required affidavit and disclose all Border Wall Bids and Border Wall Contracts, as defined in LAAC Section 10.50.1.

### **Notification of Intent to Contract and Charter Section 1022**

The required Notification of Intent (NOI) to contract was filed with the City Administrative Officer (CAO) Clearinghouse on February 7, 2011 and a revised NOI was submitted on January 14, 2014. However, this contract was exempt from the Charter Section 1022 requirements as the original contract costs less than \$25,000 in terms of City-initiated payments under the contracts. An exemption from Charter Section 1022 was approved by the CAO on January 14, 2014.

### **Peak Hour Construction and Right-of-Way Obstruction Regulations**

All contractors must comply with the requirements specified in the Los Angeles Municipal Code (L.A.M.C.) Section 62.61 related to peak hour traffic restrictions, unless an exemption from the Peak Traffic Hours Prohibition is approved.

### **Contractor Responsibility Ordinance**

All contractors participating in this program are subject to compliance with the requirements specified in the City of Los Angeles's Contractor Responsibility Ordinance No. 173677, [Article 14, Chapter 1, Division 10, L.A.C.C.]. Failure to comply with the requirements specified in this ordinance will render the bidder's contract subject to termination pursuant to the conditions expressed therein.

### **Contractor Performance Evaluation**

In accordance with Article 13, Chapter 1, Division 10 of the City of Los Angeles Administrative Code, the appropriate City personnel responsible for quality control of these personal services contracts shall submit Contractor Performance Evaluation Reports to the Bureau of Contract Administration upon completion of these contracts.

### **Los Angeles Residence Information**

The headquarters of Athens Services is 14048 Valley Blvd., City of Industry, CA 91746. Athens Services employs 1,155 people, of which 247 reside in the City of Los Angeles.

The main office of Republic Services is 9200 Glenoaks Blvd, Sun Valley, CA 91352. Republic Services employs 1,950 people, of which 145 reside in the City of Los Angeles.

The headquarters of NASA Services is 1100 S. Maple Ave., Montebello, CA 90640. NASA Services employs 90 people, of which 17 reside in the City of Los Angeles.

The headquarters of Universal Waste Systems is 9016 Norwalk Blvd., Santa Fe Springs, CA 90670. Universal Waste Systems employs 145 people, of which 24 reside in the City of Los Angeles.

The headquarters of Waste Management is 1001 Fannin, Suite 4000, Houston, TX 77002. Waste Management employs 42,616 people, of which 232 reside in the City of Los Angeles.

The headquarters of Ware Disposal is 1451 Manhattan Ave., Fullerton, CA 92831-5221. Ware Disposal employs 114 people, of which 2 reside in the City of Los Angeles.

The headquarters of CalMet is 7202 Petterson Lane, Paramount, CA 90723. CalMet employs 149 people, of which 12 reside in the City of Los Angeles.

**Approved as to Form**

The proposed contract amendments have been approved as to form by the Office of the City Attorney.

**Contract Administration**

Responsibility for the administration of these contracts and amendments will be with the Solid Resources Commercial Franchise Division of LASAN.

**STATUS OF FINANCING**

Based on current LASAN projections, the CRTF will have sufficient funds to support the Removing Barriers to Recycling program through Fiscal Year 2019-20, and therefore there will be no funding required from the General Fund through Fiscal Year 2019-20.

For Fiscal Year 2018-19, funding in the amount of \$9,119,321 is available in the Citywide Recycling Trust Fund (CRTF), No. 46D, Department 50, in an appropriation unity that will be established as directed by the City Council action for the Settlement Agreement (17-0878-S8). Council action for the Settlement Agreement will also establish that the City, at its sole discretion, will compensate the RSPs for the Removing Barriers to Recycling program by way of payment or credits. Appropriated funds will be utilized if LASAN chooses to reimburse the RSP via check payment(s). Should LASAN choose to issue credits to RSPs, the credits will be via reduction of future AB 939 payments, which will reduce revenue to Fund 46D. Under this option, appropriations will be reduced by an amount equivalent to the revenue reduction.

If the Removing Barriers to Recycling program continues through 2027, the total funding for this program should not exceed \$94.2 million.

Funds and Appropriations for future fiscal years beyond fiscal year 2019-20 are not yet identified and existing Funds and Appropriations may change based on available cash balances. Therefore, future Funds and Appropriations will be determined by the LASAN Director or designee under the normal budgetary process.

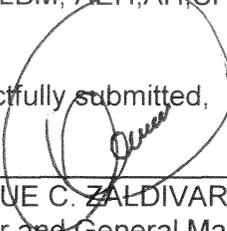
The amendments include a "Limitation of City's Obligation to Make Payments to the Contractor" article that states: "Notwithstanding any other provision of this contract, including any exhibits or attachments incorporated therein, and in order for City to comply with its governing legal requirements, City shall have no obligation to make any payments to Contractor unless City shall have first made an appropriation of funds equal to or in excess of its obligation to make any payments as provided in this contract. Contractor agrees that any services provided by Contractor, purchases made by Contractor or expenses incurred by Contractor in excess of the appropriation(s) shall be free and without charge to City and City shall have no obligation to pay for the services, purchases or expenses. Contractor shall have no obligation to provide any services, provide any equipment or incur any expenses in excess of the appropriated amount(s) until City appropriates additional funds for this contract."

BUREAU OF SANITATION  
BUREAU OF CONTRACT ADMINISTRATION  
JOINT BOARD REPORT NO. 1  
FEBRUARY 15, 2019

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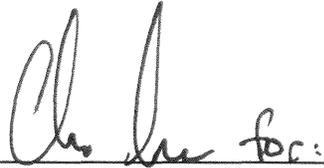
(DKM, LBM, AEH, AH, SHK)

Respectfully submitted,

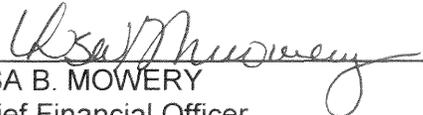
  
ENRIQUE C. ZALDIVAR, P.E.  
Director and General Manager  
Bureau of Sanitation

COMPLIANCE REVIEW  
PERFORMED AND APPROVED BY:

  
HANNAH CHOI, Assistant Director  
Bureau of Contract Administration

  
JOHN L. REAMER, Jr., Director  
Bureau of Contract Administration

REVIEWED AND APPROVED BY:

  
LISA B. MOWERY  
Chief Financial Officer  
Bureau of Sanitation  
Date: 2-12-19

Prepared by:  
Daniel K. Meyers, SRCFD  
(213) 485-3774

BOARD OF PUBLIC WORKS  
MEMBERSKEVIN JAMES  
PRESIDENTHEATHER MARIE REPENNING  
VICE-PRESIDENTMICHAEL R. DAVIS  
PRESIDENT PRO-TEMPOREJOEL F. JACINTO  
COMMISSIONER

## CITY OF LOS ANGELES

CALIFORNIA

ERIC GARCETTI  
MAYOROFFICE OF THE  
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 CITY OF LOS ANGELES

September 26, 2016

BPW No: 2016-0274  
#1 BOS/BCA

Mayor Eric Garcetti  
 Room No. 305  
 City Hall  
 Attn: Mandy Morales

**Subject:** AUTHORITY TO AWARD CONTRACTS FOR THE ZERO WASTE LA EXCLUSIVE  
 FRANCHISE SYSTEM FOR COMMERCIAL AND MULTIFAMILY SOLID WASTE  
 COLLECTION AND HANDLING – BUREAU OF SANITATION (LASAN)

As recommended in the accompanying report of the Directors of the Bureaus of Sanitation and Contract Administration, which this Board has adopted, the Board of Public Works requests approval and forwarding to the City Council for approval and authorization to execute a Personal Services Contract for exclusive Franchise System for commercial and multifamily solid waste collection handling with:

**Large Zones:**

Arakelian Enterprises, Inc. (dba Athens Services aka Athens)  
 Consolidated Disposal Service, LLC (dba Republic Services or Republic)  
 Universal Waste Systems, Inc. (aka UWS)  
 USA Waste of California, Inc. (dba Waste Management aka WM)

**Small Zones:**

CalMet Services, Inc., (aka CalMet)  
 NASA Services, Inc. (aka NASA)  
 Ware Disposal, Inc. (aka Ware)

It is also recommended, that the City Council find it is in the City's best interest to award one of the exclusive franchise contracts for commercial and multifamily solid waste collection and handling to Republic, an Arizona based company, for the reasons outlined in the report.

It is further recommended, that the City Attorney in collaboration with the Bureau of Sanitation, to draft an Ordinance creating a special fund for the Zero Waste LA revenues, excluding AB 939 fees.

**FISCAL IMPACT**

There is no impact to the General Fund. All costs associated with these contracts are between the Contractor (Franchise) and the customer. The estimated overall value of these contracts is over \$3.5 billion for an initial contract term of ten (10) years.

Respectfully submitted,

  
 for Fernando Campos, Executive Officer  
 Board of Public Works

FC:mp

DEPARTMENT OF PUBLIC WORKS

BUREAU OF SANITATION  
BUREAU OF CONTRACT ADMINISTRATION  
JOINT BOARD REPORT NO 1  
September 26, 2016

CD: ALL

**AUTHORITY TO AWARD CONTRACTS FOR THE ZERO WASTE LA EXCLUSIVE  
FRANCHISE SYSTEM FOR COMMERCIAL AND MULTIFAMILY SOLID WASTE  
COLLECTION AND HANDLING – BUREAU OF SANITATION (LASAN)**

---

RECOMMENDATIONS

1. Approve and forward this report with transmittals to the Mayor and City Council (Council) with the request that the Board of Public Works (Board) be authorized to execute a Personal Services Contract for exclusive Franchise System for commercial and multifamily solid waste collection and handling with:
  - Large Zones:
    - Arakelian Enterprises, Inc. (dba Athens Services aka Athens)
    - Consolidated Disposal Service, LLC (dba Republic Services or Republic)
    - Universal Waste Systems, Inc. (aka UWS)
    - USA Waste of California, Inc. (dba Waste Management aka WM)
  - Small Zones:
    - CalMet Services, Inc., (aka CalMet)
    - NASA Services, Inc. (aka NASA)
    - Ware Disposal, Inc. (aka Ware)
2. Upon the Mayor's and Council's authorization, the President or two members of the Board will execute the contract.
3. Return the executed contract to the Bureau of Sanitation (LASAN) for further processing. For pick up, contact Dan Meyers of Solid Resources Commercial Franchise Division (SRCFD) at 213-485-3774 or Quonita Anderson of LASAN at 213-485-4246.
4. Recommend that the City Council find it is in the City's best interest to award one of the exclusive franchise contracts for commercial and multifamily solid waste collection and handling to Republic, an Arizona based company, for the reasons outlined in the report below.
5. Request the City Attorney, in collaboration with LASAN, to draft an Ordinance creating a special fund for the Zero Waste LA revenues, excluding AB 939 fees.

## TRANSMITTALS

1. Request for Proposals (RFP) for Citywide Exclusive Franchise System for Municipal Solid Waste Collection and Handling.
2. Description and map of the Franchise Zones.
3. Copy of the Ordinance authorizing the Commercial and Multifamily Franchise Hauling System (Ordinance #182986).
4. Copy of the exclusive franchise contract with Athens.
5. Copy of the exclusive franchise contract with Republic.
6. Copy of the exclusive franchise contract with Universal Waste Systems.
7. Copy of the exclusive franchise contract with Waste Management.
8. Copy of the exclusive franchise contract with Cal Met Services.
9. Copy of the exclusive franchise contract with NASA.
10. Copy of the exclusive franchise contract with Ware Disposal.
11. Action by the Board of Public Works on July 10, 2015, finding all proposers responsive to the City's Business Inclusion Plan.
12. Copy of the e-mail transmittal from Recology, dated March 25, 2015, withdrawing from the RFP process.
13. Copy of the UPW letter dated July 26, 2016, withdrawing from the RFP process.

## DISCUSSION

During the last six years, LASAN has embarked on an extensive process to bring the City's solid resources collection, hauling, recycling and disposal to a new level by implementing an exclusive franchise system for the commercial sector. The exclusive franchise system brings improvements to the environment, meets Mayor Eric Garcetti's sustainability goals, allows the City to meet additional mandates by the state of California, and brings clarity and answers to questions about what solid resources materials are collected in the City and how they are managed. Franchise holders are required to collectively reduce disposal of solid waste by 1,000,000 tons per year by 2025. The contracts presented for consideration include in excess of \$200 million in investment in recycling and materials handling infrastructure. The contracts provide predictable, reasonable customer rates and have extensive customer service and performance requirements with liquidated damages for failure to provide excellent service. In order to accomplish the transition of customers into the new system, a six month transition period is needed between contract execution and full franchise implementation, to allow for customer education, notification, planning, and equipment purchases in support of the system. LASAN looks forward to implementing the Exclusive Franchise system in mid-2017.

### **Solid Resources System in the City of Los Angeles and Regulatory Environment**

#### **Current Solid Resources Management System**

The City has both the right and the responsibility to manage its solid resources collection and handling system. State Public Resources Code (PRC) section 40050, et seq., explicitly states that solid waste handling services are an issue of local concern. The City has the sole discretion to contract, license, and/or permit private haulers, and may award franchise agreements including, but not limited to, frequency of collection, means of collection and transportation, level of services,

charges and fees, and nature, location and extent of providing solid waste handling services (PRC section 40059).

LASAN, as the agency that provides recycling and solid waste management services to over 750,000 customers, as well as management of haulers under the current permitting system, is charged with implementation of the new Franchise System.

The Exclusive Commercial and Multifamily Solid Waste Franchise Hauling System Ordinance No. 182986 (Transmittal No. 3) provides some guidelines for the Franchise System, including:

- All customers are required to have recycling and solid waste services.
- The City will have eleven (11) Franchise zones, of which three (3) are designated as single zones, in which they may not be bundled together with others in the franchise awards.
- All materials collected under the Franchise System must be delivered to facilities certified by the City.
- Franchise haulers are required to meet clean fuel requirements.

Solid resource collection, hauling, recycling, and disposal in the City of Los Angeles (City) are currently managed by both LASAN and permitted private waste haulers. Single family homes, multifamily properties with four (4) units or less, and some larger buildings with five (5) or more units are serviced by LASAN. Private waste haulers collect from all multifamily and commercial establishments not collected by LASAN under a permit system. Currently, there are approximately 144 private haulers collecting from multifamily and commercial sites, but only 31 private haulers collect from regular commercial accounts. The fifteen (15) top private haulers control 99% of the businesses, serving 64,500 of a total of 65,000 unique service addresses, see Table 1 below. In contrast, the City of San Jose has only 8,000 service accounts in its exclusive commercial franchise. Other cities in Los Angeles County, such as Palmdale, Santa Clarita, and Santa Monica, have approximately 5,000, 6,000, and 7,000 business accounts respectively.

Table 1 – Hauler Market Share by Reported Accounts

Hauler Name	Percent of Accounts in the City	Cumulative Percentage
Athens	25.7%	25.7%
Republic	19.5%	45.2%
Waste Management	14.3%	59.5%
NASA	13.6%	73.1%
Recology	11.6%	84.7%
UWS	9.0%	93.7%
UPW	2.2%	95.9%
AAA Rubbish	1.1%	97.0%
SoCal Disposal	0.9%	97.9%
EDCO	0.4%	98.3%
Waste Resources	0.3%	98.6%
Calmet	0.3%	98.8%
American Reclamation	0.2%	99.0%

Hauler Name	Percent of Accounts in the City	Cumulative Percentage
BayWest	0.2%	99.2%
SoCal Waste	0.1%	99.4%
Southland Disposal	0.1%	99.5%
Patriot	0.1%	99.6%
CWS	0.1%	99.6%
SVT	0.1%	99.7%
Waste & Recycling Svcs	Less than 0.1%	99.7%
Valley Vista	Less than 0.1%	99.8%
WARE	Less than 0.1%	99.8%
City Rent A Bin	Less than 0.1%	99.8%
Anderson Rubbish	Less than 0.1%	99.9%
CR&R	Less than 0.1%	99.9%
Quality Waste	Less than 0.1%	99.9%
Melva	Less than 0.1%	100.0%
Active Recycling	Less than 0.1%	100.0%
Lannen	Less than 0.1%	100.0%
Minuteman	Less than 0.1%	100.0%
Direct Disposal	Less than 0.1%	100.0%

Although the existing waste hauler permit system and the AB 939 Compliance Fee have been an effective tool used by LASAN in establishing significant recycling programs, the current solid waste hauling system limits the City's ability to address many of the current challenges it faces. These challenges include compliance with new state mandates, City diversion goals, and the environmental and health impacts of waste hauling. The current permit system does not have requirements for the flow of materials into the market, nor tracking for recyclables

The Sustainable City pLAN issued by Mayor Eric Garcetti includes the vision of Los Angeles becoming the first big city in the U.S. to achieve zero waste, and recycle and reuse most of its waste locally. The pLAN target measurements include landfill diversion of 90% by 2025, and 95% landfill diversion by 2035, by productively reusing a majority of our waste within LA County by 2035. This vision will require the expansion and development of infrastructure to handle solid resources, as well as policies of requiring waste diversion and extended producer responsibility.

Due to the existing permit structure, some waste haulers are not required by the state to operate clean alternative fuel vehicles, thereby negatively impacting local air quality. In addition, multiple haulers operating in a given area translate to more refuse trucks on the road, traffic impacts, and more localized emissions. Price and customer service vary widely depending on the size of the business and current private waste hauler. The current permit system also does not monitor compliance by private waste haulers with state laws regarding employee health and safety requirements for their employees collecting and processing commercial waste.

### **Changes in Regulations over Solid Resources Management in California**

The California Integrated Waste Management Act of 1989 (AB 939) was adopted by the state to regulate solid waste management in California. AB 939 established an integrated waste management hierarchy to guide the California Integrated Waste Management Board (now CalRecycle) and local agencies to implement, in order of priority: (1) source reduction, (2) recycling and composting, and (3) environmentally safe transformation and land disposal of refuse. AB 939 mandated cities and counties to divert 25 percent by January 1, 1995 and 50 percent by January 1, 2000 of all solid waste from landfill through source reduction, recycling, composting and transformation activities. The City has surpassed this requirement, with a 76.4% diversion rate as of 2013.

In 2006, the Legislature passed the California Global Warming Solutions Act of 2006 (AB 32), which created a comprehensive, multi-year program to reduce greenhouse gas (GHG) emissions in California. AB 32 required the California Air Resources Board (ARB) to develop a Scoping Plan that describes the approach California will take to reduce GHGs to achieve the goal of reducing emissions to 1990 levels by 2020. Mandatory Commercial Recycling was one of the measures adopted in the AB 32 Scoping Plan by the ARB to increase commercial waste diversion as a method to reduce GHG emissions. To achieve the measure's objective, an additional 2 to 3 million tons of materials annually would need to be recycled from the commercial sector by the year 2020 and beyond.

On October 5, 2011, AB 341 was signed, requiring not less than 75% of solid waste generated in California be source reduced, recycled, or composted by the year 2020. On and after July 1, 2012, AB 341 also requires a business that generates more than four cubic yards of commercial solid waste per week or a multifamily residential dwelling of five units or more to arrange for recycling services. CalRecycle is the state agency charged with developing the plan to bring the entire state to 75% waste diversion from landfills by 2020.

LASAN provides recycling services for all of our residential customers, and administers a voluntary program for privately served multifamily complexes. The City's current system does not monitor compliance by commercial businesses, as the permits do not require specific recycling or composting programs, and businesses may choose permitted private haulers that do not offer any recycling services.

In October 2014, AB 1826 Chesbro (Chapter 727, Statutes of 2014) was signed, requiring businesses to recycle their organic waste on and after April 1, 2016, depending on the amount of waste they generate per week. Organic waste, also referred to as organics, means food waste, green waste, landscape and pruning waste, nonhazardous wood waste, and food-soiled paper waste that is mixed in with food waste. Organics are recyclable through composting and mulching, and through anaerobic digestion, which can produce renewable energy.

AB 1826 phases in the mandatory recycling of commercial organics over time, requiring businesses that generate four cubic yards or more of commercial solid waste per week to arrange for organic waste recycling services by January 1, 2019. If statewide disposal of organic waste in 2020 is not reduced by 50 percent below the 2014 baseline disposal level the organic recycling requirements on businesses will expand to cover businesses that generate two cubic yards or more of commercial solid waste per week. The City's current system does not allow for the implementation of AB 1826 on commercial businesses, and does not track or monitor the diversion results.

### **Actions Taken by the City of Los Angeles for the Development of the Zero Waste LA Exclusive Franchise System (Franchise System)**

In November 2010, a motion (Huizar and Koretz) was introduced in City Council directing LASAN to examine whether an exclusive commercial and multifamily franchise system would assist the City in meeting its Zero Waste and environmental goals. Development of the Franchise System required extensive stakeholder outreach and opportunities for public comment. LASAN staff conducted twenty-eight (28) public workshops and multiple meetings with industry groups including private waste haulers, studios, hospitals, non-profit organizations, and business associations.

Under state law (Public Resources Code section 49520), local governments must give at least a five-year notice to the solid waste haulers operating in their jurisdiction of changes in how a city provides services. In July 2006, LASAN issued a seven year notice to private waste haulers regarding solid waste handling for all multifamily establishments, excluding multifamily establishments collected by the City. On December 16, 2011, after approval by the Mayor and City Council, LASAN issued a five-year notice to permitted haulers regarding solid waste handling for all commercial establishments.

On November 14, 2012, the Mayor and City Council adopted the actions (Council File No. 10-1797) instructing LASAN to develop an exclusive franchise system to modify the existing permitted hauler system for the collection of solid resources from multifamily and commercial establishments. LASAN was also instructed to prepare an Environmental Impact Report (EIR), and a Franchise Implementation Plan on the proposed project.

In January 2013, LASAN sent an information request to existing permitted haulers, soliciting input on the development of the form and structure of the proposed project. The responses to the information request were considered in the development of the proposed project and its alternatives, which are described in the Franchise Implementation Plan. Multiple meetings were held including discussions by the City Council's joint Energy and Environment and the Ad Hoc on Waste Reduction and Recycling Committees on February 20, 2013 and March 20, 2013. LASAN also conducted an Open House on April 4, 2013 to accept comments on the proposed franchise zone boundaries. The City established a total of eleven (11) Franchise Zones, (Transmittal No. 2), considering the following factors:

- Zones sized with a range of 1,000 to 13,000 accounts,
- Key geographic features such as rivers, mountains,
- Major roadways,
- Prior patterns of service for collection firms,
- Proximity to unloading facilities (processing, transfer, disposal), and
- A research survey conducted from several cities and counties.

Three (3) of the Franchise Zones were designated as "small" in order to create opportunities for smaller collection companies to compete for Franchise contracts. It should be noted that a proposer awarded any one of the "small" Franchise Zones may not be awarded any of the other ten (10) Franchise Zones.

In April, 2013, the Mayor and the City Council approved the Franchise Implementation Plan, including the program goals used to develop the proposed project. Key guidelines include the following:

- Blue Bin recycling at every customer site, and a phase in of Organics recycling over time;
- No more than 49% of service may be performed by a single company;
- Include a capped cost of living increase in contracts;
- Require contingency plans to provide uninterrupted service;
- Require extensive, ongoing public education;
- Address special needs of Hospitals and other medical facilities;
- Provide an alternative process for Studios.

In April, 2014, the Mayor and the City Council certified the Final Environmental Impact Report and adopted the ordinance authorizing the Zero Waste LA Franchise System, which was signed by the Mayor on April 15, 2014 (Council File: 10-1797-S15). The proposed exclusive franchise system was found to be the environmentally preferable alternative.

On June 11, 2014, the Board authorized LASAN to distribute a Request for Proposals (Transmittal No. 1) and to negotiate Personal Service Contracts with solid waste haulers for the Franchise System.

On June 12, 2014, the RFP was released by the Board of Public Works and 15 proposals were received by the due date of October 29, 2014. Companies submitting proposals included the following:

Table 2 – Proposals Received

Proposals Received	
1	AAA Rubbish Inc
2	Athens Services, Inc
3	CalMet Services, Inc
4	Consolidated Disposal Service, LLC DBA Republic Services
5	CR&R
6	NASA Services, Inc
7	Pacific Coast Waste, LLC DBA Pacific Coast Waste
8	Recology
9	SVT Services, Inc
10	United Pacific Waste
11	Universal Waste Systems, Inc
12	USA Waste of California, Inc. DBA Waste Management
13	Ware Disposal, Inc
14	Waste Connections of California, Inc, DBA Green Team of Los Angeles (GTLA)
15	Waste Resources Los Angeles, Inc

In February 2015, the Mayor and the City Council approved LASAN’s Franchise System staffing plan, to add City resources over a period in anticipation of the implementation of the Franchise

System. All resources have been allocated to the program, with managers and key staff hired, and will be ready for implementation in mid-2017.

On July 10, 2015, the Board of Public Works deemed all fifteen private waste haulers responsive to the Business Inclusion Program requirements for the Franchise System.

### **Zero Waste LA Franchise System Staffing Plan**

In recognition of the need to have sufficient resources to undertake the entire renovation process for the City's solid resource management system, in February 2015, the Mayor and City Council approved a staffing plan for the Franchise System. The staffing plan included the following key features:

1. Three phases of adding new authorities, completed in fiscal year 2016-17;
2. Staff for the new system, including new regular authorities for the Franchise System, as well as current positions being dedicated to the new system; and
3. The ability to add staffing through contract or as-needed for the 'surge' period when the program first rolls out to customers.

LASAN created a new Solid Resources Commercial Franchise Division to administer and manage the new Franchise system and its contracted waste hauling companies. This Division, as well as those Divisions providing support, are charged with the following responsibilities:

1. Management, administration, finance, and contract oversight (15 staff);
2. Certification process and system for all facilities handling or receiving materials under the Franchise system (10 staff);
3. Field inspection to manage customer issues and provide support on City ordinance requirements (unit of 32 full time staff);
4. Customer Care Center needs (2 full time supervisors and 16 full time Customer Information Representatives);
5. Information Technology needs (5 staff); and
6. Zero Waste and Landfill Diversion (7 staff)

Franchise System staff continued to be hired as City personnel processes allow. LASAN will have sufficient staff on hand to manage the transition period beginning with notification in mid 2017.

### **Zero Waste LA Franchise System Request for Proposals (Franchise RFP) process**

#### **Key Elements of the Franchise RFP**

The Franchise RFP had the following primary objectives:

1. Higher diversion (at least 65% disposal reduction in each zone) through 100% blue bin recycling at customer sites, and increasing organics management programs;
2. Fair and equitable customer service rates through predictable, capped increases and published rates for solid resources and extra services;
3. Reduced street and air quality impacts through clean fuel vehicles and efficient routing;
4. Superior customer service through specific requirements and procedures with monitoring and enforcement by LASAN;

5. Improved health and safety for solid waste workers through certification of all facilities accepting solid resources through the Franchise System;
6. Long term competition by awarding multiple contracts and varying sized zones; and
7. Reliable system infrastructure through expanded and new development.

The Franchise RFP provided the opportunity for waste collection companies to submit proposals for initial ten-year contracts with an additional two optional five-year extensions. Each waste hauling company holding a franchise contract would become the exclusive provider of Solid Waste, Commingled Recyclables, and Organics collection and handling services for privately served commercial and multifamily customers in one or more of the Franchise Zones defined by the City.

The franchise service model is intended to mirror LASAN’s curbside service model, to the extent possible, for consistency of messaging and education, and ease of use by City residents and businesses such as: Blue bin for recyclables, green bin for yard waste and organics, and black bin for residual waste. Bulky item collection will be provided universally citywide by LASAN to all residential sectors including single family, multifamily, condominiums, townhouses and high-rise residential towers.

The following waste categories are exempt from the Franchise System: Medical Waste, Hazardous Waste, Electronic Waste, Radioactive Waste, Pharmaceutical Waste, Construction and Demolition Debris (C&D), and specialty waste such as biosolids or fats, oils and grease (FOG). Waste generated at on-location filming is excluded. Also, recyclables that are sorted and either sold or donated are not included in the Franchise System.

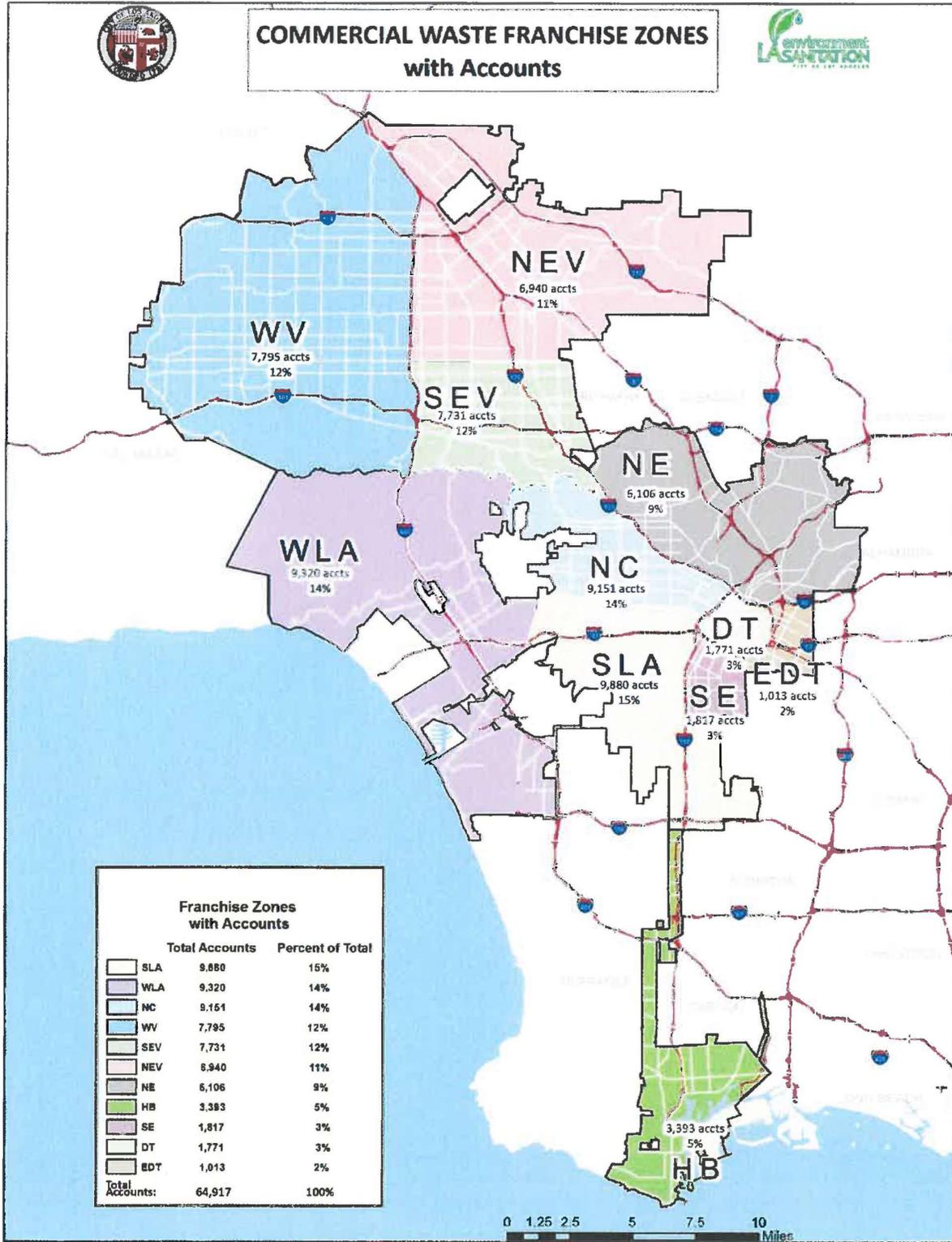
As priority customers, hospitals and their special requirements were specifically included in both the RFP and resulting contracts. Due to the unique nature of the use of their facilities, major studios defined per Ordinance are allowed to contract with any of the Exclusive Franchise haulers, as long as they meet the programmatic requirements of the Franchise System.

The Table 3 and Map 1 below shows each zone’s number of service accounts, based on self-reported information from current permitted haulers.

Table 3 – Accounts per Franchise Zone

Franchise Zone	Total Service Accounts
West Valley (WV)	7,795
Northeast Valley (NEV)	6,940
Southeast Valley (SEV)	7,731
West Los Angeles (WLA)	9,320
North Central (NC)	9,151
Northeast (NE)	6,106
South Los Angeles (SLA)	9,880
Harbor (HB)	3,393
Downtown (DT)	1,771
East Downtown (EDT)	1,013
Southeast (SE)	1,817
	64,917

Map 1 - Franchise Zone's Geographical Area and the Number of Service Accounts.



To maximize efficiency, the City allowed proposers to submit proposals for multiple zones as a single group, called a bundle. The City created three (3) bundles for this purpose. The proposers were also allowed to also develop one (1) bundle as well. Therefore, each proposer could propose on any or all of the eleven (11) individual zones, and up to four (4) bundles.

As there are eleven (11) zones, there could have been as many as eleven (11) contracts recommended. No single proposer would be awarded more than 49% of all customers. This will ensure that there are sufficient resources available in the case where redundancy is needed, backup in case of service interruptions, options in case of emergency, opportunities for smaller, local waste haulers, meeting the City's Business Inclusion Program (BIP), and fostering the availability of long-term competition.

### **Evaluation Process**

The objective of the evaluation process is to award Franchise Agreements to qualified proposers that best demonstrate the ability to effectively and efficiently achieve the City's customer service, diversion, and service delivery objectives, as defined in the RFP, while also providing fair and equitable customer rates.

The evaluation process was conducted by five (5) Evaluation Teams. Each team was responsible for a single Franchise RFP scoring category: qualifications, customer service plan, diversion plan and innovative ideas, service plan, and cost proposal. The Evaluation Teams were comprised of four (4) or more team members, from both LASAN and consultant teams, having expertise in each evaluation category, and a team leader. Each Evaluation Team reported their finding and scores to the Evaluation Committee that reviewed findings and scores for completeness. The Evaluation Committee was responsible for combining individual Team scores into a final proposer score.

### **Roles and Responsibilities of the Evaluation Team Members**

Each team member fulfilled a prescribed role in order for the evaluation process to run smoothly and efficiently.

Protecting each proposer's proprietary and confidential information was an important objective of the selection process. Every Evaluation Team Member signed a Confidentiality Agreement to ensure that all information furnished by the proposers would not be disclosed, copied, reproduced or distributed. The following was the evaluation protocol:

- Evaluation sessions were restricted to Evaluation Team Members and subject matter experts. They were closed to the public and City staff who were not supporting the Evaluation Team.
- The evaluators did not discuss the contents of the submitted proposals, procurement activities or evaluation findings with anyone outside of the Evaluation Team.
- There was no communication between the evaluators and the proposer organizations from the date of the RFP release through the evaluation process with the exception of contact as necessary to complete evaluation activities as approved by the Evaluation Committee.
- Evaluators did not communicate the scoring outcomes or content of proposals, and did not disclose the status of any proposal.

The RFP was scored using relative weights for criteria within each scoring category as follows:

Table 4 – Franchise RFP Scoring Weights

RFP Category	Points
1. Qualifications	10
2. Customer Service/Transition Plan	25
3. Service Plan	20
4. Diversion Plan/Innovation	25
5. Cost and Franchise Fee	20
<b>Total</b>	<b>100</b>

Each Evaluation Team reviewed and scored separate sections of the proposals using the evaluation methodology set forth in the evaluation manual. Each Evaluation Team Member individually scored each criterion within a category on a scale of whole scores from 1 to 5. Each Evaluation Team had a leader who facilitated the process of arriving at a consensus-based score for each criterion within the category.

### Evaluation Findings

All fifteen (15) proposals received in response to the RFP were reviewed for completeness. The Board of Public Works found all proposals were in compliance with the BIP requirements and deemed to be responsive (Transmittal No. 11). A short summary of each proposer follows:

#### Athens Services

Athens is a family owned business in the County of Los Angeles. Athens serves more than 200,000 commercial and residential customers with a fleet of more than 300 collection, hauling, and container vehicles in Riverside and Los Angeles Counties. Within the City, Athens is the largest service provider with a customer base of 26 percent. Athens owns and operates three material processing facilities, four collection yards, two container storage facilities, and an organics compost facility.

#### Republic Services

Republic provides solid resources services to 13 million customers nationwide and in Puerto Rico. Republic owns or operates 334 hauling companies, 194 transfer stations, 191 active solid waste landfills, 74 recycling facilities, and 69 landfill gas and renewable energy projects. Within the City, Republic is one of the largest service providers with a customer base of 20 percent. Republic holds long-term exclusive solid waste collection contracts with 40 municipalities in Los Angeles, Orange, and San Bernardino counties. Republic employs approximately 33,000 professionals nationwide and nearly 1,000 professionals throughout Los Angeles County.

### Waste Management

WM is a Delaware corporation and a wholly-owned subsidiary of Waste Management, Inc. Within the City, WM is one of the largest service providers with a customer base of nearly 15 percent and is one of the City's multifamily recycling collection service contractors. WM services many city franchises throughout the state and has experience servicing businesses special needs. WM has a significant amount of experience in hauler transition.

### NASA Services, Inc

NASA is a family owned business which has been operating in Los Angeles for over 50 years. NASA is a current franchise hauler for the cities of Pico Rivera and La Cañada. NASA serves 14 percent of the accounts in the City, with 90 employees and 65 collection trucks in Los Angeles and Orange Counties. NASA is also one of the City's multifamily recycling collection service contractors with about 3,000 customers.

### Recology Los Angeles

Recology, a wholly-owned subsidiary of Recology, Inc, is incorporated in California, and is headquartered in San Francisco. Recology serves over 778,000 commercial, multi-family, and residential customers in 118 communities across California, Nevada, Oregon, and Washington. At the time of its proposal, Recology had recently purchased a local hauling company (Crown Disposal), its transfer station and material recovery facility (Community Recycling), and its composting facility (Lamont Composting).

### Universal Waste Systems

UWS has been a family-owned waste hauling and processing business for 28 years. UWS collects from 9 percent of the accounts in the City. UWS is one of the City's multifamily recycling collection service contractors. UWS currently operates 150 collection vehicles and six (6) new compressed natural gas (CNG) powered vehicles are ready to be deployed.

### United Pacific Waste

UPW is a family-owned and operated California Corporation since 2001. UPW management has over 90 years of combined experience in the solid waste and recycling industry. UPW reported that they serviced more than 2,000 municipal and private customers in the Los Angeles area, including 700 in the City. UPW is the franchise hauler for Hunting Park and has provided services for the cities of El Monte and West Hollywood.

### Ware Disposal

Ware is a California Corporation, based in Santa Ana, and has served Southern California since its establishment in 1968. Ware provides service to more than 20,000 residential and commercial accounts, using over 100 collection trucks. Ware has two exclusive franchises that service Laguna Woods and the unincorporated areas of Orange County. Ware hauls from more than 25 school districts in Los Angeles, Orange, and San Bernardino counties.

CalMet Services, Inc.

CalMet is a family-operated, privately held corporation headquartered in Paramount, California. CalMet has an experienced management team operating franchises in Downey, Paramount, Cerritos, Lomita, and unincorporated Los Angeles County. It currently owns Paramount Resource Recycling Materials Recovery Facility and is a sister company to Tierra Verde Industries in Orange County. CalMet has proposed to construct a new material processing facility capable of processing 2,450 tons per day.

CR&R, Inc

CR&R was established more than 50 years ago, currently serving over 50,000 commercial and multifamily customers. To handle solid resources, CR&R proposed the use of a number of disposal and processing facilities including CLARTS, the Culver City Transfer Station, Full Circle Recycling, the Downey Area Recycling and Transfer Facility, and CR&R owned Lakeview Compost Facility and CRT Material Recovery Facility. CR&R is in the process of constructing an anaerobic digester to handle organics.

Waste Connections

Waste Connections is a wholly owned subsidiary of Waste Connections, Inc., a publicly traded company on the New York Stock Exchange. WCN is the third largest provider of municipal solid waste services in the United States with over two million residential, commercial, and industrial customers in 31 states. WCN has 6,500 employees and manages 148 solid waste collection operations, 67 transfer stations, 35 recycling operations, and 6 composting operations. WCN owns the Chiquita Canyon Landfill and is partnering with Southern California Disposal & Recycling, Potential Industries, UWS, and Community Recycling & Resource Recovery to handle solid waste from the City of Los Angeles.

AAA Rubbish, Inc

AAA is a family owned and operated hauler with eighteen (18) employees headquartered in Bell Gardens, California. AAA operates twelve (12) full-size collection trucks, two (2) small trucks, and three (3) company vehicles. AAA currently serves 1,482 business customers in the Greater Los Angeles area including 846 in the City.

Pacific Coast Waste

Pacific Coast Waste Services, LLC, is a California-based, Local and Minority Business Enterprise. In the past, PCW had provided services for the City of Compton, City of Inglewood, L.A. Unified School District, and the City of Los Angeles. Pacific Coast Waste was the franchise hauler for the City of Compton from 2007 to 2012, and was awarded a 12-year extension in 2013, but did not perform the services. Pacific Coast Waste sold its franchise and at the time of its proposal was not operating a waste hauling business.

Waste Resources Los Angeles

Waste Resources Los Angeles, Inc. (WRLA), is a wholly owned subsidiary of Waste Resources, Inc., a Los Angeles based waste management firm founded in 2002. The management team is from

Western Waste Industries which had merged with USA Waste, which later changed its name to Waste Management. As of 2013, WRLA is the franchise hauler for the cities of Gardena and Lynwood.

### SVT Services

SVT Services, Inc. (SVT) is based in Tustin, California. SVT staff has over 17 years of combined waste hauling experience in the Los Angeles area, although SVT is fairly new. SVT has set up successful recycling programs at Downtown buildings such as Wells Fargo Center, AON Building, Union Bank Plaza, and the Washington Building.

### Proposed Zone Unit Cost Comparison

In their proposed zones, Athens and Ware consistently had the lowest costs. NASA Services, UPW and Waste Management also had low costs, although slightly higher than Athens and Ware. AAA, Republic, and Pacific Coast Waste had the next lowest costs, but their cost was approximately twice that of the lowest cost proposers. CalMet, CR&R, UWS, Waste Connections and WRLA had costs more than twice the lowest cost proposals. Recology Los Angeles and SVT had costs of three times or greater than the lowest cost proposals.

The Evaluation Committee conducted follow-up interviews with each proposer to clarify the findings, questions and concerns raised by the Evaluation Team members. The Evaluation Committee verified the preliminary scores of specific sections to create final scores for each proposer, resolved any scoring disagreements, ranked all proposals by zone, and presented the findings to the Steering Committee.

### **Goals of the Negotiation Process**

The fundamental goals of the contract negotiation process are to reach consensus on contract terms while ensuring acceptable results for both parties. During the negotiations, all parties agreed to the following code of conduct:

- Confidentiality;
- Negotiations did not imply that the Proposer had secured the contract;
- Maintenance of an ethical approach and conduct was required at all times;
- Interpersonal differences were to be resolved away from the negotiation room;
- All participants were to retain an open mind at all times;
- Seek long term results; and
- Ensure that essential terms had been mutually agreed to when proposing to add to a contract.

The Lead Negotiators were responsible for ensuring that the objectives and goals of the negotiation were met. Team members were responsible for developing contract language from the agreed upon negotiated terms. Technical experts provided technical input and insight during negotiations.

All negotiation meetings took place over a series of sessions with the assigned representatives of the selected proposers. The Negotiation Teams reaffirmed the negotiation objectives as related to the topics of discussion and terms, understood the negotiation approach, discussed anticipated issues and approach to overcome such issues, and met weekly to review agreed upon terms, discuss outstanding

issues, develop positions, develop strategies to reach agreement, and provide guidance to the development of contract terms.

Each proposer demonstrated its abilities to meet the City's requirements for:

- A high level of customer service;
- Smooth and seamless transition from incumbent hauler(s);
- Updating collection vehicles and equipment to meet state and South Coast Air Quality Management District (SCAQMD) regulations;
- The use of state-of-the-art technology for the collection vehicles, equipment, and facilities, including the Call Centers;
- Compatible technology to interface with the City's Customer Care Center;
- Achieving waste disposal reduction in order to meet the City's Zero Waste goal by 2025, and state requirements for mandatory commercial recycling;
- Providing solid resources collection and handling services satisfactorily at commercially reasonable, negotiated rates; and
- All other terms and conditions of the contract.

Wherever applicable, proposers were encouraged to invest in capital improvements and to use facilities within the City to create and sustain more local job opportunities.

## **Final Scores and Zone Awards**

### Initial Shortlisting

Each of the proposals was evaluated by each of the five independent evaluation teams assigned to one of the five criteria indicated in the Franchise RFP. The scores assigned by each of the teams were aggregated and summed for each of the companies yielding a total final score. The companies were ranked according to their final score in either the large zones and/or the small zones (see Tables 5 and 6, and Chart 1 and 2). In accordance with Section 4.1.1 of the RFP, the City reserves discretion as to which zones the City chooses to negotiate with each proposer.

The Council-approved Implementation Plan contains clear provisions on the award of franchise zones:

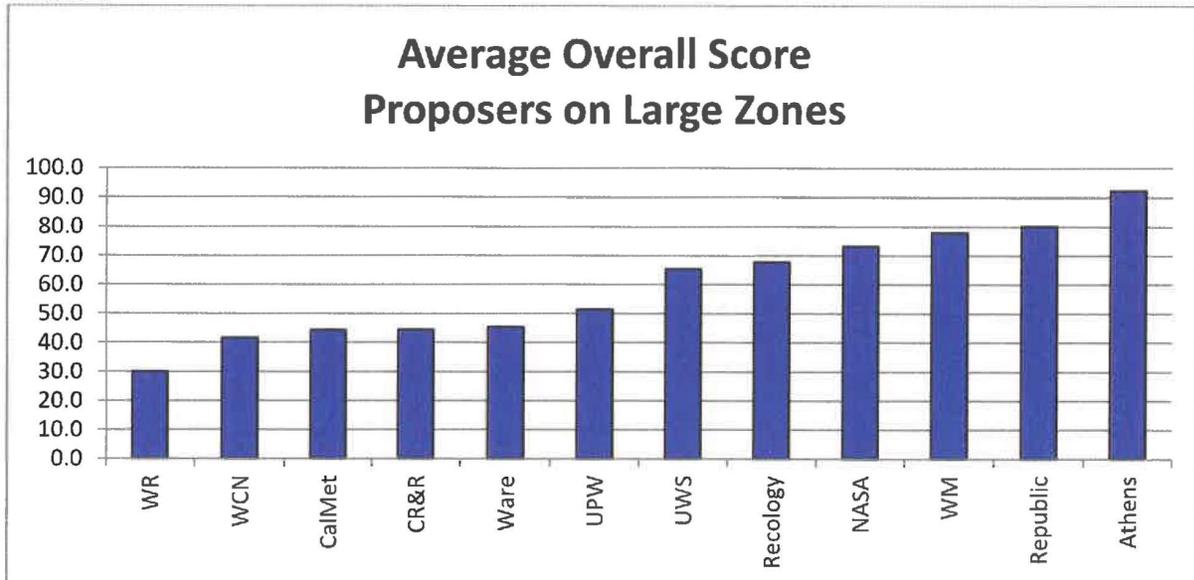
- No one Franchisee shall be awarded more than 49% of the franchise market share.
- No one Franchisee shall be awarded both a large zone and a small zone.
- No one Franchisee shall be awarded more than small zone.

In consideration of these provisions, LASAN used the companies overall ranking, their operational and organizational capacity, their financial wherewithal, and their geographical strengths as determined by the LASAN team, to short-list a group of companies, in both the large and small zones categories, to participate in the first round of the negotiations. Four companies (Athens, Republic Waste Management, and Recology) were invited to negotiate on two of the eight large zones as the initial pairings. Three companies (NASA, UWS, UPW) were invited to negotiate on one of the three small zones.

**Table 5 – Average Overall Score, Proposers on Large Zone**

Evaluation Criteria	WR	WCN	CalMet	CR&R	Ware	UPW	UWS	Recology	NASA	WM	Republic	Athens
Qualifications	5.1	6.2	6.9	6.8	6.1	6.3	7.6	7.9	7.4	8.4	7.7	8.8
Customer Service	4.9	6.9	8.5	6.2	4.2	12.7	13.9	23.2	11.2	19.7	20.2	24.8
Service Plan	7.7	8.4	12.5	12.3	10.4	8.4	13.9	14.2	12.1	19.4	18.5	17.4
Diversion Plan	6.2	18.6	9.8	15.1	4.7	6.7	23.4	22.5	24.4	14.2	21.8	21.4
Cost and Fee Proposal	6.2	1.5	6.6	4.0	20.0	17.3	6.6	0.0	18.1	16.3	12.0	19.8
<b>Total Score</b>	<b>30.1</b>	<b>41.6</b>	<b>44.3</b>	<b>44.4</b>	<b>45.4</b>	<b>51.4</b>	<b>65.4</b>	<b>67.8</b>	<b>73.2</b>	<b>78.0</b>	<b>80.2</b>	<b>92.2</b>

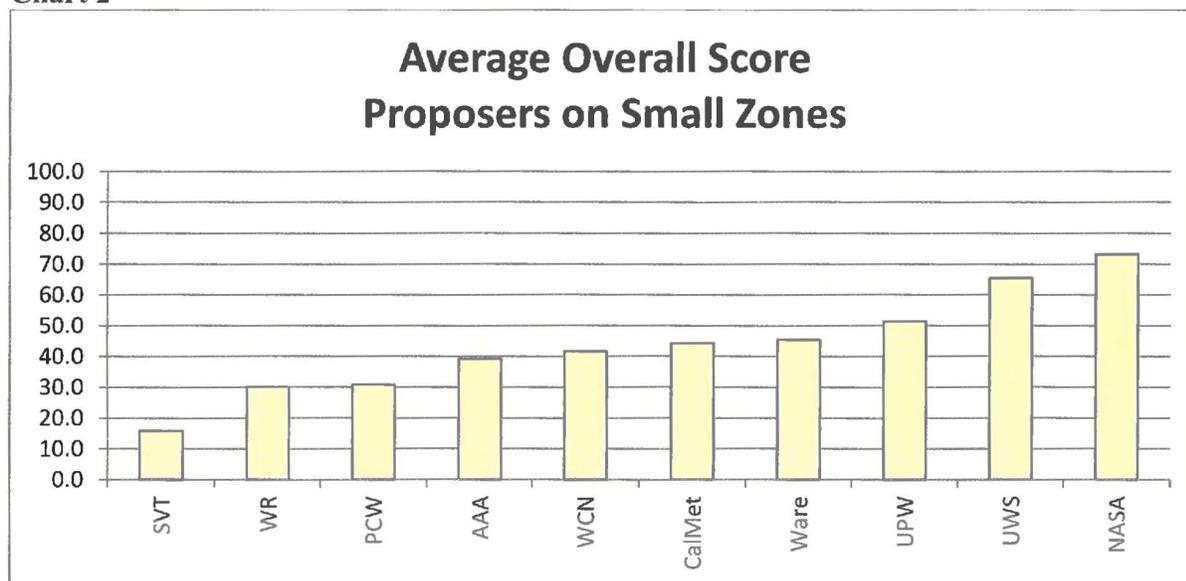
**Chart 1**



**Table 6 – Average Overall Score, Proposers on Small Zones**

Evaluation Criteria	SVT	WR	PCW	AAA	WCN	CalMet	Ware	UPW	UWS	NASA
Qualifications	1.7	5.1	3.8	4.4	6.2	6.9	6.1	6.3	7.6	7.4
Customer Service	0.4	4.9	4.5	6.1	6.9	8.5	4.2	12.7	13.9	11.2
Service Plan	5.2	7.7	5.4	8.2	8.4	12.5	10.4	8.4	13.9	12.1
Diversion Plan	8.5	6.2	3.6	6.9	18.6	9.8	4.7	6.7	23.4	24.4
Cost and Fee Proposal	0.0	6.2	13.5	13.5	1.5	6.6	20.0	17.3	6.6	18.1
<b>Total Score</b>	<b>15.8</b>	<b>30.1</b>	<b>30.8</b>	<b>39.1</b>	<b>41.6</b>	<b>44.3</b>	<b>45.4</b>	<b>51.4</b>	<b>65.4</b>	<b>73.2</b>

**Chart 2**



Negotiation Process and Zones

During the negotiation process, initial zone assignments were selected so that LASAN could negotiate specifically to cost proposal and service requirements. An extensive negotiation process that was specific to the initial zone assignments continued through March, 2016. During the negotiation process, Recology and LASAN could not come to terms on some key aspects of the contract. As a result, Recology withdrew from negotiations on March 24, 2016 (Transmittal No. 12).

With the withdrawal of Recology from the process, two large zones were now available to award. Following the rankings of the firms that proposed on large zones, LASAN offered NASA the opportunity to move from the Downtown Zone, which was the subject of negotiations up to that date, to the Northeast Zone. NASA declined and chose to stay in the Downtown Zone. Therefore, LASAN offered the Northeast Zone to UWS, the next highest ranked proposer in the large zones. UWS accepted the move from the Southeast Zone to the Northeast Zone. This created a vacancy in the small zone awards. LASAN moved to the next firm in ranking for the small zones, and invited

Ware Disposal to begin negotiations. LASAN offered the second vacant large zone to Athens, the highest ranked proposer.

Negotiations continued until July 2016. In July it was determined that negotiations would not continue with UPW, and UPW withdrew from the negotiation process on July 26, 2016 (Transmittal No. 13). With the withdrawal of UPW from the negotiation process, LASAN returned to the ranking of the firms that submitted proposals on the small zones, and CalMet as the next highest ranked proposer was invited to negotiate on a potential award of the East Downtown Zone.

**Zero Waste LA Zone Awards**

LASAN recommends the franchise zone awards to the firms as shown in Tables 7 and 8. Franchise RFP evaluation scoring for the large and small zones was the greatest factor in award of franchise zones.

All recommended proposers have agreed to the LASAN-approved terms and conditions such as level of customer service, use of City-certified facilities and equipment, use of technology, reporting requirements to the City and other regulatory agencies, maximum unit cost at required level of service, and diversion targets to meet City’s Zero Waste goal. The location, current availability, and timeliness of completion of new infrastructure were also factors in zone assignments. This new infrastructure is necessary to meet the City’s long term diversion goals

Table 7 - Recommended Large Zone Award

Ranking <sup>1</sup>	Proposer	Recommended Large Zone Award	Number of Accounts
1	Athens	West LA, North Central, and Harbor	21,864
2	Republic	Northeast Valley and South LA	16,820
3	WM	West Valley and Southeast Valley	15,526
4	UWS	Northeast	6,106

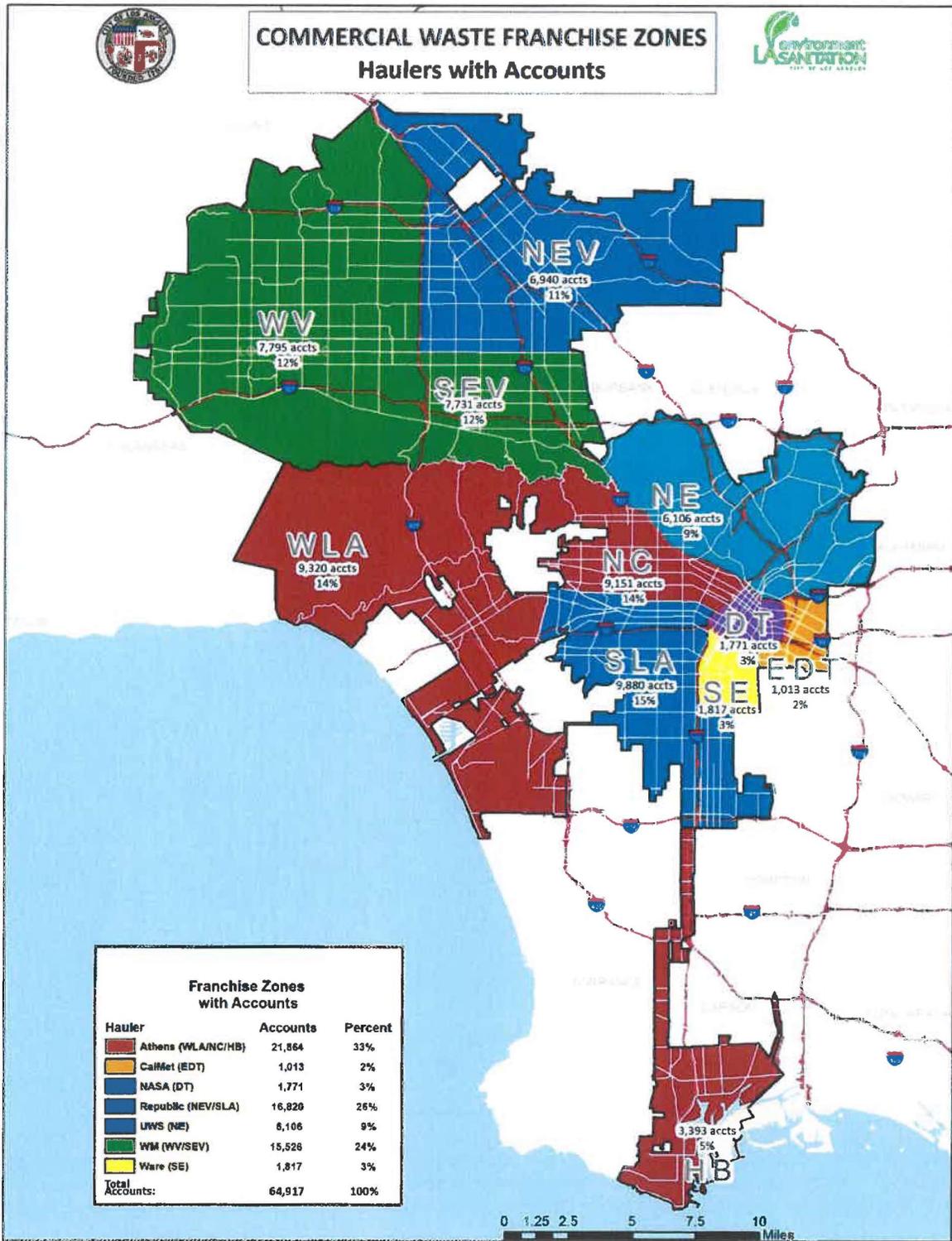
<sup>1</sup> – With the withdrawal of Recology and NASA electing to stay in the Downtown Zone

Table 8 – Recommended Small Zone Award

Ranking <sup>2</sup>	Proposer	Recommended Small Zone Award	Number of Accounts
1	NASA	Downtown	1,771
2	Ware	Southeast	1,817
3	CalMet	East Downtown	1,013

<sup>2</sup> – With the withdrawal UPW and UWS recommended for a large zone

Map 2 – Recommended Franchise Zone(s) Awards



### **City Policy – Headquarters in Arizona**

Republic's local main office is located in the City, however, its corporate headquarters is located in Arizona. Republic has had a long presence in the City and currently collects solid waste from over twenty percent of the customers transitioning into the franchise system. Republic has a long history of contracting with the City and currently contracts for solid resource services. Presently, Republic operates seven solid resources facilities in Los Angeles County, and employs nearly 2,500 people in Southern California, of which over 1,000 are employed within Los Angeles County, with 145 residing in the City. Republic's experience, expertise, and resources are important to the success of the Franchise System. Republic's existing and proposed resources, made available through the franchise contracts, allowed staff to negotiate low rates that are sustainable through the term of the contract. Limiting infrastructure resources would limit competition and increase demand on other facilities, which could have a negative impact on processing and disposal fees and ultimately rates to the Zero Waste LA customers. For the foregoing reasons, there would be significant tangible and intangible additional costs to the City and its citizens were the City to refrain from entering into a contract with Republic.

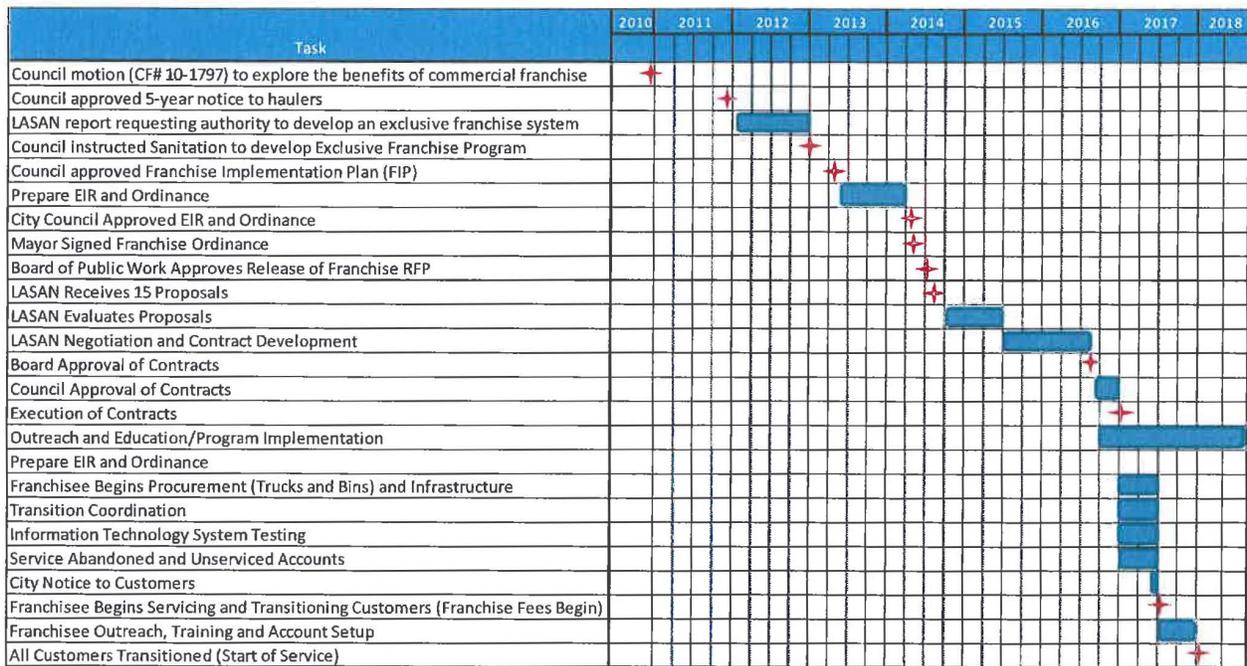
### **Zero Waste LA Exclusive Franchise System Key Contract Elements and Program Goals**

The initial term of these contracts is ten (10) years with an additional two (2) optional renewals for five (5) years each at the City's sole discretion. Each Contractor shall provide collection, transfer, recycling, processing and disposal services for municipal solid waste, commingled recyclables, and organics from commercial and multifamily customers in Franchise Zone(s).

### **Franchise System Timeline**

As shown in Chart 3, LASAN anticipates starting Franchise System transition in January 2017, immediately after contract execution. The first steps in the transition process begin with the Franchisee procuring all the necessary vehicles, bins and equipment, and to start the necessary infrastructure improvements. As there are limited vendors for procurement items such as trucks and bins the lead time for these items can be as long as six months. Beginning in January 2017 LASAN will coordinate the orderly transition of the 65,000 customers with the Franchisees and existing waste haulers. In January 2017 LASAN will also begin testing the integration of LASAN's and the Franchisees' customer service systems. The initial planning, coordination and testing will take approximately six months. In July 2017 the Franchisees will begin the outreach, training and transition of customers into the Franchise System. Transition of all customers into the Franchise System will take approximately six months and will be completed by January 2018.

Chart 3 – Franchise System Development and Implementation Schedule



**Franchise System Goal - Meet the City’s Zero Waste goals by establishing the maximum disposal for each zone, and implementing waste diversion programs that are consistent with the Solid Waste Integrated Resource Plan Guiding Principles. Meet and exceed California requirements for waste diversion and mandatory commercial and multifamily recycling**

Franchisees will be required to provide recycling (Blue Bin) service to all customers. This service is unlimited at the same frequency of solid waste (Black Bin) collection, with additional frequency at a very low rate. The Contractor will continue source-separated Organics (Green Bin) service to customers that are already being provided this service, and will offer Organics service to all customers. Negotiated pricing for Organics service does not exceed the maximum rates for Black Bin service. All Customers shall receive an on-site Waste Assessment prior to service under the Franchise System, with additional waste assessments required every two years to assist customers in right-sizing their service and improving recycling and organics collection.

To assist Customers in reuse and food rescue, the Contractor is required to utilize and fund reuse organizations, provide information to their customers on their use, and report to LASAN on their success in moving usable materials back into productive use. Outreach and Education will be developed by LASAN, and the Contractor is required to educate residents and customers in the correct use of Blue and Green Bins, the benefits of reuse and food recovery, and other sustainability messaging.

Contractors are required to reduce the tonnage of solid waste disposed in their awarded Zone(s). In the first term (10 years) of the contract, approximately 65 percent of the materials collected must be moved from primarily Black Bin collection to recovery (Blue Bin or Green Bin). A baseline will be established during the first full year of service, with varying timelines for reaching the required disposal reduction. This disposal reduction, if not met, will result in liquidated damages as they are

measured during the contract term. The Contractor is required to perform multiple sampling and characterization of materials and provide extensive reporting to validate that disposal reduction (diversion) is taking place.

**Franchise System Goal - Ensure reliable system infrastructure to provide uninterrupted service to City customers.**

The Franchise System will provide uninterrupted service to City customers by ensuring reliable system infrastructure through its Franchise contracts. The Contractors are required to have individual facility plans. The Contractors shall develop the facilities as detailed in the Facility Development Plan as per the Contract. The Contractor shall ensure that the newly developed facilities have the improvements and processing capacity to meet the demands of the Zone(s) awarded. Failure to develop new processing facilities in accordance with the Facility Development Plan may result in termination by default of the Contract.

Their specific infrastructural improvements of the recommended Contractors are briefly described below:

Athens

Much of the solid resources collected from Athens' recommended zones, located in the central part of the City, will be transported east to its existing and proposed infrastructure. Athens will invest in infrastructure development for the Franchise System. It has already invested in the expansion of its Sun Valley Material Recovery and Transfer Station. Additional improvements to this facility will include modifying the baler and processing line, installing a solar power system, and building an additional push wall. In its City of Industry Material Recovery Facility, Athens will upgrade the facility by installing an organics pre-processing system and adding a new building and other equipment over its recycling network. Athens has committed by contract to invest an additional \$10 million in infrastructure to manage solid resources from the Harbor Zone.

Republic

Republic has infrastructure near the City to service the South LA and Northeast Valley Zones. Republic will upgrade an existing composting facility in Chino that is co-owned by Agromin. The current windrow composting system operated at the facility will be converted to an aerated static pile system with additional screens. Republic will also modify its American Waste Transfer Station by enclosing the building to comply with the City's facility certification requirements.

WM

WM will construct a new enclosed transfer and processing facility in Sun Valley, adjacent to its recommended zones, that is designed to receive and process 2,000 tons per day (tpd) of solid waste, receive and transfer 1,000 tpd of recyclables, and receive and pre-process 1,000 tpd of organics. At its Lancaster site, WM will construct a 2,000 tpd organics processing facility with dry anaerobic digestion and aerated static pile composting systems. The existing Mission Road transfer station in Los Angeles will be improved by expanding its receiving area and enclosing its organics receiving area. In Wilmington, additional sorting equipment will be installed to the existing material processing facility.

### UWS

UWS will utilize new infrastructure just south of its recommended zone. UWS will develop its Santa Fe Springs Material Recovery Facility in two phases: Phase I (750 tpd) and Phase II (1,500 tpd). Its 24<sup>th</sup> Street Transfer Station in Los Angeles will be upgraded into a larger transfer facility with a 1,000 tpd processing capacity.

### CalMet

CalMet will construct a new Royal Material Recovery Facility in Paramount next to its collection yard and existing transfer station. The new facility will be capable of processing 2,450 tpd.

### Ware

Ware owns and operates the Madison Resource Recovery Facility in Santa Ana. Ware will improve this existing facility to accept and process organic waste.

The Franchise System will also provide additional organics infrastructure through new or expanded private partnerships. Athens has partnered with Anaergia, Inc. for the development of a bioenergy facility in Rialto that utilizes digestion technology to produce renewable energy from organics. The Rialto facility is expected to be operational in 2019. Republic has also collaborated with Anaergia, Inc. to build the Anaheim Sustainability Center, a state-of-the-art facility that will convert organics into renewable energy through the process of anaerobic digestion. This facility is anticipated to be completed in 2018. Both facility development projects will be entirely funded by Anaergia, Inc. with Athens and Republic supplying organics as feedstock to the digestion process.

**Franchise System Goal - Create a consistent, clearly defined system with predictable and reasonable rates and contingency plans to ensure reliable service.**

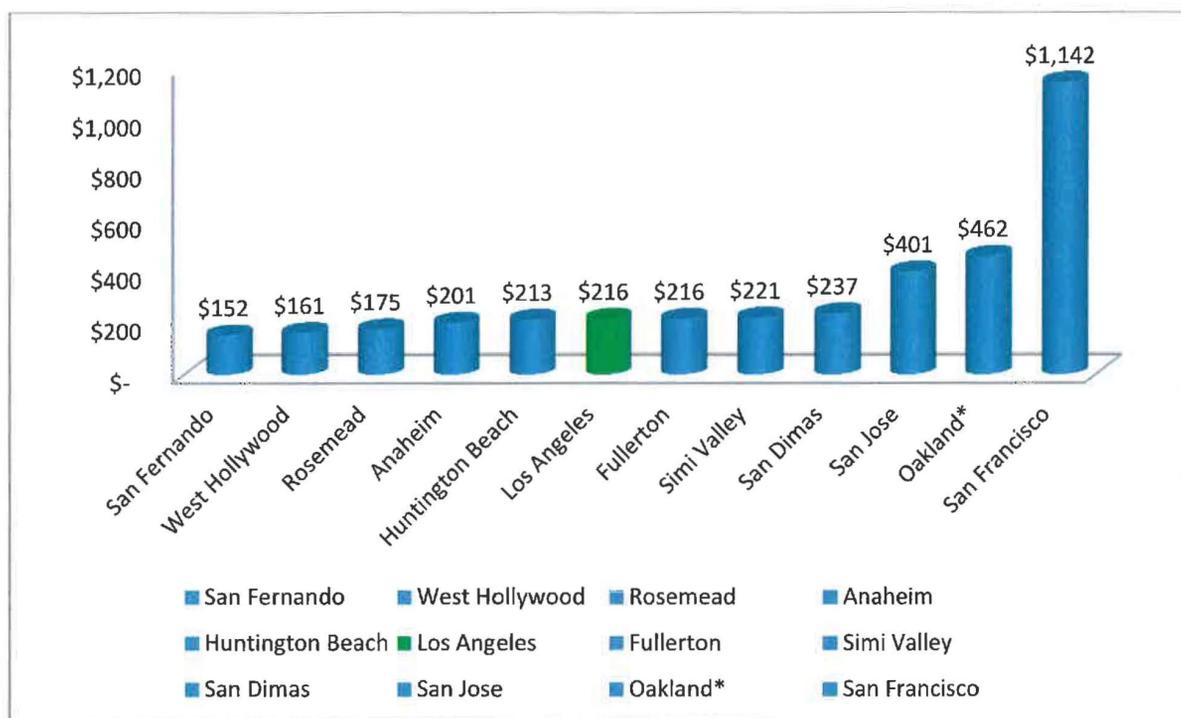
One of the goals of the Franchise System is a fair and equitable rate structure, with predictable rates. LASAN staff utilized private sector experts in the field of solid waste rate development, rate verification and modeling to assist in negotiating fair rates with all proposers. These experts utilized experience, industry standards and information provided by the proposers to develop rate models. These models took into account the requirements of the contract including clean fuel vehicles, education and outreach, staffing, infrastructure, and landfill reduction.

LASAN staff researched rates in other cities throughout the state, including current rates for solid waste and recyclables collection, both combined and individually. Many of the cities researched had separate rates for solid waste and recycling, which for comparison were combined into a single rate. In total, over one hundred California cities with franchise agreements were reviewed. Statistics for those rates are shown below in Table 9. In the Franchise System, the monthly rate for a 3 cubic yard solid waste bin, with unlimited recycling, collected once per week, is capped at \$216.72 per month, which is 15 percent lower than the average of the cities researched. Over one-third of all the cities researched have rates that are within +/-10 percent of the proposed Franchise System maximum rate.

Table 9 – Rate Comparison

	Monthly Rate for Solid Waste and Recycling 3 cubic yard bin collected once per week (1-3-1)
Minimum	\$69.09
Maximum	\$1,198.88
Median	\$206.80
Mean (Average)	\$257.24
City of Los Angeles	\$216.72

**Sample Rates of Commercial Exclusive Franchises in California**  
**Solid Waste and Recycling**  
**3 cubic yard bin collected once per week (1-3-1)**



\* - Rate for Oakland does not include collection of commingled recyclables

LASAN negotiated fair and equitable rates for all customers. Maximum rate caps citywide will ensure equity so that all of the City’s business, institutional, and multifamily customers to receive the same services for a predictable rate. A citywide rate structure does not mean a one-size-fits-all approach. Customers will have a suite of solid waste and recycling options to choose from that promotes diversion and can be customized to fit their needs and/or desires. The rate schedules have been negotiated to help encourage additional diversion of material from landfills. The Contractors are required to include recycling services in their standard rates.

To save money and divert more material from landfills, customers may request a larger recycling or green bin and/or more frequent recycling, green waste, or organics service, and the unit cost of that service is priced lower than comparable service for solid waste. This will provide a powerful incentive for driving additional material away from landfills and toward more beneficial uses. The rates were also structured to address the City's phased approach to organic recycling.

The Contractors can only bill customers for services up to the maximum rates as per the contract. The Contractors will bill all customers, except customers with temporary service such as roll-offs, one month in advance on a monthly basis. The Contractors shall be solely responsible for collecting bill payments from customers and services shall be performed on the basis of payment rendered. If a customer goes out of business, the Contractors shall be solely responsible for collecting that debt.

Another objective was predictable rate increases to customers. To this end, an annual compensation adjustment shall be made considering readily available cost indices. Costs in the Contract shall be used as the basis for adjusting Contractor compensation (plus additional financial information that may be requested by the City). These indices will be the same for all contracts, allowing rates to move consistently throughout the term of the contract. The total annual compensation adjustment shall not exceed five (5) percent. Over the last five years this compensation adjustment has averaged just over 2 percent annually.

Organics infrastructure, additional hauling, pre-processing, and processing will be required due to the special requirements of organics, especially food waste. These costs will become significant in years three and four of the contract, and will continue through the end of the contract. To account for these costs, there will be a three (3) percent increase in all rates for each of these years in addition to any annual rate increase. The contracts also allow for increases due to changes in law or regulations that result in an increased fee or assessment. In addition, the contracts contain a potential rate adjustment every 60 months of the contract, capped at 3%, to allow for unforeseen circumstances. These increases will be in addition to the calculated Consumer Price Index increase within the 5 percent cap.

LASAN has established a list of Extra Services included in each contract, which each Contractor shall offer their customers within the accompanying rates. Extra Services shall be increased annually in accordance with the formula specified for an Annual Compensation Adjustment.

#### Franchise Fee

The Contractors will pay, on a quarterly basis, a negotiated Franchise Fee to the City based on a percentage of the gross receipts billed to all customers. The payment is due on or before 30 days following the end of each calendar quarter.

#### AB 939 Compliance Fee

The AB 939 Compliance Fee will remain the same. The Contractors shall remit to the City the AB 939 Compliance Fee equal to ten (10) percent of gross solid waste receipts in accordance with Section 66.32 of the Los Angeles Municipal Code. The payment is due on or before 30 days following the end of each calendar quarter.

**Franchise System Goal - Provide the highest level of Customer Service through communication and delivery of services**

The City's LASAN Customer Care Center and Dispatch Center, which operates 24/7, will be the first point of contact for customers initiating service requests, complaints, and inquiries either through phone, internet/website, or mobile/smart-phone application; except for billing inquiries, which may go directly to the Contractors' billing department. Each Contractor shall maintain a fully staffed call center operating Monday through Friday from 7:00 AM through 6:00 PM, and Saturday from 8:00 AM through 12:00 PM. During these regular business operating hours, customers shall be able to resolve all billing-related requests and inquiries. The Contractors shall be capable of handling customer inquiries and initiating service requests 24 hours per day, 7 days per week, to receive, respond and resolve all customer inquiries and service complaints.

The Contractors' customer support performance will be monitored and the Contractors must have sufficient technology in place to support the performance metrics specified in the Contract. The City will ensure that customer service standards are met. The City may, at its sole discretion, investigate all unresolved disputes between the Contractors and a Customer. At the end of the investigation, the City will determine the resolution of such disputes.

The Contractors shall provide sufficient staffing to meet and execute all requirements of this Contract including the transition period. All Contractors' and subcontractors' staff assigned to hospitals must comply with hospital medical screening and testing, integrity of the hospital waste stream from pick up to ultimate disposal, and Protected Health Information requirements.

The Contractors shall participate in the City's Solid Resources program outreach activities, including but not limited to: public appearances in support of the City's Recycling Program, use of the City's recycling theme, colors, and logos on collection vehicles and containers, distribution of promotional literature, participation in special events, special educational presentations, and similar activities.

The Contractors shall utilize the state-of-the-art technology available to meet the Contract requirements stated under customer service, outreach and education, field operations, solid resources collection, as well as all other elements of the Contract. The Contractors shall assist in maintaining LASAN's franchise customer database. This information must be able to interface with and cross-link to the City's account database software and technology.

**Franchise System Goal - Improve the City's air quality by requiring late model low emission clean fuel vehicles**

Collection vehicles must be clean fueled, using CNG or liquefied natural gas, and less than 8 years old at the start of the contract and less than 10 years old throughout the duration of the first term of the contract. Separate vehicles will be used for each commodity (Solid Waste, Commingled Recyclables, and Organics). When the program is fully implemented, the small zones will require about 44 total vehicles, excluding spares. The large zones may require as many as 340 total vehicles, excluding spares. While some of the proposers already have some CNG vehicles, most of them will need to be newly purchased. All will need to be replaced by the end of the initial 10 years of the contract. This will require a significant capital investment for the first 10 years of the project.

In addition, all collection vehicles, including tractor trailers that carry roll-off Containers, shall be in compliance with the SCAQMD Fleet Rule 1193. All solid resources collection vehicles shall be

equipped with on-board technology (software and hardware) capable of monitoring and recording data, vehicle dynamics monitoring, lift monitoring, photo and video, and engine performance monitoring systems. On-board technology shall capture at minimum, fuel consumption, idle time, unsafe driving practices, safety inspections, vehicle maintenance, engine emissions, and container lifts. This data shall be communicated from the truck in real-time and maintained by the haulers. The data must be accessible transferred to the City in an acceptable format and in real-time. Contractor's collection vehicles and equipment shall be maintained in compliance with the manufacturer's specifications, and all applicable laws and regulations.

**Franchise System Goal - Improve health and safety for solid waste workers under City contract provisions**

All facilities intended for use by the Contractor in operations pertaining to this Contract shall undergo the City's facility certification process and maintain the certification in good standing while they are utilized under the Franchise System.

The Contractors are required to have a written contingency plan, describing the steps that the Contractors shall take to avoid interruptions in collection, disposal and processing services. At all times, the Contractors and their employees shall operate and maintain all collection vehicles and equipment in compliance with all applicable laws. The Contractors shall maintain all necessary licenses and registrations, and shall timely pay all fees and taxes, on all vehicles and equipment, as required under applicable laws.

The Contractors shall provide routine safety training to its employees, in compliance with OSHA, all applicable laws and its safety and training plan. The safety and training plan would include but not be limited to: general safety, alcohol and drug-free workplace, fire safety, driver training, accident prevention, personal protective equipment, solid resource collection safety, Illness and Injury Prevention Program, workplace free from sexual harassment, and workplace free from violence.

The Contractors shall use only City-Certified Facilities with sufficient capacity to process or dispose of all solid resources collected under the Contracts. The Contractors shall ensure that the City's facility certification requirements are met by the facilities utilized, whether or not the facility is located within the City boundaries. The facility plan shall include secondary or back up facilities to be utilized in the event a facility is unable to accept material. Residual waste from Certified Facilities shall be disposed of by the Contractor or the processing facility Subcontractor at a City-Certified Facility selected by the Contractor or its Subcontractor.

The facility certification process will include an inspection to enforce compliance with current laws and regulations, as well as enforce City compliance provisions. Violations will be enforced through liquidated damages and other means. All facilities used by the Contractors shall be in compliance with the regulations of dust, odor, litter, noise, and other issues arising from the operation of the facilities. The facility compliance requirements should help prevent health and safety hazards and nuisance to nearby communities. The operation of facilities used for the transfer and processing of solid waste and organics creates some environmental burdens that require full enclosure to address them. Certified Facilities are subject to compliance with recordkeeping, reporting requirements, and maintenance of compliance records. The Certified Facilities must undergo audit and inspection to ensure compliance with the terms and conditions of the Franchise agreement and adequate protection of workers, public health, and the environment.

## **PROPOSED TERM OF AGREEMENT AND COST CEILING**

The proposed contract term will be for ten (10) years, with two (2) 5-year renewal option(s). There are no cost ceilings associated with these contracts.

## **BUSINESS INCLUSION PROGRAM**

The City recognized that the potential subcontracting opportunities and the associated level of participation would vary depending on the franchise zone(s) awarded. Due to the numerous proposal response option resulting from the eleven (11) zones Proposers submitted a Schedule A, List of Potential MBE/WBE/SBE/EBE/DVBE/OBE Subcontractors, that was inclusive of all subcontractors for all zones for which the Proposer submitted a proposal. Following contract negotiations, the shortlisted Proposers prepared a final Schedule A for the contract for which they are recommended to be awarded. The final Schedule A includes the list of subcontractors and their pledged subcontractor participation dollar values.

On July 10, 2015, the Board of Public Works found all proposers responsive to the City's Business Inclusion Plan. At the time of distribution of the RFP for these services, the City established anticipated participation levels for this contract of 8% MBE, 5% WBE, 5% SBE, 1% EBE, and 1% DVBE. The following Contractors and their participation levels are as follow:

Athens Services has pledged participation levels of 2.51% MBE, 0.05% WBE, 0.08% SBE, 0.07% EBE, 0% DVBE, and 7.79% OBE.

NASA has pledged participation levels of 0.41% MBE, 1.63% WBE, 1.82% SBE, 0.19% EBE, 0% DVBE, and 1.38% OBE.

Republic Services has pledged participation levels of 1.08% MBE, 0.32% WBE, 1.96% SBE, 1.96% EBE, 0% DVBE, and 11.06% OBE.

Waste Management has pledged participation levels of 2.98% MBE, 2.23% WBE, 0% SBE, 0% EBE, 0% DVBE, and 8.81% OBE.

Universal Waste Systems has pledged participation levels of 0.88% MBE, 0.17% WBE, 1.45% SBE, 1.45% EBE, 0% DVBE, and 4.71% OBE.

Ware Disposal has pledged participation levels of 0.53% MBE, 0% WBE, 0.11% SBE, 0.11% EBE, 0.11% DVBE, and 0% OBE.

CalMet has pledged participation levels of 0.29% MBE, 0% WBE, 0% SBE, 0% EBE, 0% DVBE, and 7.27% OBE (See Tables below).

Gender/Ethnicity Codes:

AA = African American

HA = Hispanic American

SAA = Subcontinent Asian American

APA = Asian Pacific American

C = Caucasian

NA = Native American

M = Male

F = Female

**Athens:**

SUBCONTRACTOR	MBE/WBE/SBE/ EBE/DVBE/OBE	GENDER/ ETHNICITY	% OF CONTRACT AMOUNT	SUBCONTRACT AMOUNT
Aslan Consulting LLC	MBE	F/AA	0.02%	\$250,000
Container Management Group, LLC/ CDSRVS, LLC	MBE	F/HA	0.06%	\$568,182
JI Gandara Transport Inc.	MBE	M/HA	2.40%	\$24,688,661
Schafer Consulting	MBE, SBE, EBE	F/APA	0.02%	\$250,000
Consensus Inc.	WBE	F/C	0.05%	\$500,000
Three Squares International Inc/ One-Drop Interactive	WBE, SBE	F/C	0%	\$50,000
Isidore Electronics Recycling	SBE, EBE	-	0.05%	\$496,000
AEP/Arts Earth Partnership	OBE	-	0.02%	\$200,000
Anaergia Services LLC	OBE	-	1.17%	\$12,065,972
AXIOM Translations, LLC	OBE	-	0.02%	\$240,000
Chiquita Canyon Landfill/ Waste Connections	OBE	-	4.10%	\$42,162,870
Consolidated Fabricators Corp	OBE	-	1.22%	\$12,500,000
Discovery Cube Los Angeles	OBE	-	0.01%	\$52,000
Green Halo	OBE	-	0.01%	\$60,000
Global Green	OBE	-	0.02%	\$200,000
I:Collect AG/SOEX Group	OBE	-	0%	\$25,000
JJ Keller & Associates	OBE	-	0.05%	\$489,600
LA Shares	OBE	-	0.03%	\$324,839
Mario's Trucking	OBE	-	1.02%	\$10,454,366
Plastics Solutions Inc./ EcoSafe Zero Waste	OBE	-	0.01%	\$150,000
reDiscover Center	OBE	-	0.02%	\$250,000
Soft-Pak	OBE	-	0.08%	\$785,000

SUBCONTRACTOR	MBE/WBE/SBE/ EBE/DVBE/OBE	GENDER/ ETHNICITY	% OF CONTRACT AMOUNT	SUBCONTRACT AMOUNT
Sustainable Works	OBE	-	0.01%	\$100,000
Total MBE Participation			2.51%	\$25,756,843
Total WBE Participation			0.05%	\$550,000
Total SBE Participation			0.08%	\$796,000
Total EBE Participation			0.07%	\$746,000
Total DVBE Participation			0%	\$0
Total OBE Participation			7.79%	\$80,059,647
Total MBE/WBE/SBE/EBE/DVBE/OBE Subcontractor Firm Participation			10.40%	\$106,862,490
Base Estimated Contract Amount				\$1,027,792,030

**NASA:**

SUBCONTRACTOR	MBE/WBE/SBE/ EBE/DVBE/OBE	GENDER/ ETHNICITY	% OF CONTRACT AMOUNT	SUBCONTRACT AMOUNT
Clean-up America	MBE	M/AA	0%	\$0
Container Management Group, LLC	MBE	F/HA	0.41%	\$765,345
Go2Zero Strategies	WBE, SBE	F/C	1.62%	\$3,000,000
Kambrian Corporation	WBE, SBE, EBE	F/APA	0.01%	\$10,000
Isidore Electronics Recycling	SBE, EBE	-	0.05%	\$100,000
S. Groner Associates, Inc.	SBE, EBE	-	0.14%	\$250,000
Adapt Consulting Inc. dba Adapt Ad Specialty	OBE	-	0.05%	\$99,998
Consolidated Fabricators Corp.	OBE	-	0.05%	\$100,000
Distributors Unlimited	OBE	-	0.27%	\$500,000
Fleetmind Solutions, LLC	OBE	-	0.26%	\$481,092
Impact Eco Vision	OBE	-	0.05%	\$100,000

SUBCONTRACTOR	MBE/WBE/SBE/ EBE/DVBE/OBE	GENDER/ ETHNICITY	% OF CONTRACT AMOUNT	SUBCONTRACT AMOUNT
Environmental Inc.				
Kuba & Associates, Inc.	OBE	-	0%	\$0
MHI Global (Impact Learning Solutions)	OBE	-	0.01%	\$20,000
Schafer Systems International, Inc.	OBE	-	0.52%	\$961,625
The Printing Connection	OBE	-	0.02%	\$30,305
The V Group	OBE	-	0.05%	\$100,000
True Truck, LLC	OBE	-	0.03%	\$58,200
Wastequip Manufacturing, LLC	OBE	-	0.05%	\$100,000
<b>Total MBE Participation</b>			<b>0.41%</b>	<b>\$765,345</b>
<b>Total WBE Participation</b>			<b>1.63%</b>	<b>\$3,010,000</b>
<b>Total SBE Participation</b>			<b>1.82%</b>	<b>\$3,360,000</b>
<b>Total EBE Participation</b>			<b>0.19%</b>	<b>\$360,000</b>
<b>Total DVBE Participation</b>			<b>0%</b>	<b>\$0</b>
<b>Total OBE Participation</b>			<b>1.38%</b>	<b>\$2,551,220</b>
<b>Total MBE/WBE/SBE/EBE/DVBE/OBE Subcontractor Firm Participation</b>			<b>3.61%</b>	<b>\$6,676,565</b>
<b>Base Estimated Contract Amount</b>				<b>\$185,000,000</b>

**Explanation for "\$0" Dollar Value of Subcontract:**

**Kuba & Associates, Inc.** – It was determined that most of the proposed activities were not required.

**Clean-up America, Inc.** – Construction material is not a part of the contract, therefore services are not needed.

**Republic Services:**

SUBCONTRACTOR	MBE/WBE/SBE/ EBE/DVBE/OBE	GENDER/ ETHNICITY	% OF CONTRACT AMOUNT	SUBCONTRACT AMOUNT
DYJP, Inc. Cabo Transport & Services	MBE	M/HA	0.50%	\$4,500,000
Container Management Group, LLC	MBE	N/A	0.43%	\$3,900,000
Titan Disposal	MBE	M/AA	0.15%	\$1,350,000
Mariposa Eco Consulting	WBE, SBE, EBE	F/C	0.13%	\$1,195,000
Paragon Language Services	WBE	F/C	0.01%	\$100,000
Pinnacle Petroleum	WBE	F/C	0.18%	\$1,600,000
AAA Rubbish, Inc.	SBE	-	0%	\$0
A-Mehr, Inc.	SBE, EBE	-	0.05%	\$450,000
City Terrance Recycling, LLC	SBE, EBE	-	1.71%	\$15,422,650
Compliance Plus	SBE, EBE	-	0.03%	\$250,000
Isidore Electronics Recycling	SBE, EBE	-	0.04%	\$350,000
Agromin	OBE	-	1.44%	\$13,000,000
AIMCS Consulting	OBE	-	0.01%	\$50,000
Anaergia Services, LLC	OBE	-	0.01%	\$100,000
Camland, Inc.	OBE	-	0%	\$0
Cemex	OBE	-	0%	\$0
Chiquita Canyon Landfill	OBE	-	0.01%	\$100,000
Consolidated Fabricators	OBE	-	0.36%	\$3,270,836
Diversified Energy Supply	OBE	-	0%	\$0
Ecology Auto Parts	OBE	-	0.83%	\$7,500,000
Environmental Solutions	OBE	-	4.33%	\$39,000,000
Finishing Studio	OBE	-	0.19%	\$1,700,000
Fleetmind Solutions, Inc.	OBE	-	0.17%	\$1,557,500

SUBCONTRACTOR	MBE/WBE/SBE/ EBE/DVBE/OBE	GENDER/ ETHNICITY	% OF CONTRACT AMOUNT	SUBCONTRACT AMOUNT
GrandMas USA Inc	OBE	-	0.02%	\$200,000
Harvest Power	OBE	-	0%	\$0
MEND – Meet Each Need with Dignity	OBE	-	0%	\$45,000
Otto Environmental Systems, LLC	OBE	-	0.05%	\$490,000
Pacoima Beautiful	OBE	-	0%	\$45,000
Sun Valley Paperstock	OBE	-	2.62%	\$23,600,000
Sustain LA	OBE	-	0.00%	\$20,000
Universal Waste Systems, Inc.	OBE	-	0%	\$0
Wastequip Mfg. Co. LLC	OBE	-	0.99%	\$8,900,000
<b>Total MBE Participation</b>			<b>1.08%</b>	<b>\$9,750,000</b>
<b>Total WBE Participation</b>			<b>0.32%</b>	<b>\$2,895,000</b>
<b>Total SBE Participation</b>			<b>1.96%</b>	<b>\$17,667,650</b>
<b>Total EBE Participation</b>			<b>1.96%</b>	<b>\$17,667,650</b>
<b>Total DVBE Participation</b>			<b>0%</b>	<b>\$0</b>
<b>Total OBE Participation</b>			<b>11.06%</b>	<b>\$99,578,336</b>
<b>Total MBE/WBE/SBE/EBE/DVBE/OBE Participation</b>			<b>14.30%</b>	<b>\$128,695,986</b>
<b>Base Estimated Contract Amount</b>				<b>\$900,274,218</b>

**Explanation for “\$0” Dollar Value of Subcontract:**

**Camland, Inc** – Camland was originally listed to haul organics to Harvest Power based on 3 zone award. With only 2 zones award, Harvest Power will not be utilized, therefore, no transportation from Camland is needed.

**AAA Rubbish** – AAA was listed for 3 zone award. Northeast Valley and SLA zones are not feasible for service from AAA yard.

**Universal Waste Systems, Inc.** – Not needed for assigned franchise zones.

**Cemex, Inc.** – Cemex was listed as an engineered fuels subcontractor for residuals from Harvest Power. Harvest Power will not be utilized for current zone award.

**Harvest Power** – Harvest Power was listed as a possible AD facility for 3 zone award. Harvest Power facility will not be permitted or used with final zone award.

**Diversified Energy** – Diversified Energy’s fueling system is not compatible with Republic's fueling capabilities.

**Waste Management:**

SUBCONTRACTOR	MBE/WBE/SBE/ EVE/DVBE/OBE	GENDER/ ETHNICITY	% OF CONTRACT AMOUNT	SUBCONTRACT AMOUNT
J.I. Gandara Transport, Inc.	MBE	M/HA	2.98%	\$31,600,000
ASLAN Consulting	WBE	F/AA	0%	\$0
Pinnacle Petroleum, Inc.	WBE	F/C	2.23%	\$23,700,000
American Language Services	OBE	-	0.00%	\$1,000
AMREP	OBE	-	3.27%	\$34,700,000
Axiom Translation	OBE	-	0%	\$0
BIS Computer Solutions	OBE	-	0%	\$0
C.L.A.R.T.S	OBE	-	0%	\$0
C+C Public Relations & Social Marketing	OBE	-	0%	\$0
Cascadia Consulting Group	OBE	-	0.05%	\$500,000
Chemistry PR	OBE	-	0%	\$0
Community Build	OBE	-	0%	\$0
CONFAB	OBE	-	0.67%	\$7,100,000
Doppstadt West USA	OBE	-	0%	\$0
Drew Sones Consulting Services	OBE	-	0%	\$0
Global Business Solutions	OBE	-	0%	\$0
ICON Information Consultants	OBE	-	0%	\$0
ID Industries	OBE	-	0.74%	\$7,900,000
Immigrant Charitable Foundation	OBE	-	0%	\$0
IW Group, Inc.	OBE	-	0%	\$0

SUBCONTRACTOR	MBE/WBE/SBE/ EBE/DVBE/OBE	GENDER/ ETHNICITY	% OF CONTRACT AMOUNT	SUBCONTRACT AMOUNT
Los Angeles Beautification Team	OBE	-	0.02%	\$250,000
Pacoima Beautiful	OBE	-	0.02%	\$250,000
Paragon Language Service	OBE	-	0.00%	\$1,000
Potential Industries Inc.	OBE	-	0.03%	\$350,000
Rush Truck Centers	OBE	-	0.41%	\$4,300,000
Santiago Hernandez Trucking	OBE	-	2.23%	\$23,700,000
TEC La Mirada	OBE	-	0%	\$0
The PM Group	OBE	-	0%	\$0
Urban Design Center	OBE	-	0%	\$0
Urban Strategy Group	OBE	-	0%	\$0
Wastequip Toter	OBE	-	0.02%	\$250,000
Zero Waste Energy	OBE	-	1.34%	\$14,200,000
<b>Total MBE Participation</b>			<b>2.98%</b>	<b>\$31,600,000</b>
<b>Total WBE Participation</b>			<b>2.23%</b>	<b>\$23,700,000</b>
<b>Total SBE Participation</b>			<b>0%</b>	<b>\$0</b>
<b>Total EBE Participation</b>			<b>0%</b>	<b>\$0</b>
<b>Total DVBE Participation</b>			<b>0%</b>	<b>\$0</b>
<b>Total OBE Participation</b>			<b>8.81%</b>	<b>\$93,502,000</b>
<b>Total MBE/WBE/SBE/EBE/DVBE/OBE Subcontractor Firm Participation</b>			<b>14.02%</b>	<b>\$148,802,000</b>
<b>Base Estimated Contract Amount</b>				<b>\$1,061,677,000</b>

**Explanation for "\$0" Dollar Value of Subcontract:**

**Axiom Translation** – No longer exists according to LABAVN search and call to phone number on file.

**C.L.A.R.T.S.** – Not needed for assigned franchise zones; distance is too far from the West Valley and Southeast Valley.

**Drew Sones Consulting Services** – Solid waste collection consulting services not needed for assigned franchise zones.

**C+C Public Relation & Social Marketing** – Not needed for assigned franchise zones.  
**IW Group, Inc.** – Not needed for assigned franchise zones.  
**Urban Design Center** – Not needed for assigned franchise zones.  
**Urban Strategy Group** – Not needed for assigned franchise zones.  
**Chemistry PR** – Not needed for assigned franchise zones.  
**The PM Group** – Not needed for assigned franchise zones.  
**Community Build** – Not needed for assigned franchise zones.  
**Immigrant Charitable Foundation** – Not needed for assigned franchise zones.  
**ICON Information Consultants** – WM has existing capabilities that will meet the requirement of the contract for assigned franchise zones.  
**ASLAN Consulting** – WM has existing capabilities that will meet the requirement of the contract for assigned franchise zones.  
**Global Business Solutions** – WM has existing capabilities that will meet the requirement of the contract for assigned franchise zones.  
**BIS Computer Solutions** – WM has existing capabilities that will meet the requirement of the contract for assigned franchise zones.  
**TEC La Mirada** – WM has existing capabilities that will meet the requirement of the contract for assigned franchise zones.

**Universal Waste Systems:**

SUBCONTRACTOR	MBE/WBE/SBE/ EBE/DVBE/OBE	GENDER/ ETHNICITY	% OF CONTRACT AMOUNT	SUBCONTRACT AMOUNT
Container Management Group	MBE	F/HA	0.43%	\$1,500,000
The Robert Group	MBE	F/AA	0.43%	\$1,500,000
Schafer Consulting	MBE	F/APA	0.01%	\$50,000
Pinnacle Petroleum	WBE	F/C	0.17%	\$600,000
Clements Environmental	SBE, EBE	-	1.45%	\$5,000,000
Isidore Electronics Recycling	SBE, EBE	-	0%	\$0
A&B Recycling and Disposal	OBE	-	0%	\$0
Angelus Western	OBE	-	1.45%	\$5,000,000
Chiquita Canyon Landfill	OBE	-	2.89%	\$10,000,000
Consolidated Fabricators	OBE	-	0.12%	\$400,000
Fleetmind Solutions Inc.	OBE	-	0.07%	\$250,000
Law Offices of Gideon Kracov	OBE	-	0.06%	\$200,000

SUBCONTRACTOR	MBE/WBE/SBE/ EBE/DVBE/OBE	GENDER/ ETHNICITY	% OF CONTRACT AMOUNT	SUBCONTRACT AMOUNT
MDM Analysis	OBE	-	0.06%	\$200,000
Rehrig Pacific Company	OBE	-	0.06%	\$200,000
VigilEye Security Systems	OBE	-	0%	\$10,000
<b>Total MBE Participation</b>			<b>0.88%</b>	<b>\$3,050,000</b>
<b>Total WBE Participation</b>			<b>0.17%</b>	<b>\$600,000</b>
<b>Total SBE Participation</b>			<b>1.45%</b>	<b>\$5,000,000</b>
<b>Total EBE Participation</b>			<b>1.45%</b>	<b>\$5,000,000</b>
<b>Total DVBE Participation</b>			<b>0%</b>	<b>\$0</b>
<b>Total OBE Participation</b>			<b>4.71%</b>	<b>\$16,260,000</b>
<b>Total MBE/WBE/SBE/EBE/DVBE/OBE Subcontractor Firm Participation</b>			<b>7.21%</b>	<b>\$24,910,000</b>
<b>Base Estimated Contract Amount</b>				<b>\$345,510,000</b>

**Explanation for “\$0” Dollar Value of Subcontract:**

**A&B Recycling and Disposal** –UWS only proposed using this vendor for the North Central zone, however UWS is not being recommended for that zone, therefore A&B Recycling and Disposal services will not be utilized.

**Isidore Electronic Recycling** – UWS has not committed any dollars from this contract to Isidore Recycling, because this service is not typically a service that we would pay for. UWS does plan to recommend Isidore as a 3<sup>rd</sup> party recycling vendor for our clients.

**Ware Disposal:**

SUBCONTRACTOR	MBE/WBE/SBE/ EBE/DVBE/OBE	GENDER/ ETHNICITY	% OF CONTRACT AMOUNT	SUBCONTRACT AMOUNT
DYJP, Inc., dba Cabo Transport Services	MBE	M/HA	0.53%	\$500,000
Daniel R Arguello	SBE, EBE, DVBE	N/A	0.11%	\$100,000
<b>Total MBE Participation</b>			<b>0.53%</b>	<b>\$500,000</b>
<b>Total WBE Participation</b>			<b>0%</b>	<b>\$0</b>
<b>Total SBE Participation</b>			<b>0.11%</b>	<b>\$100,000</b>
<b>Total EBE Participation</b>			<b>0.11%</b>	<b>\$100,000</b>

SUBCONTRACTOR	MBE/WBE/SBE/ EBE/DVBE/OBE	GENDER/ ETHNICITY	% OF CONTRACT AMOUNT	SUBCONTRACT AMOUNT
<b>Total DVBE Participation</b>			<b>0.11%</b>	<b>\$100,000</b>
<b>Total OBE Participation</b>			<b>0%</b>	<b>\$0</b>
<b>Total MBE/WBE/SBE/EBE/DVBE/OBE Participation</b>	<b>Subcontractor</b>	<b>Firm</b>	<b>0.74%</b>	<b>\$600,000</b>
<b>Base Estimated Contract Amount</b>				<b>\$94,000,000</b>

**CalMet:**

SUBCONTRACTOR	MBE/WBE/SBE/ EBE/DVBE/OBE	GENDER/ ETHNICITY	% OF CONTRACT AMOUNT	SUBCONTRACT AMOUNT
Container Management Group, LLC	MBE	F/HA	0.29%	\$200,000
AMREP Inc.	OBE	-	2.83%	\$1,980,000
Clean Energy Fuels	OBE	-	0.90%	\$630,000
Consolidated Fabricators Corp	OBE	-	3.00%	\$2,100,000
Fleet Mind Solutions Inc	OBE	-	0.13%	\$89,000
LACSD	OBE	-	0%	\$0
Paramount Resource Recycling	OBE	-	0%	\$0
PCScale Tower	OBE	-	0.14%	\$100,000
Rehrig Pacific Company	OBE	-	0.13%	\$90,000
Synoptek	OBE	-	0.14%	\$100,000
TVI	OBE	-	0%	\$0
Zero Waste Energy	OBE	-	0%	\$0
<b>Total MBE Participation</b>			<b>0.29%</b>	<b>\$200,000</b>
<b>Total WBE Participation</b>			<b>0%</b>	<b>\$0</b>
<b>Total SBE Participation</b>			<b>0%</b>	<b>\$0</b>

SUBCONTRACTOR	MBE/WBE/SBE/ EBE/DVBE/OBE	GENDER/ ETHNICITY	% OF CONTRACT AMOUNT	SUBCONTRACT AMOUNT
<b>Total EBE Participation</b>			<b>0%</b>	<b>\$0</b>
<b>Total DVBE Participation</b>			<b>0%</b>	<b>\$0</b>
<b>Total OBE Participation</b>			<b>7.27%</b>	<b>\$5,089,000</b>
<b>Total MBE/WBE/SBE/EBE/DVBE/OBE Subcontractor Firm Participation</b>			<b>7.56%</b>	<b>\$5,289,000</b>
<b>Base Estimated Contract Amount</b>				<b>\$70,000,000</b>

**Explanation for “\$0” Dollar Value of Subcontract:**

**Zero Waste Energy** – Organics requirements have changed since RFP, CLARTS will have a program.

**TVI** – Organics requirements have changed since RFP, CLARTS will have a program.

**Paramount Resource Recycling** – Material will be taken to CLARTS per contract instead.

**LACSD** – CalMet is planning on using LACSD for the processing of commingled recyclables. It expect the net cost will \$0.

**OTHER CITY POLICIES AND REQUIREMENTS**

Athens Services, Republic Services, NASA Services, Universal Waste Systems, Waste Management, Ware Disposal, and CalMet shall comply with all City requirements, including:

- Non-Discrimination/Equal Employment Practices/Affirmative Action
- Living Wage and Service Contractor Worker Retention Ordinances
- Equal Benefits Ordinance
- Business Tax Registration Certificate
- Child Support Obligations Ordinance
- Insurance and Performance Bond Requirements
- Slavery Disclosure Ordinance
- Americans with Disabilities Act
- Municipal Lobbying Ordinance
- Los Angeles Residence Information
- Contract History
- Non-Collusion Affidavit

- First Source Hiring Ordinance
- Contractor Bidder Campaign Contribution and Fundraising Restriction
- Iran Contracting Act of 2010

## **NOTIFICATION OF INTENT TO CONTRACT AND CHARTER SECTION 1022**

The required Notification of Intent (NOI) to contract was filed with the City Administrative Officer (CAO) Clearinghouse on February 7, 2011 and a revised NOI was submitted on January 14, 2014. However, this contract is exempt from the Charter Section 1022 requirements as this contract will cost less than \$25,000 in terms of City-initiated payments under the contracts. An exemption from Charter Section 1022 was approved by the CAO on January 14, 2014.

## **CONTRACTOR RESPONSIBILITY ORDINANCE**

All contractors participating in this program are subject to compliance with the requirements specified in the City of Los Angeles's Contractor Responsibility Ordinance No. 173677, [Article 14, Chapter 1, Division 10, L.A.C.C.]. Failure to comply with the requirements specified in this ordinance will render the bidder's contract subject to termination pursuant to the conditions expressed therein.

## **CONTRACTOR PERFORMANCE EVALUATION**

In accordance with Article 13, Chapter 1, Division 10 of the City of Los Angeles Administrative Code, the appropriate City personnel responsible for quality control of this personal services contract shall submit Contractor Performance Evaluation Reports to the Bureau of Contract Administration upon completion of these contract.

## **LOS ANGELES RESIDENCE INFORMATION**

The headquarters of Athens Services is 14048 Valley Blvd., City of Industry, CA 91746. Athens Services employs 1,155 people, of which 247 reside in the City of Los Angeles.

The main office of Republic Services is 9200 Glenoaks Blvd, Sun Valley, CA 91352. Republic Services employs 1,950 people, of which 145 reside in the City of Los Angeles.

The headquarters of NASA Services is 1100 S. Maple Ave., Montebello, CA 90640. NASA Services employs 90 people, of which 17 reside in the City of Los Angeles.

The headquarters of Universal Waste Systems is 9016 Norwalk Blvd., Santa Fe Springs, CA 90670. Universal Waste Systems employs 145 people, of which 24 reside in the City of Los Angeles.

The headquarters of Waste Management is 1001 Fannin, Suite 4000, Houston, TX 77002. Waste Management employs 42,616 people, of which 232 reside in the City of Los Angeles.

The headquarters of Ware Disposal is 1451 Manhattan Ave., Fullerton, CA 92831-5221. Ware Disposal employs 114 people, of which 2 reside in the City of Los Angeles.

The headquarters of CalMet is 7202 Petterson Lane, Paramount, CA 90723. CalMet employs 149 people, of which 12 reside in the City of Los Angeles.

### **APPROVED AS TO FORM**

The proposed contracts have been approved as to form by the Office of the City Attorney.

### **CONTRACT ADMINISTRATION**

Responsibility for the administration of this contract will be with the Solid Resources Commercial Franchise Division of LASAN.

### **STATUS OF FINANCING**

There is no impact to the General Fund. All cost associated with these contract are between the Contractor (Franchisee) and the customer. The estimated overall value of these contracts is over \$3.5 billion for an initial contract term of ten (10) years.

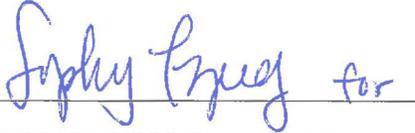
### **FUTURE ACTION**

Upon Approval by the Board, the Report will go to the Mayor for his approval. The Mayor may commission an independent analysis by the City Administrative Officer. Upon his approval, the Mayor will refer the Reports to the City Council for its consideration and approval. The City Council will have authority to approve or disapprove the Report but not to amend or modify. Upon approval by the City Council, The President of the Board or two members will execute the agreements.

Respectfully submitted,

COMPLIANCE REVIEW PERFORMED

AND APPROVED BY:



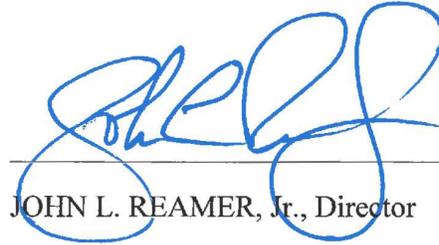
HANNAH CHOI, Program Manager  
Office of Contract Compliance  
Bureau of Contract Administration

Prepared by:

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Karen Coca (SRCRD)  
(213) 485-3686



ENRIQUE C. ZALDIVAR, Director  
Bureau of Sanitation



JOHN L. REAMER, Jr., Director  
Bureau of Contract Administration

HOLLY L. WOLCOTT  
CITY CLERK

City of Los Angeles  
CALIFORNIA

OFFICE OF THE  
CITY CLERK

SHANNON D. HOPPE  
EXECUTIVE OFFICER



**Council and Public Services Division**

200 N. SPRING STREET, ROOM 395  
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ERIC GARCETTI  
MAYOR

BRIAN E. WALTERS  
DIVISION CHIEF

[CLERK.LACITY.ORG](http://CLERK.LACITY.ORG)

When making inquiries relative to  
this matter, please refer to the  
Council File No.: [10-1797-S17](#)

**OFFICIAL ACTION OF THE LOS ANGELES CITY COUNCIL**

December 13, 2016

**Council File No.:** [10-1797-S17](#)

**Council Meeting Date:** December 09, 2016

**Agenda Item No.:** 8

**Agenda Description:** CALIFORNIA ENVIRONMENTAL QUALITY ACT ADDENDUM, and ENERGY AND ENVIRONMENT COMMITTEE REPORT relative to a request for authority to award contracts for the Zero Waste LA Exclusive Franchise System for commercial and multifamily solid waste collection and handling.

**Council Action:** ENERGY AND ENVIRONMENT COMMITTEE REPORT - ADOPTED

<b>Council Vote:</b>	YES	BOB BLUMENFIELD
	YES	MIKE BONIN
	YES	JOE BUSCAINO
	YES	GILBERT A. CEDILLO
	YES	MITCHELL ENGLANDER
	YES	MARQUEECE HARRIS-DAWSON
	YES	JOSE HUIZAR
	YES	PAUL KORETZ
	ABSENT	PAUL KREKORIAN
	YES	NURY MARTINEZ
	YES	MITCH O'FARRELL
	YES	CURREN D. PRICE
	YES	DAVID RYU
	YES	HERB WESSON

HOLLY L. WOLCOTT  
CITY CLERK



CALIFORNIA ENVIRONMENTAL QUALITY ACT (CEQA) ADDENDUM and ENERGY AND ENVIRONMENT COMMITTEE REPORT relative to a request for authority to award contracts for the Zero Waste LA Exclusive Franchise System for commercial and multifamily solid waste collection and handling.

Recommendations for Council action:

1. **CONSIDER** the CEQA Addendum with the certified Program Environmental Impact Report (EIR) and **FIND** that the previously certified EIR (Council file No. 10-1797-S16) remains relevant.
2. **FIND** that the activities approved by the contract awards are within the scope of the project covered by the certified Program EIR, that the activities would not have effects the certified EIR did not examine, and that no new environmental document is required.
3. **AUTHORIZE** the Board of Public Works (BPW), on behalf of the Bureau of Sanitation (BOS), to execute a personal services contract for the City's Exclusive Franchise System for commercial and multifamily solid waste collection and handling with:  
  
Arakelian Enterprises, Inc. (dba Athens Services aka Athens)  
Consolidated Disposal Services, LLC (dba Republic Services or Republic)  
Universal Waste Systems, Inc. (aka UWS)  
USA Waste of California, Inc. (dba Waste Management aka WM)  
CalMet Services, Inc. (aka CalMet)  
NASA Services, Inc. (aka NASA)  
Ware Disposal, Inc. (aka Ware)
4. **FIND** it is in the City's best interest to award one of the exclusive franchise contracts for commercial and multifamily solid waste collection and handling to Republic, an Arizona-based company, for the reasons outlined in the BOS report dated September 26, 2016, attached to the Council file.
5. **REQUEST** the BPW not to execute the contracts until January 31, 2017.
6. **REQUEST** the BOS to report to the Energy and Environment Committee in 30 days on:
  - a. Additional subcontracting opportunities that may be expected in the current contracts.
  - b. Progress made to expand outreach to potential subcontractors that can be added after the franchise awards are executed. Outreach should be to all types of businesses including, but not limited to, Women Business Enterprise, Minority Business Enterprise, Emerging Business Enterprise, Disabled Veterans Business Enterprise, Small Business Enterprise, and all other business enterprises, with added focus on sub-contractors with little or no previous government procurement experience.
7. **REQUEST** the BOS to seek amendments after the contracts are executed, to incorporate

additional subcontracting and outreach goals, so that meeting these goals are material requirements of the contracts, to the extent permitted by law.

8. NOTE and FILE the City Administrative Officer (CAO) reports dated November 2, 2016 and November 7, 2016 and the BOS report dated November 28, 2016.

Fiscal Impact Statement: The BOS reports that there is no impact to the General Fund. All costs associated with these contracts are between the Contractor (Franchisee) and the customer. The estimated overall value of these contracts is over \$3.5 billion for an initial contract term of ten years.

Community Impact Statement: None submitted.

**TIME LIMIT FILE - DECEMBER 12, 2016**

**(LAST DAY FOR COUNCIL ACTION - DECEMBER 9, 2016)**

Summary:

On December 7, 2016, the Energy and Environment Committee considered reports from the City Administrative Officer, the Board of Public Works, and the BOS relative to a request for authority to award contracts for the Zero Waste LA Exclusive Franchise System for commercial and multifamily solid waste collection and handling. The reports, attached to the Council file, provide background information and details on the proposed contracts. On November 2, 2016, the Committee considered the matter for discussion purposes only, and a report and powerpoint presentation on the components of the Program was provided by the BOS. After providing an opportunity for public comment, the Committee continued the matter and instructed the BOS to report back on a number of questions related to the Program and the RFP process. A report relative to the Committee's inquiries was submitted on November 28, 2016. In addition, the Committee requested the BOS and the BPW to work with interested parties on methods and approaches to address participation rates associated with women and minority businesses. That component is part of Council file No. 16-1235.

During the discussion of this item on December 7, 2016, representatives from the BOS and the City Attorney provided an overview of the Bureau's request and responded to related questions from the Committee members. After providing an opportunity for public comment, the Committee recommended that Council approve the recommendations detailed above. This matter is now submitted to Council for its consideration.

Respectfully Submitted,

ENERGY AND ENVIRONMENT COMMITTEE

<u>MEMBER</u>	<u>VOTE</u>
MARTINEZ:	YES
BLUMENFIELD:	YES
KORETZ:	YES
CEDILLO:	YES
O'FARRELL:	YES



MLE  
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**-NOT OFFICIAL UNTIL COUNCIL ACTS-**



FIRST AMENDMENT TO  
PERSONAL SERVICES CONTRACT  
BETWEEN  
THE CITY OF LOS ANGELES  
AND  
UNIVERSAL WASTE SYSTEMS, INC.  
FOR  
EXCLUSIVE FRANCHISE TO PROVIDE COLLECTION, TRANSFER, PROCESSING, AND  
DISPOSAL SERVICES FOR SOLID RESOURCES TO COMMERCIAL ESTABLISHMENTS  
AND APPLICABLE MULTIFAMILY ESTABLISHMENTS  
IN THE NORTHEAST ZONE

City of Los Angeles  
Department of Public Works  
LA Sanitation and Environment  
Solid Resources Commercial Franchise Division

**FIRST AMENDMENT TO  
PERSONAL SERVICES CONTRACT C-128881-1**

BETWEEN THE CITY OF LOS ANGELES AND UNIVERSAL WASTE SYSTEMS, INC. FOR EXCLUSIVE FRANCHISE TO PROVIDE COLLECTION, TRANSFER, PROCESSING, AND DISPOSAL SERVICES FOR SOLID RESOURCES TO COMMERCIAL ESTABLISHMENTS AND APPLICABLE MULTIFAMILY ESTABLISHMENTS IN THE NORTHEAST ZONE.

THIS FIRST AMENDMENT TO CONTRACT C-128881 is made and entered into by and between the CITY OF LOS ANGELES, a municipal corporation, acting by and through its Board of Public Works, (hereinafter called the "CITY"), and UNIVERSAL WASTE SYSTEMS, INC. (hereinafter called "CONTRACTOR") with reference to the following facts:

WITNESSETH

WHEREAS, the CITY has complied with the State Public Resources Code, Section 49520, in notification of current permitted private waste haulers of a change to an exclusive franchise system for solid resources collection and handling, called RECYCLA; and

WHEREAS, there are approximately 65,000 commercial and industrial CUSTOMERS, including over 700,000 residential multifamily units receiving solid resources services from permitted private waste haulers; and

WHEREAS, it is in the CITY's interest to provide all residents and businesses with access to recycling programs, cleaner air, and better customer service; and

WHEREAS, private waste haulers were estimated to dispose over 1.5 million tons in landfills each year from these properties; and

WHEREAS, the CITY's goal is to reach 90 percent landfill diversion by year 2025; and

WHEREAS, the RECYCLA program as effectuated through the RECYCLA AGREEMENTS is intended to meet the CITY's Zero Waste goals by, among other things, establishing maximum disposal for each franchise zone and implementing waste diversion programs that are consistent with the Solid Waste Integrated Resource Plan Guiding Principles; and

WHEREAS, pursuant to the provisions of Mandatory Commercial Recycling (AB341) and Mandatory Organics Recycling (AB1826), businesses and multifamily residences are required to subscribe to recycling programs under certain conditions; and

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WHEREAS, a goal of the RECYCLA program as effectuated through the RECYCLA AGREEMENTS is to meet and exceed California requirements for waste diversion and mandatory commercial and multifamily recycling; and

WHEREAS, the Mayor and the City Council certified the Final Environmental Impact Report and adopted the ordinance (Ordinance #182986) authorizing the RECYCLA program; and

WHEREAS, this project will help Create a More Livable and Sustainable CITY, and the implementation of this project is critical and must be retained; and

WHEREAS, the CITY desired to retain the CONTRACTOR to provide the required solid resources collection and handling services in connection with the Scope of Services as outlined in the AGREEMENT; and

WHEREAS, a Request for Proposals (RFP) was prepared to create an exclusive franchise system that provides efficient handling of solid resources with clean fuel vehicles, real time customer service, and oversight of CONTRACTOR with accountability for lapses in service as well as other failures; and

WHEREAS, the RECYCLA Franchise Agreements set forth service criteria and expectations of the recycLA Service Providers (RSPs) within these AGREEMENTS, including but not limited to regulating the rates RSPs charge their CUSTOMERS; and

WHEREAS, on June 12, 2014, the CITY released a RFP to qualified and interested parties; and

WHEREAS, on September 26, 2016 the BOARD approved the AGREEMENT with UNIVERSAL WASTE SYSTEMS, INC., Contract Number C-128881; and

WHEREAS, on December 9, 2016 the City Council approved the AGREEMENT with UNIVERSAL WASTE SYSTEMS, INC., Contract Number C-128881; and

WHEREAS, on February 1, 2017 the Office of the City Clerk attested the AGREEMENT with UNIVERSAL WASTE SYSTEMS, INC., Contract Number C-128881; and

WHEREAS, the CITY determined it was necessary to amend the AGREEMENT to meet the CITY goals;

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NOW THEREFORE, for good and valuable consideration, including the mutual promises set forth below, the CITY and the CONTRACTOR agree that the AGREEMENT be amended as follows:

**ARTICLE 1 IS HEREBY DELETED IN ENTIRETY AND REPLACED BY THE FOLLOWING:**

**ARTICLE 1: SECTION HEADINGS AND CONSTRUCTION OF PROVISIONS AND TITLES HEREIN**

All titles, subtitles, and/or section headings appearing herein have been inserted for convenience and shall not be deemed to govern, limit, modify or in any manner affect the scope, meaning, intent or construction of any of the terms or provisions hereof. The language of this CONTRACT shall be construed according to its fair meaning and not strictly for or against the CITY or the CONTRACTOR. The singular shall include the plural; use of the feminine, masculine, or neuter genders shall be deemed to include the genders not used. The terms "include" and "including" do not exclude items not enumerated that are in the same general class. Any rule or law that would require interpretation of any term or ambiguity in this CONTRACT against the party that drafted the applicable provision is waived. The Recitals to this CONTRACT are material terms hereof.

**ARTICLE 2: IS HEREBY AMENDED TO ADD/AMEND THE FOLLOWING:**

ACCESS AND DISTANCE EXTRA SERVICE CHARGES: The Distance/Access fees for Extra Services identified in Table 7-3 and referenced in Tables 7-4 and 7-5.

AMENDMENT EFFECTIVE DATE: The date when all the following events have occurred:

- The Amendment has been signed on behalf of CONTRACTOR by the person or persons authorized to bind CONTRACTOR hereto;
- The Amendment has been approved by the CITY COUNCIL or by the BOARD, officer or employee authorized to give such approval;
- The Office of the City Attorney has indicated in writing its approval of this Amendment as to form; and
- The Amendment has been signed on behalf of the CITY by the person designated by the CITY COUNCIL, or by the BOARD, officer or employee authorized to enter into this Amendment

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GROSS RECEIPTS: Those receipts defined under Gross Receipts in L.A.M.C. Section 21.00(a) as generated by the collection of SOLID RESOURCES including, but not limited to collection service, CONTAINER rental, EXTRA SERVICES, disposal, and processing charges. Fees and charges for services credited or not billed by CONTRACTORS shall not be considered GROSS RECEIPTS for purposes of FRANCHISE FEES.

MISSED COLLECTION: Collection Services that do not occur as detailed in the CUSTOMER'S service agreement with the CONTRACTOR (including on the day and/or frequency) that are not due to the fault of the RECYCLA CUSTOMER, regardless of whether the CONTRACTOR later performs the collection. A CUSTOMER'S complaint that the CUSTOMER did not receive timely service will be presumed legitimate, or presumed as a MISSED COLLECTION absent sufficient documentation to the contrary that rebuts the presumption.

OPTIMIZATION PERIOD: The period from February 1, 2018 through December 31, 2020 shall be considered the Optimization Period of the RECYCLA program in which concerted and specific efforts will be made to engage RECYCLA CUSTOMERS and for the CONTRACTOR to perform education and outreach to encourage diversion and recycling and to provide information and/or instruction regarding proper recycling at CUSTOMER sites.

RECYCLA: The statutory framework and program, including the FRANCHISE AGREEMENTS, in which the CITY oversees, regulates, and administers municipal waste diversion and management policies, practices, and has awarded contracts for exclusive franchises to provide collection, transfer, processing, and disposal services for solid resources as well as extra services to each commercial establishment and applicable multifamily establishment in the awarded franchise zones as authorized by contract and by Los Angeles Municipal Code section 66.33 *et seq.* and California Public Resources Code section 40059, *et seq.*

RECYCLA FRANCHISE AGREEMENT: The awarded contracts to the CONTRACTORS for an "Exclusive Franchise to Provide Collection, Transfer, Processing, and Disposal Services for Solid Resources to Commercial Establishments and Applicable Multifamily Establishments" in designated zones within the CITY (Contract Nos. C-128875, C-128876, C-128877, C-128878, C-128879, C-128880, C-128881), effective February 1, 2017, the date of CONTRACT EXECUTION.

ZWR: Trained CONTRACTOR and/or SUBCONTRACTOR staff responsible for outreach, education, CUSTOMER training and waste assessments.

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**SECTION 3.5 IS HEREBY AMENDED TO MODIFY THE SECTION AND ADD THE FOLLOWING:**

**3.5.1 Contaminated Containers Collected During OPTIMIZATION PERIOD**

The CONTRACTOR is responsible for visually inspecting each CUSTOMER'S BLUE BINS to determine whether they contain contaminated COMMINGLED RECYCLABLES. While BLUE BIN CONTAINERS ordinarily shall be considered contaminated if they contain more than 10% SOLID WASTE or 10% ORGANICS, individually or combined, in each BLUE BIN during the OPTIMIZATION PERIOD, the BLUE BIN shall be considered contaminated if it contains more than 20% SOLID WASTE or 20% ORGANICS, individually or combined.

The CONTRACTOR shall not charge the CUSTOMER for contaminated BLUE BINS collected during the OPTIMIZATION PERIOD. The object and goal of this OPTIMIZATION PERIOD is for the CONTRACTOR to provide additional outreach and education to CUSTOMERS on proper recycling in order to avoid contamination fees. During the OPTIMIZATION PERIOD, the CONTRACTOR shall continue to perform outreach and CUSTOMER education as specified in Section 5.13 in addition to outreach and education described in this Section 3.5.1.1.

For use during the OPTIMIZATION PERIOD, the CONTRACTOR shall develop, and submit to LASAN for approval, a specific contamination notice. This notice shall contain a list, pictorial or written, of recyclable items, policy for contamination during the OPTIMIZATION PERIOD and from where and how CUSTOMERS can obtain additional information as well as the CUSTOMER'S right to CONTRACTOR performing on-site outreach and education training.

Following the expiration of the OPTIMIZATION PERIOD commencing January 1, 2021, the Contamination Fee process set forth in Section 3.5 of the AGREEMENT shall be reinstated in full force and effect.

**3.5.1.1 Chronic Contamination**

During the CUSTOMER OPTIMIZATION PERIOD, the contamination percentage will be increased from 10% to 20% to allow CUSTOMERS more latitude to improve their internal processes and controls on BLUE BIN use, but if the container is contaminated more than 20%, the following remedial steps will apply. The remedial steps shall occur in conjunction with the OPTIMIZATION PERIOD outreach and education noted in Section 5.13.

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At no time during the OPTIMIZATION PERIOD will the CUSTOMER be assessed a BLUE BIN contamination fee per Section 3.5 of the FRANCHISE AGREEMENTS. During the OPTIMIZATION PERIOD, these provisions in Section 3.5.1.1 are an interim replacement for the process set forth at Section 3.5 of the AGREEMENT.

**1<sup>st</sup> Instance**

- CONTRACTOR shall leave a written notice, as approved to form by the CITY, which explains why the material was contaminated and not collected. The written notice shall also explain the policy for contamination and identify how the CUSTOMER can find more information on the subject.
- Photographic evidence demonstrating 20% contamination of the BLUE BIN will be uploaded by CONTRACTOR to CITY's CRM in REAL TIME.
- CONTRACTOR will notify the CUSTOMER by phone and/or by email, and offer an in-person or on-site visit with the CUSTOMER. In the CONTRACTOR's phone and/or email notification, the CONTRACTOR will also explain that the CUSTOMER'S BLUE BIN has been tagged for contamination, the contaminants found in the bin, and the CONTRACTOR shall offer a site visit by a CONTRACTOR representative for outreach and education. The CONTRACTOR shall document all communications with the CUSTOMER, and provide to the CITY upon request. Documentation shall include type of communication, date and time of communication, and resulting action, such as the date and time of scheduled on-site training and education, or the CUSTOMER'S refusal of training and education. Unless refusing an on-site visit, which shall include the failure to respond to an offer of same by CONTRACTOR, the CUSTOMER shall not have a 2<sup>nd</sup> Instance of contamination until the agreed upon outreach site-visit has occurred.
- Container is not collected.
- After making contact with the CUSTOMER by phone, email and/or by in-person, or within 24 hours of attempting such contact by phone and email, the CONTRACTOR's customer service will schedule for the container to be collected as trash at no additional cost to the CUSTOMER.
- If the CUSTOMER does not have any more contamination episodes for a period of 90 days, this instance of contamination will not be deemed a prior instance for purposes of this Section 3.5.1.1.

**2<sup>nd</sup> Instance**

- CONTRACTOR shall leave a written notice, as approved to form by the CITY, which explains why the material was contaminated and not

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collected. The written notice shall also explain the policy for contamination and identify how the CUSTOMER can find more information on the subject.

- Photographic evidence of contamination of the BLUE BIN will be uploaded by CONTRACTOR to CITY's CRM in REAL TIME.
- CONTRACTOR will notify the CUSTOMER by phone and/or by email, and offer an in-person or on-site visit with the CUSTOMER. In the CONTRACTOR's phone and/or email notification, the CONTRACTOR will also explain that the CUSTOMER'S BLUE BIN has been tagged for contamination, the contaminants found in the bin, and the CONTRACTOR shall offer a site visit by a CONTRACTOR representative for outreach and education. The CONTRACTOR shall document all communications with the CUSTOMER, and provide to the CITY upon request. Documentation shall include type of communication, date and time of communication, and resulting action, such as the date and time of scheduled on-site training and education, or the CUSTOMER'S refusal of training and education. Unless refusing an on-site visit, which shall include the failure to respond to an offer of same by CONTRACTOR, the CUSTOMER shall not have a 3<sup>rd</sup> Instance of contamination until the agreed upon outreach site-visit has occurred.
- Container is not collected.
- After making contact with the CUSTOMER by phone, email and/or by in-person, or within 24 hours of attempting such contact by phone and email, the CONTRACTOR's customer service will schedule for the container to be collected as trash at no additional cost to the CUSTOMER.
- If the CUSTOMER does not have any more contamination for a period of 90 days, this instance of contamination will not be deemed a prior instance for purposes of this Section 3.5.1.1.

**3<sup>rd</sup> Instance**

- CONTRACTOR shall leave a written notice, as approved to form by the CITY, which explains why the material was contaminated and not collected. The written notice shall also explain the policy for contamination and identify how the CUSTOMER can find more information on the subject.
- Photographic evidence of contamination of the BLUE BIN will be uploaded by CONTRACTOR to CITY's CRM in REAL TIME and CONTRACTOR will notify the CUSTOMER by phone and/or by email, and by an in-person (or on-site) visit. In all of these notifications, the CONTRACTOR will explain that the CUSTOMER'S BLUE BIN has been tagged for contamination, the

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contaminants found in the bin, and the CONTRACTOR shall offer a site visit by a CONTRACTOR representative for outreach and education.

- Container is not collected.
- CUSTOMER will be required to meet with a ZWR for retraining/education prior to the container being scheduled for collection. If the CUSTOMER refuses to meet with a ZWR by failing to return any communication within 7 calendar days after attempting to make contact by both by phone and email, or affirmatively stating its refusal to meet with a ZWR, then the CONTRACTOR may continue with this protocol. The CONTRACTOR shall document all communications with the CUSTOMER, and provide to the CITY upon request. Documentation shall include type of communication, date and time of communication, and resulting action, such as the date and time of scheduled on-site training and education, or the CUSTOMER'S refusal of training and education. The CUSTOMER shall not have a 4<sup>th</sup> Instance of contamination until the agreed upon outreach site-visit has occurred or been refused as set forth above.
- After making contact with the CUSTOMER by phone, email and/or by in-person, or within 24 hours of attempting such contact by phone and email, the CONTRACTOR's customer service will schedule for the container to be collected as trash at no additional cost to the CUSTOMER.
- If the CUSTOMER does not have any more contamination for a period of 90 days this offense will not be deemed a prior instance for purposes of this Section 3.5.1.1.

**4<sup>th</sup> Instance**

- CONTRACTOR shall leave a written notice, as approved to form by the CITY, which explains why the material collected was contaminated and not collected. The written notice shall also explain the policy for contamination and identify how the CUSTOMER can find more information on the subject.
- Photographic evidence of contamination of the BLUE BIN will be uploaded by CONTRACTOR to CITY's CRM in REAL TIME and CONTRACTOR will notify the CUSTOMER by phone, by email, and by in-person (or on-site) visit. In all of these notifications, the CONTRACTOR will explain that the CUSTOMER'S BLUE BIN has been tagged for contamination.
- The CONTRACTOR will have the sole option to:
  - Require the CUSTOMER to remove the contaminated waste from the container prior to container collection; or

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- Require the CUSTOMER to pay to have the container with contaminated waste collected as trash and pay a one-time service fee of \$50 to have the bin collected as SOLID WASTE, and remove the BLUE BIN for a minimum of 90 days, but cannot replace it with a BLACK BIN unless the CUSTOMER requests an additional BLACK BIN. The CONTRACTOR shall notify the CUSTOMER that the BLUE BIN has been removed.

**SECTION 3.7.1 IS HEREBY ADDED TO THE AGREEMENT AS FOLLOWS:**

**3.7.1 REPEATED MISSED COLLECTIONS**

All MISSED COLLECTION requests that occur more than once at the same CUSTOMER location within a 12 month period are subject to LIQUIDATED DAMAGES for repeated MISSED COLLECTION shown in Table 11-1, except as provided in this Section. MISSED COLLECTION occurring prior to the AMENDMENT EFFECTIVE DATE is (i) not considered a MISSED COLLECTION for the purposes of assessing LIQUIDATED DAMAGES (at \$300 per occurrence), and (ii) not considered a MISSED COLLECTION for which a subsequent MISSED COLLECTION after the AMENDMENT EFFECTIVE DATE might be characterized as a "Repeat MISSED COLLECTION at same CUSTOMER within twelve (12) months of previous missed collection."

The CITY shall not assess LIQUIDATED DAMAGES for "Repeat MISSED COLLECTIONS at same CUSTOMER within twelve (12) months of previous MISSED COLLECTION," as referenced in Table 11-1, on the second occurrence of a MISSED COLLECTION in a 12 month period if both the first and second instances of missed collection are collected within the required timeframe noted in Section 3.7. Only the third or subsequent instance of a missed collection within a 12 month period from the first missed collection in that same 12 month period would be deemed an assessable "repeat MISSED COLLECTION." However, if the first and second instances are not collected within the time noted in Section 3.7, then the second or subsequent instance of a MISSED COLLECTION within a 12 month period from the first MISSED COLLECTION in that same 12 month period would be deemed an assessable "repeat missed collection."

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Examples assuming Contract Amendment Effective Date of February 1, 2019

<b><u>Scenario 1 - Missed Collection Date</u></b>	<b><u>Collected Consistent with Section 3.7</u></b>	<b><u>LD for failure to collect in accordance with Section 3.7</u></b>	<b><u>LD for repeated missed within 12 months</u></b>	<b><u>Comments for 12 month look back</u></b>
<b>February 2, 2019</b>	Yes	No	No - \$0	
<b>March 2, 2019</b>	Yes	No	No - \$0	Not eligible
<b>January 2, 2020</b>	Yes	No	Yes - \$300	Repeated missed collection
<b>March 3, 2020</b>	Yes	No	No - \$0	Not eligible
<b>January 1, 2021</b>	Yes	No	Yes - 300	3 <sup>rd</sup> instance after the 1 <sup>st</sup> missed on January 2, 2020

<b><u>Scenario 2 - Missed Collection Date</u></b>	<b><u>Collected Consistent with Section 3.7</u></b>	<b><u>LD for failure to collect in accordance with Section 3.7</u></b>	<b><u>LD for repeated missed within 12 months</u></b>	<b><u>Comments for 12 month look back</u></b>
<b>February 2, 2019</b>	No	Yes - \$100	No - \$0	
<b>March 2, 2019</b>	No	Yes - \$100	Yes - \$300	Did not meet the criteria for eligibility - Repeat
<b>January 2, 2020</b>	No	Yes - \$100	Yes - \$300	Repeated missed collection
<b>March 3, 2020</b>	No	Yes - \$100	Yes - \$300	Did not meet the criteria for eligibility - Repeat
<b>March 4, 2021</b>	No	Yes - \$100	No	1 <sup>st</sup> instance in 12 months

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<u>Scenario 3 - Missed Collection Date</u>	<u>Collected Consistent with Section 3.7</u>	<u>LD for failure to collect in accordance with Section 3.7</u>	<u>LD for repeated missed within 12 months</u>	<u>Comments for 12 month look back</u>
<b>February 2, 2019</b>	Yes	No - \$0	No - \$0	
<b>March 2, 2019</b>	No	Yes - \$100	Yes - \$300	Did not meet the criteria for eligibility - Repeat
<b>January 2, 2020</b>	Yes	No - \$0	Yes - \$300	Repeated missed collection
<b>March 3, 2020</b>	No	Yes - \$100	Yes - \$300	Did not meet the criteria for eligibility - Repeat
<b>March 4, 2021</b>	No	Yes - \$100	No	1 <sup>st</sup> instance in 12 months

**SECTION 5.10.4 IS HEREBY DELETED IN ENTIRETY AND REPLACED BY THE FOLLOWING:**

**5.10.4 CONTRACTOR RESPONSIBLE FOR DISPOSAL**

The CONTRACTOR shall track all materials that are collected, processed, and disposed throughout the term of the AGREEMENT including but not limited to enable measurement of diversion performance. The CONTRACTOR shall be responsible for monitoring the success of their Diversion Programs and the reduction of disposal tonnage throughout the term of the AGREEMENT.

Table 5-1 defines the timeline of monitoring, measuring, and adjustments to the Disposal Reduction Targets, necessary to determine the success of the Diversion Plan and the progress toward Diversion Targets.

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Table 5-1: Disposal Targets and Adjustment Schedule

Months From the Start Of Service Date or Date as indicated	Diversion Period	Plan	Action Taken
(January 1, 2019 – December 31, 2019)	Baseline Period		Determine Baseline Disposal to reflect the actual amount of material collected over January 1, 2019 – December 31, 2019.
48-60 (February 1, 2022 – January 31, 2023)	First Measure Disposal Disposal Targets	Actual against	Measure Disposal starting 48 months after the START OF SERVICE DATE and ending 60 months after the START OF SERVICE DATE. CONTRACTOR may submit additional information to adjust Baseline.
61 (February 1, 2023)	Liquidated Assessable	Damages	Liquidated Damages assessable for measurement period
72-84 (February 1, 2024 – January 31, 2025)	Second Measure Disposal Disposal Targets	Actual against	Measure disposal starting 72 months after the START OF SERVICE DATE and ending 84 months after the START OF SERVICE DATE. CONTRACTOR may submit additional information to adjust Baseline.
85 (February 1, 2025)	LIQUIDATED DAMAGES Assessable		LIQUIDATED DAMAGES assessable for measurement period
97 (February 1, 2026)	Determine Targets for Contract Renewal	Disposal Potential	Determine Disposal Targets for each Zone in the case of renewal of the AGREEMENT.

**SECTION 5.13 IS HEREBY ADDED TO THE AGREEMENT AS FOLLOWS:**

**5.13 OUTREACH AND EDUCATION DURING THE OPTIMIZATION PERIOD**

The CONTRACTOR shall conduct a commercial and multifamily, outreach and education campaign as specified in this Section 5.13. During the OPTIMIZATION PERIOD, the CONTRACTOR shall offer education to all CUSTOMERS on proper recycling to encourage the recycling or reuse of SOLID RESOURCES and to reduce contamination in the BLUE BINS. The CONTRACTOR shall:

- Contact by telephone, by email, and by site visit, and coordinate with CUSTOMERS who have more than 20% contamination in the BLUE BINS and are receiving notifications and warnings from CONTRACTOR regarding contamination levels in the CUSTOMER’S BLUE BINS as described in Section 3.5.1, to work with the CUSTOMER to promote recycling and reduce contamination levels and for CONTRACTOR to determine the optimal onsite delivery of education and training material.
- Provide education determined suitable by CONTRACTOR and CUSTOMER for the CUSTOMER, that may include:

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- Onsite training to any resident, tenant or employee at CUSTOMER'S election following at least five repeated, documented offers by the CONTRACTOR of onsite training;
- Recycling education materials provided to the CUSTOMER for distribution to any resident, tenant or employee at CUSTOMER'S election and following at least five repeated, documented offers by the CONTRACTOR for recycling education materials;
- Recycling signage;
- Any other educational training, program, or signage deemed acceptable upon the mutual agreement of CONTRACTOR and CUSTOMER.
- Document all contacts with the CUSTOMER. The documentation shall include all attempted communications, agreed upon outreach and education approach, onsite training (with date, time and number of attendees), and the type and number of outreach material distributed.
- CONTRACTOR shall maintain such documentation and make it available to the CITY PROJECT MANAGER upon request.

The CONTRACTOR shall remain responsible for the outreach and education as detailed in this AGREEMENT.

**SECTION 5.10.5 IS HEREBY DELETED IN ENTIRETY AND REPLACED BY THE FOLLOWING:**

**5.10.5 DISPOSAL TARGET LIQUIDATED DAMAGES**

Prior to the proposed assessment of LIQUIDATED DAMAGES, CONTRACTOR shall have the option to request in writing, and the CITY shall reasonably consider an adjustment in disposal baseline as described in Section 5.10.3. LIQUIDATED DAMAGES associated with actual disposal tonnage exceeding the adjusted Disposal Targets shall be assessed in 100 ton increments, beginning at 1,000 tons disposed above the disposal targets. For the first disposal reduction assessment period ending at 60 months following the START OF SERVICE only (January 31, 2023), the DISPOSAL TARGET percentage (as a percentage of annual disposal compared to adjusted baseline tonnage) for 2022 (as set forth in APPENDIX A) increased by ten percentage points or 65 percent, whichever is greater, shall be used to determine whether LIQUIDATED DAMAGES shall be assessed. Failure to meet the aforementioned Disposal Targets shall result in LIQUIDATED DAMAGES of \$50,000 for the first 1,000 tons, and \$5,000 for every 100 tons thereafter. For the second disposal reduction assessment period ending at 84 months following the START OF SERVICE (January 31, 2025), the DISPOSAL TARGET percentage (as a

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percentage of annual disposal compared to adjusted baseline tonnage) of 45 percent shall be used to determine whether LIQUIDATED DAMAGES shall be assessed. Failure to meet the aforementioned DISPOSAL TARGETS shall result in LIQUIDATED DAMAGES of \$25,000 for the first 1,000 tons, and \$2,500 for every 100 tons thereafter.

Each additional 100 tons shall be considered, with amounts less than 100 tons rounded down, i.e., 4,103 tons counted for 4,100 tons, 1,395 tons considered 1,300 tons, 2,255 tons considered 2,200 tons, etc. CONTRACTOR shall have the right to appeal per Section 11.2 of the AGREEMENT.

**SECTION 7.3.2 IS HEREBY DELETED IN ENTIRETY AND REPLACED BY THE FOLLOWING:**

**7.3.2 ADJUSTMENTS FOR BLUE BIN COSTS**

CONTRACTOR shall receive a BLUE BIN cost rate adjustment effective January 1, 2020, and January 1, 2021 in which the rates and fees shall increase by 0.25 percent, above the annual weighted price index adjustment.

The CITY maintains contracts to process BLUE BIN material it collects through its curbside collection operations. In the event the CITY's overall contract revenue averages less than \$0 per delivered ton for BLUE BIN material collected through its curbside collection operations, as measured in a CITY fiscal year, CONTRACTOR may request a rate increase during the next adjustment period following the end of CITY's fiscal year, effective January 1. The CITY shall provide CONTRACTOR with documentation of the aforementioned average contract revenue by no later than 90 days after CITY's fiscal year end.

- Notwithstanding the foregoing, the assessment of any further adjustment beyond the .25 percent rate increases referenced above may be requested by the CONTRACTOR after June 30, 2022. The effective date of any such applicable BLUE BIN cost adjustment shall not occur prior to January 1, 2023. The City Project Manager will evaluate the request for Blue Bin Cost adjustment.

**SECTION 7.3.3 IS HEREBY DELETED IN ENTIRETY AND REPLACED BY THE FOLLOWING:**

**7.3.3 ADJUSTMENTS FOR IMPLEMENTING ORGANICS COLLECTION**

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The CITY recognizes that developing and implementing an ORGANICS collection program presents unique challenges and increased cost to the CONTRACTOR. To compensate for the challenges and cost of preparing for and implementing the ORGANICS program, the CONTRACTOR shall be entitled to two (2) extra rate compensation adjustments in addition to the annual weighted price index adjustment in Section 7.3. Effective January 1, 2020, and January 1, 2021 the rates and fees shall increase by 3.5 percent, above the annual weighted price index: rate or fee  $\times$  (1 + ((weighted index at Section 7.3) + 0.035)).

**SECTION 7.3.4 IS HEREBY DELETED IN ENTIRETY AND REPLACED BY THE FOLLOWING:**

**7.3.4 RATES LOOK BACK**

Effective January 1, 2022, the CONTRACTOR shall receive rate adjustment of 3%, above the annual weighted price index: rate  $\times$  (1 + ((weighted index at Section 7.3) + 0.03)). This shall be in addition to any other applicable rate and fee adjustment allowed under this AGREEMENT. Every sixty (60) months thereafter, CONTRACTOR may request that the LASAN DIRECTOR review the basis for the existing rate structure and determine the need for a rate adjustment due to CONTRACTOR's overall cost of service under this AGREEMENT, not to exceed three (3) percent. This analysis will take into consideration any cost of service increase beyond those items and indices in Section 7.3. The CITY's approval will be subject to negotiation with all FRANCHISEES and the CONTRACTOR to ensure the continuation of a fair and reasonable maximum allowable rate.

**SECTION 7.4 IS HEREBY DELETED IN ENTIRETY AND REPLACED BY THE FOLLOWING:**

**7.4 EXTRA SERVICES**

The CITY has established the following list of EXTRA SERVICES, which the CONTRACTOR shall offer their CUSTOMERS at the accompanying rate. Any services not listed in Table 7-3 shall be provided at no extra cost to the CUSTOMER, unless there is prior written approval from the CITY PROJECT MANAGER. EXTRA SERVICES fees shall be increased annually in accordance with the formulas and adjustments specified in Section 7.3.

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Table 7-3: Extra Collection Services and Associated Fees

Extra Service	Condition Under Which Fee Applies	Total Fee (presented here as of CONTRACT EXECUTION)
<b>Locks</b>		
Gravity lock installation – per CONTAINER	CUSTOMER request – one-time fee per CONTAINER	\$100 for purchase and installation
Lock bar installation – per CONTAINER	CUSTOMER request – one-time fee per CONTAINER	\$100 for purchase and installation
Locks for CONTAINERS – per lock	CUSTOMER request – one-time fee per lock	\$10
Unlocking and locking CONTAINERS – per CONTAINER	CUSTOMER request – per CONTAINER per collection event	No charge
<b>Distance/ Access</b>		
Entering Secured Building, unlocking and locking gates (see Extra Collection Services and Associated Fees Clarifications Table 7-4 for applicability)	Per collection event	\$10
Distance / Access (see Extra Collection Services and Associated Fees Clarifications Table 7-5 for applicability)		See Table 7-5
Distance Charge, between 100-200 ft, as measured from the CUSTOMER'S property line to the BINS' permanent location	Site requirement per CONTAINER per collection event	\$25
Distance Charge, over 200 ft, as measured from the CUSTOMER'S property line to the BINS' permanent location	Site requirement per CONTAINER per collection event	\$35
Blocked Access – Requiring Return or Delay	Driver observation, document with picture and note uploaded to CONTRACTOR's and the CITY's CRM in REAL TIME and notify the CUSTOMER within two (2) hours	\$50
Blocked Access (Accessing Via Intercom or Security Office) – Requiring a Return.	If driver has to wait due to a CUSTOMER created delay in excess of 5 minutes (documented using GPS technology) and with a note uploaded into the CITY's CRM in REAL TIME	\$50
<b>Supplemental Cleaning</b>		
Cart Cleaning (after one free cleaning/year)	CUSTOMER request – Fixed Fee Per CONTAINER	\$15
CONTAINER Pressure Wash/Steam Cleaning (after one free cleaning/year)	CUSTOMER request – Fixed Fee Per CONTAINER	\$30
Graffiti Removal from CUSTOMER-owned CONTAINERS	Driver observation or by request for removing graffiti from the CUSTOMER-owned CONTAINERS	\$25
Graffiti Removal from CONTRACTOR-owned CONTAINERS	CUSTOMER request to removing graffiti from the CONTRACTOR-owned CONTAINERS in excess of three times per every 12 months, in accordance with Section 3.20.5.1.	\$25

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<b>Extra Service</b>	<b>Condition Under Which Fee Applies</b>	<b>Total Fee (presented here as of CONTRACT EXECUTION)</b>
COMPACTOR CONTAINER Pressure Washing/Steam Cleaning (after one free cleaning/year)	CUSTOMER request – Fixed Fee Per CONTAINER	\$150
ROLL OFF CONTAINER Pressure Washing/Steam Cleaning (after one free cleaning/year)	CUSTOMER request – Fixed Fee Per CONTAINER	\$150
<b>CONTAINER Replacement/Repair</b>		
Repair or Replacement of CUSTOMER Owned CONTAINER(S)	CUSTOMER request; Time and Materials Fee; CONTRACTOR may direct replacement for safety and/or operational reasons; CONTRACTOR shall submit a list of replacements and deliver it with the monthly written report. The list shall include a description of why the CONTAINER was replaced, including pictures detailing the necessity of replacement	\$60 per repair hour plus materials, no charge for pick-up and delivery
Repair or Replacement of CONTRACTOR Owned CONTAINER(S) – CUSTOMER Error	CUSTOMER request or CONTRACTOR decision, with documentation supporting that the CUSTOMER is responsible for the damage to the CONTAINER	\$60 per repair hour plus materials, no charge for pick-up and delivery
Repair or Replacement of CONTRACTOR Owned CONTAINER(S) – Normal Wear and Tear or CUSTOMER Error	CUSTOMER request or CONTRACTOR decision	No charge
Changing CONTAINERS for an Increase or Decrease in Level of Service	CONTRACTOR shall submit a written list of replacements and deliver it with the monthly report. The list shall include a description of the service level change.	No charge
<b>Overflow of Materials and Contamination</b>		
Overfill Charge	Driver observation, document with picture and note uploaded to the CITY's CRM in REAL TIME, notify CUSTOMER within 2 hours, and otherwise follow the conditions and procedures described in Section 3.5	\$25 per occurrence
Overweight Charge	Driver observation, document with picture and note uploaded to the CITY's CRM in REAL TIME, notify CUSTOMER within 2 hours, and otherwise follow the conditions and procedures described in Section 3.5	\$100 per occurrence
Contamination Fee	Observation and Documentation, following the procedures described in Section 3.5	\$50 per occurrence
Hazardous, Radioactive, or Biomedical Waste Contamination Charge	Driver observation, document with picture and note uploaded to the CITY's CRM in REAL TIME, and notify CUSTOMER within 2 hours	\$100 per occurrence
<b>Other Fees</b>		
Collection of Bulky Waste from COMMERCIAL ESTABLISHMENT not subject to CITY Multifamily Bulky Item Fee – Per Item	CUSTOMER request – Fixed Fee Per Item	\$30
Idle Time Charge	If driver has to wait due to a CUSTOMER created delay in excess of 15 minutes (documented using GPS technology) and with a note uploaded into the CITY's CRM in REAL TIME	\$15 per every 15 minutes

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Extra Service	Condition Under Which Fee Applies	Total Fee (presented here as of CONTRACT EXECUTION)
Idle Time Charge – Accessing Via Intercom or Security Office	If driver has to wait due to a CUSTOMER created delay in excess of 5 minutes (documented using GPS technology) and with a note uploaded into the CITY's CRM in REAL TIME	\$15 per every 5 minutes
Sunday Service	CUSTOMER Request	50% over Monday-Saturday Service
<b>Administrative Fees</b>		
Return Payment Fee	CUSTOMER remits payment using check rejected due to insufficient funds or remits payment using a credit card or electronic payment that is declined	\$25
Late Payment Fee (>30 days overdue)	CUSTOMER inaction	\$5 or 1.5% of the debt/month, whichever is greater
CONTAINER Removal Fee	CONTAINER is removed from service location due to CUSTOMER non-payment	\$5 per CONTAINER
Re-instatement of Account Fee	CUSTOMER request – Fixed Fee	\$70 per account
CONTAINER Delivery	Delivery fee for each CONTAINER brought to the CUSTOMER as part of the reinstatement	\$25 per CONTAINER
Compactors Less than 8 cubic yards	Additional compensation, above the Base Rate, for the collection of compactors less than 8 cubic yards in size.	\$8.00 per cubic yard of collection

Table 7-4: Extra Collection Services and Associated Fees Clarifications.

Entering Secured Building, unlocking and locking gates	Chargeable to CUSTOMER			
	BLACK BIN	BLUE BIN*	GREEN BIN	BROWN BIN
1. Opening a locked or closed gate by use of a remote, clicker or other electronic device.	Yes	No	Yes	Yes
2a. Accessing locked or secured premises that have been unlocked by the CUSTOMER regardless of whether a gate is present so long as the CONTRACTOR'S vehicle has unimpeded access to the premises.	No	No	No	No
2b. Accessing an unlocked gate that is partially closed and the CONTRACTOR'S collection vehicle cannot enter the property without having to exit the vehicle to address the gate or secured premises to provide for vehicle access	Yes	No	Yes	Yes
3. Accessing a locked gate when manual push out (no scout service) is required.	Yes	No	Yes	Yes
4. Accessing via intercom a security office that does not require the driver to leave his or her vehicle.	No	No	No	No

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Table 7-5: Extra Collection Services and Associated Fees Clarifications.

Distance/Access	Chargeable to CUSTOMER			
	BLACK BIN	BLUE BIN*	GREEN BIN	BROWN BIN
1. Distance charges on BLUE BINS/blue CONTAINERS.	N/A	No	N/A	N/A
2. Properties at which the collection vehicle does drive within 100 feet of the container.	Yes	No	Yes	Yes

\* The charges for Blue Bin Distance/Access as set forth in Tables 7-4 and Tables 7-5 will not be chargeable to CUSTOMERS, unless the CITY discontinues the Removing Barriers to Recycling Program, in which case these Access and Distance Extra Service Charges on Blue Bin collection will be reinstated to CUSTOMERS.

**SECTION 7.5 IS HEREBY DELETED IN ENTIRETY AND REPLACED BY THE FOLLOWING:**

**7.5 RECYCLING NOT PROVIDED (RNP)**

The intent of the source separated BLUE and GREEN BIN program is to ensure the CITY's and state's goals of landfill diversion are met. The minimum service level (weekly service volume and collection frequency) ratio is that the BLUE BIN and GREEN BIN service shall be at least fifty percent (50%) by volume of BLACK BIN service measured by cubic yards on a per FRANCHISE ZONE basis. Failure to provide the minimum level of BLUE and GREEN BIN service will result in monthly RNP LIQUIDATED DAMAGES in accordance with Section 11.1.

Service level ratios shall be calculated on the last day of the month on a FRANCHISE ZONE basis. Monthly service levels shall be calculated based on the level of service in a FRANCHISE ZONE for all CUSTOMERS based on bin size, number and frequency. The basis for determining monthly service shall be the CUSTOMER service level data provided to the CITY. If the CONTRACTOR'S monthly combined service level zone-wide of the BLUE BIN and GREEN BIN, falls below the minimum ratio of 50% compared to BLACK BIN service, measured monthly, the CONTRACTOR shall remit quarterly to the CITY LIQUIDATED DAMAGES in accordance with Section 11.1. The CONTRACTOR will not accrue, owe, or remit and the CITY shall not assess, charge, or calculate RNP LIQUIDATED DAMAGES prior to January 31, 2021. CONTRACTOR may present evidence for exceptions and the CITY PROJECT MANAGER may consider exceptions to the

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volume requirements for specific CUSTOMERS, but BLUE BIN service must be provided. CONTRACTOR has the right to appeal the LIQUIDATED DAMAGES per Section 11.2 of this AGREEMENT.

Example of application of RNP:

For example, if for a month there were 9,000 monthly cubic yards of BLUE BINS collected, 1,000 cubic yards of GREEN BINS and 30,000 cubic yards of BLACK BINS collected, RNP LIQUIDATED DAMAGES would apply. The minimum monthly collection of BLUE BINS and GREEN BINS is 15,000 cubic yards (50% of 30,000). The CONTRACTOR achieved a ratio of 33.33%  $((9,000CY+1,000CY)/30,000CY)$ . In accordance with Table 11-1 the associated liquidated damage is \$20,000 for this month.

The CONTRACTOR shall remit quarterly the monthly LIQUIDATED DAMAGES associated with the RNP, and payment shall be paid to the CITY and is due on or before thirty (30) days following the end of each calendar quarter in which the combined BLUE BIN and GREEN BIN services were not provided as set forth in this Section, with the quarterly fee payment schedule. This remittance shall be accompanied by a RNP form as designated by the CITY. Failure to pay any fees in accordance with this AGREEMENT shall be subject to LIQUIDATED DAMAGES as listed in Table 11-1.

**SECTION 7.8 IS HEREBY ADDED TO THE AGREEMENT AS FOLLOWS:**

**7.8 REMOVING BARRIERS TO RECYCLING PROGRAM**

The CITY and CONTRACTOR agree to jointly fund a program designed to encourage recycling by CUSTOMERS as more specifically set forth in the Settlement Agreement between the CITY and CONTRACTOR. In order to further encourage recycling, the CONTRACTOR shall not bill ACCESS AND DISTANCE EXTRA SERVICE CHARGES to all CUSTOMERS related to BLUE BINS (recycling), effective February 1, 2018. The CONTRACTOR thus agrees to waive ACCESS AND DISTANCE EXTRA SERVICE CHARGES associated with BLUE BIN collection, as specified so long as the CITY continues this Removing Barriers to Recycling Program. The baseline CITY contribution, for calendar year 2018, to fund this program is \$620,823. If CITY terminates the Removing Barriers to Recycling Program prior to the end of the CONTRACT term, CONTRACTOR shall bill CUSTOMERS for Extra Services for the ACCESS AND DISTANCE EXTRA SERVICE CHARGES as set forth in Tables 7-3, 7-4, and 7-5, and pursuant to the asterisk thereto.

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**TABLE 11-1 IS HEREBY DELETED IN ENTIRETY AND REPLACED BY THE FOLLOWING:**

Table 11-1: Performance Standards and LIQUIDATED DAMAGES

<b>Category</b>	<b>Performance Standard and Conditions When LIQUIDATED DAMAGES Will Apply</b>	<b>Administrative Assessment</b>
Implementation of FRANCHISE SYSTEM	Failure to use reasonable business efforts to service an Abandoned Account, as stipulated in Section 5	\$100 per day (including during the TRANSITION PERIOD)
	CONTRACTOR abandoning an account, or implementing FRANCHISE service rates prior to CONTRACTOR NOTIFICATION	\$5,000 per verified occurrence (including during the TRANSITION PERIOD)
Provision of Services to CUSTOMERS	Failure to remove graffiti in accordance with Section 3.20.5.1 (Graffiti)	\$100 per occurrence**
	Failure to deliver CONTAINER(S) to a CUSTOMER within five (5) business days of the CUSTOMER'S request for service	\$200 per occurrence**
	Failure to repair or replace any bin, cart, CONTAINER, ROLL OFF, or COMPACTOR (any CONTAINER), in accordance with Section 3.20.5(Container maintenance) within two (2) business days of CUSTOMER report, considering availability of parts or equipment	\$100 per occurrence**
Provision of Services to CUSTOMERS (continued)	Failure to collect a MISSED COLLECTION in accordance with Section 3.7 , where not arising from or caused by a labor dispute.	\$100 per occurrence; \$200 for each day thereafter
	Repeat MISSED COLLECTIONS at same CUSTOMER within twelve (12) months of previous missed collection as set forth in Section 3.7.1	\$300 per occurrence**
	Failure to notify a CUSTOMER of improper CONTAINER set out, obstruction, or other causes for inability to provide a scheduled collection service within 2 hours	\$100 per occurrence**
	Use of profanity or hate speech by CONTRACTOR staff to CUSTOMERS	\$300 per occurrence, subject to Section 11.3 below.**
	Failure to answer 95 percent of all CUSTOMER calls received each month during normal business hours in less than 60 seconds (computed as a monthly average)	\$5,000 per month occurred
	Failure to provide service under this AGREEMENT due to Labor Disputes	The pro rata percentage of CITY estimated daily GROSS RECEIPTS under this AGREEMENT per day of service interruption, based on the number of CUSTOMERS not serviced, by either the CONTRACTOR, its contingency team or the CITY, compared with the total number of CUSTOMERS normally serviced.
	CONTRACTOR Operations	Collect, remove or transport SOLID RESOURCES from any CITY serviced CUSTOMERS
Collect, remove or transport SOLID RESOURCES from any other FRANCHISE hauler serviced CUSTOMERS		\$500 per verified occurrence, subject to Section 11.3 below.
Undertake collection operations outside of allowable hours of collection		\$300 per verified complaint

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Category	Performance Standard and Conditions When LIQUIDATED DAMAGES Will Apply	Administrative Assessment
	Make changes to routes or route days affecting 5 percent or more of the CONTRACTOR'S CUSTOMERS without at least 7 business days' notice to CUSTOMERS	\$100 per CUSTOMER per day, subject to Section 11.3 below.
	Failure to properly cover material in collection or hauling vehicles	\$300 per occurrence
	Failure to correct, upon notification by the CITY, leakage of fluids from a collection or hauling vehicle prior to resuming use of the vehicle in the CITY	\$100 per occurrence
	Failure to clean up spillage or litter occurring during collection at time of collection	\$100 per occurrence
	Failure to have a vehicle properly licensed, registered and inspected	\$100 per vehicle
	Exceeding vehicle weight limits as set forth in the State of California Vehicle Code	\$1,000 per vehicle per occurrence, subject to Section 11.3 below.
	Failure to clean collection and hauling vehicles once per week, or within 1 business day of request from the CITY	\$100 per occurrence
	Failure to report known vehicle accidents to the CITY, in accordance with 3.17.2.	\$100 per day not notified
	Failure to maintain property, facilities and equipment in a clean, safe and sanitary manner, as determined by the CITY	\$100 per day, subject to Section 11.3 below.
	Failure to provide a minimum ratio of 50% of BLUE and GREEN Bin Service to BLACK BIN Service in accordance with 7.5	\$1,250 per every 1% below 50% but greater than 30%, per month; or \$100,000 for ratio of less than 30%, per month, as applicable
Segregation and Delivery of Collection Materials	Commingling of SOLID WASTE, COMMINGLED RECYCLABLES and/or ORGANICS material segregated by the CUSTOMER in the same truck	\$1,000 per occurrence
	Failure to deliver collected SOLID RESOURCES to a CITY CERTIFIED FACILITY	\$1,000 per occurrence
CONTRACTOR Personnel and Property	Failure to have a properly licensed vehicle driver operating a vehicle	\$300 per occurrence per day
	Failure to provide any required training for vehicle operators, including safety training and training related to the operation of equipment, as required by Federal and State laws	\$1,000 per occurrence
	Failure to repair damage to a CUSTOMER'S property or other private property, caused by or resulting from the actions of the CONTRACTOR'S personnel in accordance with 3.10	\$500 per occurrence, subject to Section 11.3 below.
Diversion Requirements	Failure to meet Disposal Reduction requirements per Article 5	See Section 5.10.5
Payment and Reporting Requirements	Failure to remit fees to the CITY in accordance with Section 7 (Rates and Fees)	\$5,000 per occurrence in addition to delinquent Franchise Fees subject to Section 7.6.
	Failure to submit reports to the CITY on time	\$50 per day per report.
	Willful submission to the CITY of inaccurate reports or data, including but not limited to diversion reports and data, service level information and financial information	\$10,000 per occurrence

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\*\*Assessable only after AMENDMENT EFFECTIVE DATE; the CITY shall not assess CONTRACTOR for occurrences that occurred prior to the AMENDMENT EFFECTIVE DATE.

**ARTICLE 37 IS HEREBY DELETED IN ITS ENTIRETY AND REPLACED BY THE FOLLOWING:**

**ARTICLE 37: MANDATORY PROVISIONS PERTAINING TO NON-DISCRIMINATION IN EMPLOYMENT**

Unless otherwise exempt, this CONTRACT is subject to the applicable non-discrimination, equal benefits, equal employment practices, and affirmative action program provisions in LAAC Section 10.8 et seq., as amended from time to time.

- A. CONTRACTOR shall comply with the applicable non-discrimination and affirmative action provisions of the laws of the United States of America, the State of California, and CITY. In performing this CONTRACT, CONTRACTOR shall not discriminate in any of its hiring or employment practices against any employee or applicant for employment because of such person's race, color, religion, national origin, ancestry, sex, sexual orientation, gender, gender identity, age, disability, domestic partner status, marital status or medical condition.
- B. The requirements of Section 10.8.2.1 of the LAAC, the Equal Benefits Ordinance, and the provisions of Section 10.8.2.1(f) are incorporated and made a part of this CONTRACT by reference.
- C. The provisions of Section 10.8.3 of the LAAC are incorporated and made a part of this CONTRACT by reference and will be known as the "Equal Employment Practices" provisions of this CONTRACT.
- D. The provisions of Section 10.8.4 of the LAAC are incorporated and made a part of this CONTRACT by reference and will be known as the "Affirmative Action Program" provisions of this CONTRACT.

Any subcontract entered into by CONTRACTOR for work to be performed under this CONTRACT must include an identical provision.

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**ARTICLE 38 IS HEREBY DELETED IN ITS ENTIRETY**

**ARTICLE 39 IS HEREBY DELETED IN ITS ENTIRETY**

**ARTICLE 45 IS HEREBY DELETED IN ITS ENTIRETY**

**ARTICLE 41 IS HEREBY DELETED IN ITS ENTIRETY AND REPLACED BY THE FOLLOWING:**

**ARTICLE 41: WORKER RETENTION ORDINANCE**

CONTRACTOR shall comply with the Worker Retention Ordinance, LAAC Section 10.36 *et seq.*, as amended from time to time. Any subcontract entered into by CONTRACTOR for work to be performed under this CONTRACT must include an identical provision.

**ARTICLE 42 IS HEREBY DELETED IN ITS ENTIRETY AND REPLACED BY THE FOLLOWING:**

**ARTICLE 42: AMERICANS WITH DISABILITIES ACT**

CONTRACTOR represents and certifies that:

- A. CONTRACTOR shall comply with the Americans with Disabilities Act, as amended, 42 U.S.C. Section 12101 *et seq.*, the Rehabilitation Act of 1973, as amended, 29 U.S.C. Section 701 *et seq.*, the Fair Housing Act, and its implementing regulations and any subsequent amendments, and California Government Code Section 11135;
- B. CONTRACTOR shall not discriminate on the basis of disability or on the basis of a person's relationship to, or association with, a person who has a disability;
- C. CONTRACTOR shall provide reasonable accommodation upon request to ensure equal access to CITY-funded programs, services and activities;
- D. Construction will be performed in accordance with the Uniform Federal Accessibility Standards (UFAS), 24 C.F.R. Part 40; and
- E. The buildings and facilities used to provide services under this Contract are in compliance with the federal and state standards for accessibility as set forth in

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the 2010 ADA Standards, California Title 24, Chapter 11, or other applicable federal and state law.

CONTRACTOR understands that the CITY is relying upon these certifications and representations as a condition to funding this Contract. Any subcontract entered into by CONTRACTOR for work to be performed under this Contract must include an identical provision.

**ARTICLE 50 IS HEREBY DELETED IN ITS ENTIRETY AND REPLACED BY THE FOLLOWING:**

**ARTICLE 50: RESTRICTIONS ON CAMPAIGN CONTRIBUTIONS AND FUNDRAISING IN CITY ELECTIONS**

Unless otherwise exempt, if this CONTRACT is valued at \$100,000 or more and requires approval by an elected CITY office, CONTRACTOR, CONTRACTOR'S principals, and CONTRACTOR'S SUBCONTRACTORS expected to receive at least \$100,000 for performance under the CONTRACT, and the principals of those SUBCONTRACTORS (the "Restricted Persons") shall comply with Charter Section 470(c)(12) and LAMC Section 49.7.35. Failure to comply entitles CITY to terminate this CONTRACT and to pursue all available legal remedies. Charter Section 470(c)(12) and LAMC Section 49.7.35 limit the ability of the Restricted Persons to make campaign contributions to and engage in fundraising for certain elected CITY officials or candidates for elected CITY office for twelve months after this CONTRACT is signed. Additionally, a CONTRACTOR subject to Charter Section 470(c)(12) is required to comply with disclosure requirements by submitting a completed and signed Ethics Commission Form 55 and to amend the information in that form as specified by law. Any Contractor subject to Charter Section 470(c)(12) shall include the following notice in any contract with any Subcontractor expected to receive at least \$100,000 for performance under this CONTRACT:

"Notice Regarding Restrictions on Campaign Contributions and Fundraising in City Elections

You are a subcontractor on City of Los Angeles Contract C-128881. Pursuant to the City of Los Angeles Charter Section 470(c) (12) and related ordinances, you and your principals are prohibited from making campaign contributions to and fundraising for certain elected City of Los Angeles ("CITY") officials and candidates for elected CITY office for twelve months after the CITY contract is signed. You are required to provide the names and contact information of your principals to the CONTRACTOR and to amend that information within ten business days if it changes during the twelve month

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time period. Failure to comply may result in termination of this Contract and any other available legal remedies. Information about the restrictions may be found online at [ethics.lacity.org](http://ethics.lacity.org) or by calling the Los Angeles City Ethics Commission at (213) 978-1960."

**ARTICLE 52 IS HEREBY ADDED TO THE AGREEMENT AS FOLLOWS:**

**ARTICLE 52: LIMITATION OF CITY'S OBLIGATION TO MAKE PAYMENT TO CONTRACTOR**

Notwithstanding any other provision of this CONTRACT, including any exhibits or attachments incorporated therein, and in order for CITY to comply with its governing legal requirements, CITY shall have no obligation to make any payments to CONTRACTOR unless CITY shall have first made an appropriation of funds equal to or in excess of its obligation to make any payments as provided in this CONTRACT. CONTRACTOR agrees that any services provided by CONTRACTOR, purchases made by CONTRACTOR or expenses incurred by CONTRACTOR in excess of the appropriation(s) shall be free and without charge to CITY and CITY shall have no obligation to pay for the services, purchases or expenses. CONTRACTOR shall have no obligation to provide any services, provide any equipment or incur any expenses in excess of the appropriated amount(s) until CITY appropriates additional funds for this CONTRACT.

**ARTICLE 53 IS HEREBY ADDED TO THE AGREEMENT AS FOLLOWS:**

**ARTICLE 53: CONTRACTORS' USE OF CRIMINAL HISTORY FOR CONSIDERATION OF EMPLOYMENT APPLICATIONS**

CONTRACTOR shall comply with the City Contractors' Use of Criminal History for Consideration of Employment Applications Ordinance, LAAC Section 10.48 *et seq.*, as amended from time to time. Any subcontract entered into by CONTRACTOR for work to be performed under this CONTRACT must include an identical provision.

**ARTICLE 54 IS HEREBY ADDED TO THE AGREEMENT AS FOLLOWS:**

**ARTICLE 54: DISCLOSURE OF BORDER WALL CONTRACTING ORDINANCE**

CONTRACTOR shall comply with Los Angeles Administrative Code Section 10.50 *et seq.*, 'Disclosure of Border Wall Contracting.' The CITY may terminate this CONTRACT at any time if the CITY determines that the CONTRACTOR failed to fully and accurately complete the required affidavit and disclose all Border Wall Bids and Border Wall Contracts, as defined in LAAC Section 10.50.1.

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IN WITNESS WHEREOF, the parties hereto have executed this AGREEMENT on the day and year written below.

**CITY OF LOS ANGELES**

**UNIVERSAL WASTE SYSTEMS, INC.**

By: \_\_\_\_\_

By: \_\_\_\_\_

Title: Commissioner, Board of Public Works

Title: \_\_\_\_\_

Date: \_\_\_\_\_

Date: \_\_\_\_\_

By: \_\_\_\_\_

Title: Commissioner, Board of Public Works

Date: \_\_\_\_\_

**APPROVED AS TO FORM**

**MICHAEL N. FEUER, City Attorney**

By: \_\_\_\_\_

Adena Hopenstand

Title: Deputy City Attorney

Date: \_\_\_\_\_

**ATTEST:**

**HOLLY WOLCOTT, City Clerk**

By: \_\_\_\_\_

Title: Deputy City Clerk

Date: \_\_\_\_\_

FIRST AMENDMENT TO  
PERSONAL SERVICES CONTRACT  
BETWEEN  
THE CITY OF LOS ANGELES  
AND  
CONSOLIDATED DISPOSAL SERVICE, LLC DBA REPUBLIC SERVICES  
FOR  
EXCLUSIVE FRANCHISE TO PROVIDE COLLECTION, TRANSFER, PROCESSING, AND  
DISPOSAL SERVICES FOR SOLID RESOURCES TO COMMERCIAL ESTABLISHMENTS  
AND APPLICABLE MULTIFAMILY ESTABLISHMENTS  
IN THE SOUTH LOS ANGELES AND NORTHEAST VALLEY ZONES  
City of Los Angeles  
Department of Public Works  
LA Sanitation and Environment  
Solid Resources Commercial Franchise Division

**FIRST AMENDMENT TO  
PERSONAL SERVICES CONTRACT C-128880-1**

BETWEEN THE CITY OF LOS ANGELES AND CONSOLIDATED DISPOSAL SERVICE, LLC DBA REPUBLIC SERVICES FOR EXCLUSIVE FRANCHISE TO PROVIDE COLLECTION, TRANSFER, PROCESSING, AND DISPOSAL SERVICES FOR SOLID RESOURCES TO COMMERCIAL ESTABLISHMENTS AND APPLICABLE MULTIFAMILY ESTABLISHMENTS IN THE SOUTH LOS ANGELES AND NORTHEAST VALLEY ZONES.

THIS FIRST AMENDMENT TO CONTRACT C-128880 is made and entered into by and between the CITY OF LOS ANGELES, a municipal corporation, acting by and through its Board of Public Works, (hereinafter called the "CITY"), and CONSOLIDATED DISPOSAL SERVICE, LLC DBA REPUBLIC SERVICES (hereinafter called "CONTRACTOR") with reference to the following facts:

WITNESSETH

WHEREAS, the CITY has complied with the State Public Resources Code, Section 49520, in notification of current permitted private waste haulers of a change to an exclusive franchise system for solid resources collection and handling, called RECYCLA; and

WHEREAS, there are approximately 65,000 commercial and industrial CUSTOMERS, including over 700,000 residential multifamily units receiving solid resources services from permitted private waste haulers; and

WHEREAS, it is in the CITY's interest to provide all residents and businesses with access to recycling programs, cleaner air, and better customer service; and

WHEREAS, private waste haulers were estimated to dispose over 1.5 million tons in landfills each year from these properties; and

WHEREAS, the CITY's goal is to reach 90 percent landfill diversion by year 2025; and

WHEREAS, the RECYCLA program as effectuated through the RECYCLA AGREEMENTS is intended to meet the CITY's Zero Waste goals by, among other things, establishing maximum disposal for each franchise zone and implementing waste diversion programs that are consistent with the Solid Waste Integrated Resource Plan Guiding Principles; and

WHEREAS, pursuant to the provisions of Mandatory Commercial Recycling (AB341) and Mandatory Organics Recycling (AB1826), businesses and multifamily residences are required to subscribe to recycling programs under certain conditions; and

**FIRST AMENDMENT TO  
PERSONAL SERVICES CONTRACT C-128880-1**

WHEREAS, a goal of the RECYCLA program as effectuated through the RECYCLA AGREEMENTS is to meet and exceed California requirements for waste diversion and mandatory commercial and multifamily recycling; and

WHEREAS, the Mayor and the City Council certified the Final Environmental Impact Report and adopted the ordinance (Ordinance #182986) authorizing the RECYCLA program; and

WHEREAS, this project will help Create a More Livable and Sustainable CITY, and the implementation of this project is critical and must be retained; and

WHEREAS, the CITY desired to retain the CONTRACTOR to provide the required solid resources collection and handling services in connection with the Scope of Services as outlined in the AGREEMENT; and

WHEREAS, a Request for Proposals (RFP) was prepared to create an exclusive franchise system that provides efficient handling of solid resources with clean fuel vehicles, real time customer service, and oversight of CONTRACTOR with accountability for lapses in service as well as other failures; and

WHEREAS, the RECYCLA Franchise Agreements set forth service criteria and expectations of the recycLA Service Providers (RSPs) within these AGREEMENTS, including but not limited to regulating the rates RSPs charge their CUSTOMERS; and

WHEREAS, on June 12, 2014, the CITY released a RFP to qualified and interested parties; and

WHEREAS, on September 26, 2016 the BOARD approved the AGREEMENT with CONSOLIDATED DISPOSAL SERVICE, LLC DBA REPUBLIC SERVICES, Contract Number C-128880; and

WHEREAS, on December 9, 2016 the City Council approved the AGREEMENT with CONSOLIDATED DISPOSAL SERVICE, LLC DBA REPUBLIC SERVICES, Contract Number C-128880; and

WHEREAS, on February 1, 2017 the Office of the City Clerk attested the AGREEMENT with CONSOLIDATED DISPOSAL SERVICE, LLC DBA REPUBLIC SERVICES, Contract Number C-128880; and

WHEREAS, the CITY determined it was necessary to amend the AGREEMENT to meet the CITY goals;

**FIRST AMENDMENT TO  
PERSONAL SERVICES CONTRACT C-128880-1**

NOW THEREFORE, for good and valuable consideration, including the mutual promises set forth below, the CITY and the CONTRACTOR agree that the AGREEMENT be amended as follows:

**ARTICLE 1 IS HEREBY DELETED IN ENTIRETY AND REPLACED BY THE FOLLOWING:**

**ARTICLE 1: SECTION HEADINGS AND CONSTRUCTION OF PROVISIONS AND TITLES HEREIN**

All titles, subtitles, and/or section headings appearing herein have been inserted for convenience and shall not be deemed to govern, limit, modify or in any manner affect the scope, meaning, intent or construction of any of the terms or provisions hereof. The language of this CONTRACT shall be construed according to its fair meaning and not strictly for or against the CITY or the CONTRACTOR. The singular shall include the plural; use of the feminine, masculine, or neuter genders shall be deemed to include the genders not used. The terms "include" and "including" do not exclude items not enumerated that are in the same general class. Any rule or law that would require interpretation of any term or ambiguity in this CONTRACT against the party that drafted the applicable provision is waived. The Recitals to this CONTRACT are material terms hereof.

**ARTICLE 2: IS HEREBY AMENDED TO ADD/AMEND THE FOLLOWING:**

ACCESS AND DISTANCE EXTRA SERVICE CHARGES: The Distance/Access fees for Extra Services identified in Table 7-3 and referenced in Tables 7-4 and 7-5.

AMENDMENT EFFECTIVE DATE: The date when all the following events have occurred:

- The Amendment has been signed on behalf of CONTRACTOR by the person or persons authorized to bind CONTRACTOR hereto;
- The Amendment has been approved by the CITY COUNCIL or by the BOARD, officer or employee authorized to give such approval;
- The Office of the City Attorney has indicated in writing its approval of this Amendment as to form; and
- The Amendment has been signed on behalf of the CITY by the person designated by the CITY COUNCIL, or by the BOARD, officer or employee authorized to enter into this Amendment

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GROSS RECEIPTS: Those receipts defined under Gross Receipts in L.A.M.C. Section 21.00(a) as generated by the collection of SOLID RESOURCES including, but not limited to collection service, CONTAINER rental, EXTRA SERVICES, disposal, and processing charges. Fees and charges for services credited or not billed by CONTRACTORS shall not be considered GROSS RECEIPTS for purposes of FRANCHISE FEES.

MISSED COLLECTION: Collection Services that do not occur as detailed in the CUSTOMER'S service agreement with the CONTRACTOR (including on the day and/or frequency) that are not due to the fault of the RECYCLA CUSTOMER, regardless of whether the CONTRACTOR later performs the collection. A CUSTOMER'S complaint that the CUSTOMER did not receive timely service will be presumed legitimate, or presumed as a MISSED COLLECTION absent sufficient documentation to the contrary that rebuts the presumption.

OPTIMIZATION PERIOD: The period from February 1, 2018 through December 31, 2020 shall be considered the Optimization Period of the RECYCLA program in which concerted and specific efforts will be made to engage RECYCLA CUSTOMERS and for the CONTRACTOR to perform education and outreach to encourage diversion and recycling and to provide information and/or instruction regarding proper recycling at CUSTOMER sites.

RECYCLA: The statutory framework and program, including the FRANCHISE AGREEMENTS, in which the CITY oversees, regulates, and administers municipal waste diversion and management policies, practices, and has awarded contracts for exclusive franchises to provide collection, transfer, processing, and disposal services for solid resources as well as extra services to each commercial establishment and applicable multifamily establishment in the awarded franchise zones as authorized by contract and by Los Angeles Municipal Code section 66.33 *et seq.* and California Public Resources Code section 40059, *et seq.*

RECYCLA FRANCHISE AGREEMENT: The awarded contracts to the CONTRACTORS for an "Exclusive Franchise to Provide Collection, Transfer, Processing, and Disposal Services for Solid Resources to Commercial Establishments and Applicable Multifamily Establishments" in designated zones within the CITY (Contract Nos. C-128875, C-128876, C-128877, C-128878, C-128879, C-128880, C-128881), effective February 1, 2017, the date of CONTRACT EXECUTION.

ZWR: Trained CONTRACTOR and/or SUBCONTRACTOR staff responsible for outreach, education, CUSTOMER training and waste assessments.

**FIRST AMENDMENT TO  
PERSONAL SERVICES CONTRACT C-128880-1**

**SECTION 3.5 IS HEREBY AMENDED TO MODIFY THE SECTION AND ADD THE FOLLOWING:**

3.5.1 Contaminated Containers Collected During OPTIMIZATION PERIOD

The CONTRACTOR is responsible for visually inspecting each CUSTOMER'S BLUE BINS to determine whether they contain contaminated COMMINGLED RECYCLABLES. While BLUE BIN CONTAINERS ordinarily shall be considered contaminated if they contain more than 10% SOLID WASTE or 10% ORGANICS, individually or combined, in each BLUE BIN during the OPTIMIZATION PERIOD, the BLUE BIN shall be considered contaminated if it contains more than 20% SOLID WASTE or 20% ORGANICS, individually or combined.

The CONTRACTOR shall not charge the CUSTOMER for contaminated BLUE BINS collected during the OPTIMIZATION PERIOD. The object and goal of this OPTIMIZATION PERIOD is for the CONTRACTOR to provide additional outreach and education to CUSTOMERS on proper recycling in order to avoid contamination fees. During the OPTIMIZATION PERIOD, the CONTRACTOR shall continue to perform outreach and CUSTOMER education as specified in Section 5.13 in addition to outreach and education described in this Section 3.5.1.1.

For use during the OPTIMIZATION PERIOD, the CONTRACTOR shall develop, and submit to LASAN for approval, a specific contamination notice. This notice shall contain a list, pictorial or written, of recyclable items, policy for contamination during the OPTIMIZATION PERIOD and from where and how CUSTOMERS can obtain additional information as well as the CUSTOMER'S right to CONTRACTOR performing on-site outreach and education training.

Following the expiration of the OPTIMIZATION PERIOD commencing January 1, 2021, the Contamination Fee process set forth in Section 3.5 of the AGREEMENT shall be reinstated in full force and effect.

3.5.1.1 Chronic Contamination

During the CUSTOMER OPTIMIZATION PERIOD, the contamination percentage will be increased from 10% to 20% to allow CUSTOMERS more latitude to improve their internal processes and controls on BLUE BIN use, but if the container is contaminated more than 20%, the following remedial steps will apply. The remedial steps shall occur in conjunction with the OPTIMIZATION PERIOD outreach and education noted in Section 5.13.

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At no time during the OPTIMIZATION PERIOD will the CUSTOMER be assessed a BLUE BIN contamination fee per Section 3.5 of the FRANCHISE AGREEMENTS. During the OPTIMIZATION PERIOD, these provisions in Section 3.5.1.1 are an interim replacement for the process set forth at Section 3.5 of the AGREEMENT.

**1<sup>st</sup> Instance**

- CONTRACTOR shall leave a written notice, as approved to form by the CITY, which explains why the material was contaminated and not collected. The written notice shall also explain the policy for contamination and identify how the CUSTOMER can find more information on the subject.
- Photographic evidence demonstrating 20% contamination of the BLUE BIN will be uploaded by CONTRACTOR to CITY's CRM in REAL TIME.
- CONTRACTOR will notify the CUSTOMER by phone and/or by email, and offer an in-person or on-site visit with the CUSTOMER. In the CONTRACTOR's phone and/or email notification, the CONTRACTOR will also explain that the CUSTOMER'S BLUE BIN has been tagged for contamination, the contaminants found in the bin, and the CONTRACTOR shall offer a site visit by a CONTRACTOR representative for outreach and education. The CONTRACTOR shall document all communications with the CUSTOMER, and provide to the CITY upon request. Documentation shall include type of communication, date and time of communication, and resulting action, such as the date and time of scheduled on-site training and education, or the CUSTOMER'S refusal of training and education. Unless refusing an on-site visit, which shall include the failure to respond to an offer of same by CONTRACTOR, the CUSTOMER shall not have a 2<sup>nd</sup> Instance of contamination until the agreed upon outreach site-visit has occurred.
- Container is not collected.
- After making contact with the CUSTOMER by phone, email and/or by in-person, or within 24 hours of attempting such contact by phone and email, the CONTRACTOR's customer service will schedule for the container to be collected as trash at no additional cost to the CUSTOMER.
- If the CUSTOMER does not have any more contamination episodes for a period of 90 days, this instance of contamination will not be deemed a prior instance for purposes of this Section 3.5.1.1.

**2<sup>nd</sup> Instance**

- CONTRACTOR shall leave a written notice, as approved to form by the CITY, which explains why the material was contaminated and not

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collected. The written notice shall also explain the policy for contamination and identify how the CUSTOMER can find more information on the subject.

- Photographic evidence of contamination of the BLUE BIN will be uploaded by CONTRACTOR to CITY's CRM in REAL TIME.
- CONTRACTOR will notify the CUSTOMER by phone and/or by email, and offer an in-person or on-site visit with the CUSTOMER. In the CONTRACTOR's phone and/or email notification, the CONTRACTOR will also explain that the CUSTOMER'S BLUE BIN has been tagged for contamination, the contaminants found in the bin, and the CONTRACTOR shall offer a site visit by a CONTRACTOR representative for outreach and education. The CONTRACTOR shall document all communications with the CUSTOMER, and provide to the CITY upon request. Documentation shall include type of communication, date and time of communication, and resulting action, such as the date and time of scheduled on-site training and education, or the CUSTOMER'S refusal of training and education. Unless refusing an on-site visit, which shall include the failure to respond to an offer of same by CONTRACTOR, the CUSTOMER shall not have a 3<sup>rd</sup> Instance of contamination until the agreed upon outreach site-visit has occurred.
- Container is not collected.
- After making contact with the CUSTOMER by phone, email and/or by in-person, or within 24 hours of attempting such contact by phone and email, the CONTRACTOR's customer service will schedule for the container to be collected as trash at no additional cost to the CUSTOMER.
- If the CUSTOMER does not have any more contamination for a period of 90 days, this instance of contamination will not be deemed a prior instance for purposes of this Section 3.5.1.1.

**3<sup>rd</sup> Instance**

- CONTRACTOR shall leave a written notice, as approved to form by the CITY, which explains why the material was contaminated and not collected. The written notice shall also explain the policy for contamination and identify how the CUSTOMER can find more information on the subject.
- Photographic evidence of contamination of the BLUE BIN will be uploaded by CONTRACTOR to CITY's CRM in REAL TIME and CONTRACTOR will notify the CUSTOMER by phone and/or by email, and by an in-person (or on-site) visit. In all of these notifications, the CONTRACTOR will explain that the CUSTOMER'S BLUE BIN has been tagged for contamination, the

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contaminants found in the bin, and the CONTRACTOR shall offer a site visit by a CONTRACTOR representative for outreach and education.

- Container is not collected.
- CUSTOMER will be required to meet with a ZWR for retraining/education prior to the container being scheduled for collection. If the CUSTOMER refuses to meet with a ZWR by failing to return any communication within 7 calendar days after attempting to make contact by both by phone and email, or affirmatively stating its refusal to meet with a ZWR, then the CONTRACTOR may continue with this protocol. The CONTRACTOR shall document all communications with the CUSTOMER, and provide to the CITY upon request. Documentation shall include type of communication, date and time of communication, and resulting action, such as the date and time of scheduled on-site training and education, or the CUSTOMER'S refusal of training and education. The CUSTOMER shall not have a 4<sup>th</sup> Instance of contamination until the agreed upon outreach site-visit has occurred or been refused as set forth above.
- After making contact with the CUSTOMER by phone, email and/or by in-person, or within 24 hours of attempting such contact by phone and email, the CONTRACTOR's customer service will schedule for the container to be collected as trash at no additional cost to the CUSTOMER.
- If the CUSTOMER does not have any more contamination for a period of 90 days this offense will not be deemed a prior instance for purposes of this Section 3.5.1.1.

**4<sup>th</sup> Instance**

- CONTRACTOR shall leave a written notice, as approved to form by the CITY, which explains why the material collected was contaminated and not collected. The written notice shall also explain the policy for contamination and identify how the CUSTOMER can find more information on the subject.
- Photographic evidence of contamination of the BLUE BIN will be uploaded by CONTRACTOR to CITY's CRM in REAL TIME and CONTRACTOR will notify the CUSTOMER by phone, by email, and by in-person (or on-site) visit. In all of these notifications, the CONTRACTOR will explain that the CUSTOMER'S BLUE BIN has been tagged for contamination.
- The CONTRACTOR will have the sole option to:
  - Require the CUSTOMER to remove the contaminated waste from the container prior to container collection; or

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- Require the CUSTOMER to pay to have the container with contaminated waste collected as trash and pay a one-time service fee of \$50 to have the bin collected as SOLID WASTE, and remove the BLUE BIN for a minimum of 90 days, but cannot replace it with a BLACK BIN unless the CUSTOMER requests an additional BLACK BIN. The CONTRACTOR shall notify the CUSTOMER that the BLUE BIN has been removed.

**SECTION 3.7.1 IS HEREBY ADDED TO THE AGREEMENT AS FOLLOWS:**

**3.7.1 REPEATED MISSED COLLECTIONS**

All MISSED COLLECTION requests that occur more than once at the same CUSTOMER location within a 12 month period are subject to LIQUIDATED DAMAGES for repeated MISSED COLLECTION shown in Table 11-1, except as provided in this Section. MISSED COLLECTION occurring prior to the AMENDMENT EFFECTIVE DATE is (i) not considered a MISSED COLLECTION for the purposes of assessing LIQUIDATED DAMAGES (at \$300 per occurrence), and (ii) not considered a MISSED COLLECTION for which a subsequent MISSED COLLECTION after the AMENDMENT EFFECTIVE DATE might be characterized as a "Repeat MISSED COLLECTION at same CUSTOMER within twelve (12) months of previous missed collection."

The CITY shall not assess LIQUIDATED DAMAGES for "Repeat MISSED COLLECTIONS at same CUSTOMER within twelve (12) months of previous MISSED COLLECTION," as referenced in Table 11-1, on the second occurrence of a MISSED COLLECTION in a 12 month period if both the first and second instances of missed collection are collected within the required timeframe noted in Section 3.7. Only the third or subsequent instance of a missed collection within a 12 month period from the first missed collection in that same 12 month period would be deemed an assessable "repeat MISSED COLLECTION." However, if the first and second instances are not collected within the time noted in Section 3.7, then the second or subsequent instance of a MISSED COLLECTION within a 12 month period from the first MISSED COLLECTION in that same 12 month period would be deemed an assessable "repeat missed collection."

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Examples assuming Contract Amendment Effective Date of February 1, 2019

<u>Scenario 1 - Missed Collection Date</u>	<u>Collected Consistent with Section 3.7</u>	<u>LD for failure to collect in accordance with Section 3.7</u>	<u>LD for repeated missed within 12 months</u>	<u>Comments for 12 month look back</u>
<b>February 2, 2019</b>	Yes	No	No - \$0	
<b>March 2, 2019</b>	Yes	No	No - \$0	Not eligible
<b>January 2, 2020</b>	Yes	No	Yes - \$300	Repeated missed collection
<b>March 3, 2020</b>	Yes	No	No - \$0	Not eligible
<b>January 1, 2021</b>	Yes	No	Yes - 300	3 <sup>rd</sup> instance after the 1 <sup>st</sup> missed on January 2, 2020

<u>Scenario 2 - Missed Collection Date</u>	<u>Collected Consistent with Section 3.7</u>	<u>LD for failure to collect in accordance with Section 3.7</u>	<u>LD for repeated missed within 12 months</u>	<u>Comments for 12 month look back</u>
<b>February 2, 2019</b>	No	Yes - \$100	No - \$0	
<b>March 2, 2019</b>	No	Yes - \$100	Yes - \$300	Did not meet the criteria for eligibility - Repeat
<b>January 2, 2020</b>	No	Yes - \$100	Yes - \$300	Repeated missed collection
<b>March 3, 2020</b>	No	Yes - \$100	Yes - \$300	Did not meet the criteria for eligibility - Repeat
<b>March 4, 2021</b>	No	Yes - \$100	No	1 <sup>st</sup> instance in 12 months

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<b><u>Scenario 3 - Missed Collection Date</u></b>	<b><u>Collected Consistent with Section 3.7</u></b>	<b><u>LD for failure to collect in accordance with Section 3.7</u></b>	<b><u>LD for repeated missed within 12 months</u></b>	<b><u>Comments for 12 month look back</u></b>
<b>February 2, 2019</b>	Yes	No - \$0	No - \$0	
<b>March 2, 2019</b>	No	Yes - \$100	Yes - \$300	Did not meet the criteria for eligibility - Repeat
<b>January 2, 2020</b>	Yes	No - \$0	Yes - \$300	Repeated missed collection
<b>March 3, 2020</b>	No	Yes - \$100	Yes - \$300	Did not meet the criteria for eligibility - Repeat
<b>March 4, 2021</b>	No	Yes - \$100	No	1 <sup>st</sup> instance in 12 months

**SECTION 5.10.4 IS HEREBY DELETED IN ENTIRETY AND REPLACED BY THE FOLLOWING:**

**5.10.4 CONTRACTOR RESPONSIBLE FOR DISPOSAL**

The CONTRACTOR shall track all materials that are collected, processed, and disposed throughout the term of the AGREEMENT including but not limited to enable measurement of diversion performance. The CONTRACTOR shall be responsible for monitoring the success of their Diversion Programs and the reduction of disposal tonnage throughout the term of the AGREEMENT.

Table 5-1 defines the timeline of monitoring, measuring, and adjustments to the Disposal Reduction Targets, necessary to determine the success of the Diversion Plan and the progress toward Diversion Targets.

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Table 5-1: Disposal Targets and Adjustment Schedule

<b>Months From the Start Of Service Date or Date as indicated</b>	<b>Diversion Period</b>	<b>Plan</b>	<b>Action Taken</b>
(January 1, 2019 – December 31, 2019)	Baseline Period		Determine Baseline Disposal to reflect the actual amount of material collected over January 1, 2019 – December 31, 2019.
48-60 (February 1, 2022 – January 31, 2023)	First Measure Disposal Disposal Targets	Actual against	Measure Disposal starting 48 months after the START OF SERVICE DATE and ending 60 months after the START OF SERVICE DATE. CONTRACTOR may submit additional information to adjust Baseline.
61 (February 1, 2023)	Liquidated Assessable	Damages	Liquidated Damages assessable for measurement period
72-84 (February 1, 2024 – January 31, 2025)	Second Measure Disposal Disposal Targets	Actual against	Measure disposal starting 72 months after the START OF SERVICE DATE and ending 84 months after the START OF SERVICE DATE. CONTRACTOR may submit additional information to adjust Baseline.
85 (February 1, 2025)	LIQUIDATED Assessable	DAMAGES	LIQUIDATED DAMAGES assessable for measurement period
97 (February 1, 2026)	Determine Targets for Contract Renewal	Disposal Potential	Determine Disposal Targets for each Zone in the case of renewal of the AGREEMENT.

**SECTION 5.13 IS HEREBY ADDED TO THE AGREEMENT AS FOLLOWS:**

**5.13 OUTREACH AND EDUCATION DURING THE OPTIMIZATION PERIOD**

The CONTRACTOR shall conduct a commercial and multifamily, outreach and education campaign as specified in this Section 5.13. During the OPTIMIZATION PERIOD, the CONTRACTOR shall offer education to all CUSTOMERS on proper recycling to encourage the recycling or reuse of SOLID RESOURCES and to reduce contamination in the BLUE BINS. The CONTRACTOR shall:

- Contact by telephone, by email, and by site visit, and coordinate with CUSTOMERS who have more than 20% contamination in the BLUE BINS and are receiving notifications and warnings from CONTRACTOR regarding contamination levels in the CUSTOMER’S BLUE BINS as described in Section 3.5.1, to work with the CUSTOMER to promote recycling and reduce contamination levels and for CONTRACTOR to determine the optimal onsite delivery of education and training material.
- Provide education determined suitable by CONTRACTOR and CUSTOMER for the CUSTOMER, that may include:

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- Onsite training to any resident, tenant or employee at CUSTOMER'S election following at least five repeated, documented offers by the CONTRACTOR of onsite training;
- Recycling education materials provided to the CUSTOMER for distribution to any resident, tenant or employee at CUSTOMER'S election and following at least five repeated, documented offers by the CONTRACTOR for recycling education materials;
- Recycling signage;
- Any other educational training, program, or signage deemed acceptable upon the mutual agreement of CONTRACTOR and CUSTOMER.
- Document all contacts with the CUSTOMER. The documentation shall include all attempted communications, agreed upon outreach and education approach, onsite training (with date, time and number of attendees), and the type and number of outreach material distributed.
- CONTRACTOR shall maintain such documentation and make it available to the CITY PROJECT MANAGER upon request.

The CONTRACTOR shall remain responsible for the outreach and education as detailed in this AGREEMENT.

**SECTION 5.10.5 IS HEREBY DELETED IN ENTIRETY AND REPLACED BY THE FOLLOWING:**

**5.10.5 DISPOSAL TARGET LIQUIDATED DAMAGES**

Prior to the proposed assessment of LIQUIDATED DAMAGES, CONTRACTOR shall have the option to request in writing, and the CITY shall reasonably consider an adjustment in disposal baseline as described in Section 5.10.3. LIQUIDATED DAMAGES associated with actual disposal tonnage exceeding the adjusted Disposal Targets shall be assessed in 100 ton increments, beginning at 1,000 tons disposed above the disposal targets. For the first disposal reduction assessment period ending at 60 months following the START OF SERVICE only (January 31, 2023), the DISPOSAL TARGET percentage (as a percentage of annual disposal compared to adjusted baseline tonnage) for 2022 (as set forth in APPENDIX A) increased by ten percentage points or 65 percent, whichever is greater, shall be used to determine whether LIQUIDATED DAMAGES shall be assessed. Failure to meet the aforementioned Disposal Targets shall result in LIQUIDATED DAMAGES of \$50,000 for the first 1,000 tons, and \$5,000 for every 100 tons thereafter. For the second disposal reduction assessment period ending at 84 months following the START OF SERVICE (January 31, 2025), the DISPOSAL TARGET percentage (as a

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percentage of annual disposal compared to adjusted baseline tonnage) of 45 percent shall be used to determine whether LIQUIDATED DAMAGES shall be assessed. Failure to meet the aforementioned DISPOSAL TARGETS shall result in LIQUIDATED DAMAGES of \$25,000 for the first 1,000 tons, and \$2,500 for every 100 tons thereafter.

Each additional 100 tons shall be considered, with amounts less than 100 tons rounded down, i.e., 4,103 tons counted for 4,100 tons, 1,395 tons considered 1,300 tons, 2,255 tons considered 2,200 tons, etc. CONTRACTOR shall have the right to appeal per Section 11.2 of the AGREEMENT.

**SECTION 7.3.2 IS HEREBY DELETED IN ENTIRETY AND REPLACED BY THE FOLLOWING:**

**7.3.2 ADJUSTMENTS FOR BLUE BIN COSTS**

CONTRACTOR shall receive a BLUE BIN cost rate adjustment effective January 1, 2020, and January 1, 2021 in which the rates and fees shall increase by 0.25 percent, above the annual weighted price index adjustment.

The CITY maintains contracts to process BLUE BIN material it collects through its curbside collection operations. In the event the CITY's overall contract revenue averages less than \$0 per delivered ton for BLUE BIN material collected through its curbside collection operations, as measured in a CITY fiscal year, CONTRACTOR may request a rate increase during the next adjustment period following the end of CITY's fiscal year, effective January 1. The CITY shall provide CONTRACTOR with documentation of the aforementioned average contract revenue by no later than 90 days after CITY's fiscal year end.

- Notwithstanding the foregoing, the assessment of any further adjustment beyond the .25 percent rate increases referenced above may be requested by the CONTRACTOR after June 30, 2022. The effective date of any such applicable BLUE BIN cost adjustment shall not occur prior to January 1, 2023. The City Project Manager will evaluate the request for Blue Bin Cost adjustment.

**SECTION 7.3.3 IS HEREBY DELETED IN ENTIRETY AND REPLACED BY THE FOLLOWING:**

**7.3.3 ADJUSTMENTS FOR IMPLEMENTING ORGANICS COLLECTION**

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The CITY recognizes that developing and implementing an ORGANICS collection program presents unique challenges and increased cost to the CONTRACTOR. To compensate for the challenges and cost of preparing for and implementing the ORGANICS program, the CONTRACTOR shall be entitled to two (2) extra rate compensation adjustments in addition to the annual weighted price index adjustment in Section 7.3. Effective January 1, 2020, and January 1, 2021 the rates and fees shall increase by 3.5 percent, above the annual weighted price index: rate or fee  $\times$  (1 + ((weighted index at Section 7.3) + 0.035)).

**SECTION 7.3.4 IS HEREBY DELETED IN ENTIRETY AND REPLACED BY THE FOLLOWING:**

**7.3.4 RATES LOOK BACK**

Effective January 1, 2022, the CONTRACTOR shall receive rate adjustment of 3%, above the annual weighted price index: rate  $\times$  (1 + ((weighted index at Section 7.3) + 0.03)). This shall be in addition to any other applicable rate and fee adjustment allowed under this AGREEMENT. Every sixty (60) months thereafter, CONTRACTOR may request that the LASAN DIRECTOR review the basis for the existing rate structure and determine the need for a rate adjustment due to CONTRACTOR's overall cost of service under this AGREEMENT, not to exceed three (3) percent. This analysis will take into consideration any cost of service increase beyond those items and indices in Section 7.3. The CITY's approval will be subject to negotiation with all FRANCHISEES and the CONTRACTOR to ensure the continuation of a fair and reasonable maximum allowable rate.

**SECTION 7.4 IS HEREBY DELETED IN ENTIRETY AND REPLACED BY THE FOLLOWING:**

**7.4 EXTRA SERVICES**

The CITY has established the following list of EXTRA SERVICES, which the CONTRACTOR shall offer their CUSTOMERS at the accompanying rate. Any services not listed in Table 7-3 shall be provided at no extra cost to the CUSTOMER, unless there is prior written approval from the CITY PROJECT MANAGER. EXTRA SERVICES fees shall be increased annually in accordance with the formulas and adjustments specified in Section 7.3.

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Table 7-3: Extra Collection Services and Associated Fees

<b>Extra Service</b>	<b>Condition Under Which Fee Applies</b>	<b>Total Fee (presented here as of CONTRACT EXECUTION)</b>
<b>Locks</b>		
Gravity lock installation – per CONTAINER	CUSTOMER request – one-time fee per CONTAINER	\$100 for purchase and installation
Lock bar installation – per CONTAINER	CUSTOMER request – one-time fee per CONTAINER	\$100 for purchase and installation
Locks for CONTAINERS – per lock	CUSTOMER request – one-time fee per lock	\$10
Unlocking and locking CONTAINERS – per CONTAINER	CUSTOMER request – per CONTAINER per collection event	No charge
<b>Distance/ Access</b>		
Entering Secured Building, unlocking and locking gates (see Extra Collection Services and Associated Fees Clarifications Table 7-4 for applicability)	Per collection event	\$10
Distance / Access (see Extra Collection Services and Associated Fees Clarifications Table 7-5 for applicability)		See Table 7-5
Distance Charge, between 100-200 ft, as measured from the CUSTOMER'S property line to the BINS' permanent location	Site requirement per CONTAINER per collection event	\$25
Distance Charge, over 200 ft, as measured from the CUSTOMER'S property line to the BINS' permanent location	Site requirement per CONTAINER per collection event	\$35
Blocked Access – Requiring Return or Delay	Driver observation, document with picture and note uploaded to CONTRACTOR's and the CITY's CRM in REAL TIME and notify the CUSTOMER within two (2) hours	\$50
Blocked Access (Accessing Via Intercom or Security Office) – Requiring a Return.	If driver has to wait due to a CUSTOMER created delay in excess of 5 minutes (documented using GPS technology) and with a note uploaded into the CITY's CRM in REAL TIME	\$50
<b>Supplemental Cleaning</b>		
Cart Cleaning (after one free cleaning/year)	CUSTOMER request – Fixed Fee Per CONTAINER	\$15
CONTAINER Pressure Wash/Steam Cleaning (after one free cleaning/year)	CUSTOMER request – Fixed Fee Per CONTAINER	\$30
Graffiti Removal from CUSTOMER-owned CONTAINERS	Driver observation or by request for removing graffiti from the CUSTOMER-owned CONTAINERS	\$25
Graffiti Removal from CONTRACTOR-owned CONTAINERS	CUSTOMER request to removing graffiti from the CONTRACTOR-owned CONTAINERS in excess of three times per every 12 months, in accordance with Section 3.20.5.1.	\$25

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Extra Service	Condition Under Which Fee Applies	Total Fee (presented here as of CONTRACT EXECUTION)
COMPACTOR CONTAINER Pressure Washing/Steam Cleaning (after one free cleaning/year)	CUSTOMER request – Fixed Fee Per CONTAINER	\$150
ROLL OFF CONTAINER Pressure Washing/Steam Cleaning (after one free cleaning/year)	CUSTOMER request – Fixed Fee Per CONTAINER	\$150
<b>CONTAINER Replacement/Repair</b>		
Repair or Replacement of CUSTOMER Owned CONTAINER(S)	CUSTOMER request; Time and Materials Fee; CONTRACTOR may direct replacement for safety and/or operational reasons; CONTRACTOR shall submit a list of replacements and deliver it with the monthly written report. The list shall include a description of why the CONTAINER was replaced, including pictures detailing the necessity of replacement	\$60 per repair hour plus materials, no charge for pick-up and delivery
Repair or Replacement of CONTRACTOR Owned CONTAINER(S) – CUSTOMER Error	CUSTOMER request or CONTRACTOR decision, with documentation supporting that the CUSTOMER is responsible for the damage to the CONTAINER	\$60 per repair hour plus materials, no charge for pick-up and delivery
Repair or Replacement of CONTRACTOR Owned CONTAINER(S) – Normal Wear and Tear or CUSTOMER Error	CUSTOMER request or CONTRACTOR decision	No charge
Changing CONTAINERS for an Increase or Decrease in Level of Service	CONTRACTOR shall submit a written list of replacements and deliver it with the monthly report. The list shall include a description of the service level change.	No charge
<b>Overflow of Materials and Contamination</b>		
Overfill Charge	Driver observation, document with picture and note uploaded to the CITY's CRM in REAL TIME, notify CUSTOMER within 2 hours, and otherwise follow the conditions and procedures described in Section 3.5	\$25 per occurrence
Overweight Charge	Driver observation, document with picture and note uploaded to the CITY's CRM in REAL TIME, notify CUSTOMER within 2 hours, and otherwise follow the conditions and procedures described in Section 3.5	\$100 per occurrence
Contamination Fee	Observation and Documentation, following the procedures described in Section 3.5	\$50 per occurrence
Hazardous, Radioactive, or Biomedical Waste Contamination Charge	Driver observation, document with picture and note uploaded to the CITY's CRM in REAL TIME, and notify CUSTOMER within 2 hours	\$100 per occurrence
<b>Other Fees</b>		
Collection of Bulky Waste from COMMERCIAL ESTABLISHMENT not subject to CITY Multifamily Bulky Item Fee – Per Item	CUSTOMER request – Fixed Fee Per Item	\$30
Idle Time Charge	If driver has to wait due to a CUSTOMER created delay in excess of 15 minutes (documented using GPS technology) and with a note uploaded into the CITY's CRM in REAL TIME	\$15 per every 15 minutes

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<b>Extra Service</b>	<b>Condition Under Which Fee Applies</b>	<b>Total Fee (presented here as of CONTRACT EXECUTION)</b>
Idle Time Charge – Accessing Via Intercom or Security Office	If driver has to wait due to a CUSTOMER created delay in excess of 5 minutes (documented using GPS technology) and with a note uploaded into the CITY’s CRM in REAL TIME	\$15 per every 5 minutes
Sunday Service	CUSTOMER Request	50% over Monday-Saturday Service
<b>Administrative Fees</b>		
Return Payment Fee	CUSTOMER remits payment using check rejected due to insufficient funds or remits payment using a credit card or electronic payment that is declined	\$25
Late Payment Fee (>30 days overdue)	CUSTOMER inaction	\$5 or 1.5% of the debt/month, whichever is greater
CONTAINER Removal Fee	CONTAINER is removed from service location due to CUSTOMER non-payment	\$5 per CONTAINER
Re-instatement of Account Fee	CUSTOMER request – Fixed Fee	\$70 per account
CONTAINER Delivery	Delivery fee for each CONTAINER brought to the CUSTOMER as part of the reinstatement	\$25 per CONTAINER
Compactors Less than 8 cubic yards	Additional compensation, above the Base Rate, for the collection of compactors less than 8 cubic yards in size.	\$8.00 per cubic yard of collection

Table 7-4: Extra Collection Services and Associated Fees Clarifications.

<b>Entering Secured Building, unlocking and locking gates</b>	<b>Chargeable to CUSTOMER</b>			
	<b>BLACK BIN</b>	<b>BLUE BIN*</b>	<b>GREEN BIN</b>	<b>BROWN BIN</b>
1. Opening a locked or closed gate by use of a remote, clicker or other electronic device.	Yes	No	Yes	Yes
2a. Accessing locked or secured premises that have been unlocked by the CUSTOMER regardless of whether a gate is present so long as the CONTRACTOR’S vehicle has unimpeded access to the premises.	No	No	No	No
2b. Accessing an unlocked gate that is partially closed and the CONTRACTOR’S collection vehicle cannot enter the property without having to exit the vehicle to address the gate or secured premises to provide for vehicle access	Yes	No	Yes	Yes
3. Accessing a locked gate when manual push out (no scout service) is required.	Yes	No	Yes	Yes
4. Accessing via intercom a security office that does not require the driver to leave his or her vehicle.	No	No	No	No

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Table 7-5: Extra Collection Services and Associated Fees Clarifications.

Distance/Access	Chargeable to CUSTOMER			
	BLACK BIN	BLUE BIN*	GREEN BIN	BROWN BIN
1. Distance charges on BLUE BINS/blue CONTAINERS.	N/A	No	N/A	N/A
2. Properties at which the collection vehicle does drive within 100 feet of the container.	Yes	No	Yes	Yes

\* The charges for Blue Bin Distance/Access as set forth in Tables 7-4 and Tables 7-5 will not be chargeable to CUSTOMERS, unless the CITY discontinues the Removing Barriers to Recycling Program, in which case these Access and Distance Extra Service Charges on Blue Bin collection will be reinstated to CUSTOMERS.

**SECTION 7.5 IS HEREBY DELETED IN ENTIRETY AND REPLACED BY THE FOLLOWING:**

**7.5 RECYCLING NOT PROVIDED (RNP)**

The intent of the source separated BLUE and GREEN BIN program is to ensure the CITY's and state's goals of landfill diversion are met. The minimum service level (weekly service volume and collection frequency) ratio is that the BLUE BIN and GREEN BIN service shall be at least fifty percent (50%) by volume of BLACK BIN service measured by cubic yards on a per FRANCHISE ZONE basis. Failure to provide the minimum level of BLUE and GREEN BIN service will result in monthly RNP LIQUIDATED DAMAGES in accordance with Section 11.1.

Service level ratios shall be calculated on the last day of the month on a FRANCHISE ZONE basis. Monthly service levels shall be calculated based on the level of service in a FRANCHISE ZONE for all CUSTOMERS based on bin size, number and frequency. The basis for determining monthly service shall be the CUSTOMER service level data provided to the CITY. If the CONTRACTOR'S monthly combined service level zone-wide of the BLUE BIN and GREEN BIN, falls below the minimum ratio of 50% compared to BLACK BIN service, measured monthly, the CONTRACTOR shall remit quarterly to the CITY LIQUIDATED DAMAGES in accordance with Section 11.1. The CONTRACTOR will not accrue, owe, or remit and the CITY shall not assess, charge, or calculate RNP LIQUIDATED DAMAGES prior to January 31, 2021. CONTRACTOR may present evidence for exceptions and the CITY PROJECT MANAGER may consider exceptions to the

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volume requirements for specific CUSTOMERS, but BLUE BIN service must be provided. CONTRACTOR has the right to appeal the LIQUIDATED DAMAGES per Section 11.2 of this AGREEMENT.

Example of application of RNP:

For example, if for a month there were 9,000 monthly cubic yards of BLUE BINS collected, 1,000 cubic yards of GREEN BINS and 30,000 cubic yards of BLACK BINS collected, RNP LIQUIDATED DAMAGES would apply. The minimum monthly collection of BLUE BINS and GREEN BINS is 15,000 cubic yards (50% of 30,000). The CONTRACTOR achieved a ratio of 33.33%  $((9,000CY+1,000CY)/30,000CY)$ . In accordance with Table 11-1 the associated liquidated damage is \$20,000 for this month.

The CONTRACTOR shall remit quarterly the monthly LIQUIDATED DAMAGES associated with the RNP, and payment shall be paid to the CITY and is due on or before thirty (30) days following the end of each calendar quarter in which the combined BLUE BIN and GREEN BIN services were not provided as set forth in this Section, with the quarterly fee payment schedule. This remittance shall be accompanied by a RNP form as designated by the CITY. Failure to pay any fees in accordance with this AGREEMENT shall be subject to LIQUIDATED DAMAGES as listed in Table 11-1.

**SECTION 7.8 IS HEREBY ADDED TO THE AGREEMENT AS FOLLOWS:**

**7.8 REMOVING BARRIERS TO RECYCLING PROGRAM**

The CITY and CONTRACTOR agree to jointly fund a program designed to encourage recycling by CUSTOMERS as more specifically set forth in the Settlement Agreement between the CITY and CONTRACTOR. In order to further encourage recycling, the CONTRACTOR shall not bill ACCESS AND DISTANCE EXTRA SERVICE CHARGES to all CUSTOMERS related to BLUE BINS (recycling), effective February 1, 2018. The CONTRACTOR thus agrees to waive ACCESS AND DISTANCE EXTRA SERVICE CHARGES associated with BLUE BIN collection, as specified so long as the CITY continues this Removing Barriers to Recycling Program. The baseline CITY contribution, for calendar year 2018, to fund this program is \$2,563,515. If CITY terminates the Removing Barriers to Recycling Program prior to the end of the CONTRACT term, CONTRACTOR shall bill CUSTOMERS for Extra Services for the ACCESS AND DISTANCE EXTRA SERVICE CHARGES as set forth in Tables 7-3, 7-4, and 7-5, and pursuant to the asterisk thereto.

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**TABLE 11-1 IS HEREBY DELETED IN ENTIRETY AND REPLACED BY THE FOLLOWING:**

Table 11-1: Performance Standards and LIQUIDATED DAMAGES

Category	Performance Standard and Conditions When LIQUIDATED DAMAGES Will Apply	Administrative Assessment
Implementation of FRANCHISE SYSTEM	Failure to use reasonable business efforts to service an Abandoned Account, as stipulated in Section 5	\$100 per day (including during the TRANSITION PERIOD)
	CONTRACTOR abandoning an account, or implementing FRANCHISE service rates prior to CONTRACTOR NOTIFICATION	\$5,000 per verified occurrence (including during the TRANSITION PERIOD)
Provision of Services to CUSTOMERS	Failure to remove graffiti in accordance with Section 3.20.5.1 (Graffiti)	\$100 per occurrence**
	Failure to deliver CONTAINER(S) to a CUSTOMER within five (5) business days of the CUSTOMER'S request for service	\$200 per occurrence**
	Failure to repair or replace any bin, cart, CONTAINER, ROLL OFF, or COMPACTOR (any CONTAINER), in accordance with Section 3.20.5(Container maintenance) within two (2) business days of CUSTOMER report, considering availability of parts or equipment	\$100 per occurrence**
Provision of Services to CUSTOMERS (continued)	Failure to collect a MISSED COLLECTION in accordance with Section 3.7 , where not arising from or caused by a labor dispute.	\$100 per occurrence; \$200 for each day thereafter
	Repeat MISSED COLLECTIONS at same CUSTOMER within twelve (12) months of previous missed collection as set forth in Section 3.7.1	\$300 per occurrence**
	Failure to notify a CUSTOMER of improper CONTAINER set out, obstruction, or other causes for inability to provide a scheduled collection service within 2 hours	\$100 per occurrence**
	Use of profanity or hate speech by CONTRACTOR staff to CUSTOMERS	\$300 per occurrence, subject to Section 11.3 below.**
	Failure to answer 95 percent of all CUSTOMER calls received each month during normal business hours in less than 60 seconds (computed as a monthly average)	\$5,000 per month occurred
	Failure to provide service under this AGREEMENT due to Labor Disputes	The pro rata percentage of CITY estimated daily GROSS RECEIPTS under this AGREEMENT per day of service interruption, based on the number of CUSTOMERS not serviced, by either the CONTRACTOR, its contingency team or the CITY, compared with the total number of CUSTOMERS normally serviced.
	CONTRACTOR Operations	Collect, remove or transport SOLID RESOURCES from any CITY serviced CUSTOMERS
Collect, remove or transport SOLID RESOURCES from any other FRANCHISE hauler serviced CUSTOMERS		\$500 per verified occurrence, subject to Section 11.3 below.
Undertake collection operations outside of allowable hours of collection		\$300 per verified complaint

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<b>Category</b>	<b>Performance Standard and Conditions When LIQUIDATED DAMAGES Will Apply</b>	<b>Administrative Assessment</b>
	Make changes to routes or route days affecting 5 percent or more of the CONTRACTOR'S CUSTOMERS without at least 7 business days' notice to CUSTOMERS	\$100 per CUSTOMER per day, subject to Section 11.3 below.
	Failure to properly cover material in collection or hauling vehicles	\$300 per occurrence
	Failure to correct, upon notification by the CITY, leakage of fluids from a collection or hauling vehicle prior to resuming use of the vehicle in the CITY	\$100 per occurrence
	Failure to clean up spillage or litter occurring during collection at time of collection	\$100 per occurrence
	Failure to have a vehicle properly licensed, registered and inspected	\$100 per vehicle
	Exceeding vehicle weight limits as set forth in the State of California Vehicle Code	\$1,000 per vehicle per occurrence, subject to Section 11.3 below.
	Failure to clean collection and hauling vehicles once per week, or within 1 business day of request from the CITY	\$100 per occurrence
	Failure to report known vehicle accidents to the CITY, in accordance with 3.17.2.	\$100 per day not notified
	Failure to maintain property, facilities and equipment in a clean, safe and sanitary manner, as determined by the CITY	\$100 per day, subject to Section 11.3 below.
	Failure to provide a minimum ratio of 50% of BLUE and GREEN Bin Service to BLACK BIN Service in accordance with 7.5	\$1,250 per every 1% below 50% but greater than 30%, per month; or \$100,000 for ratio of less than 30%, per month, as applicable
Segregation and Delivery of Collection Materials	Commingling of SOLID WASTE, COMMINGLED RECYCLABLES and/or ORGANICS material segregated by the CUSTOMER in the same truck	\$1,000 per occurrence
	Failure to deliver collected SOLID RESOURCES to a CITY CERTIFIED FACILITY	\$1,000 per occurrence
CONTRACTOR Personnel and Property	Failure to have a properly licensed vehicle driver operating a vehicle	\$300 per occurrence per day
	Failure to provide any required training for vehicle operators, including safety training and training related to the operation of equipment, as required by Federal and State laws	\$1,000 per occurrence
	Failure to repair damage to a CUSTOMER'S property or other private property, caused by or resulting from the actions of the CONTRACTOR'S personnel in accordance with 3.10	\$500 per occurrence, subject to Section 11.3 below.
Diversion Requirements	Failure to meet Disposal Reduction requirements per Article 5	See Section 5.10.5
Payment and Reporting Requirements	Failure to remit fees to the CITY in accordance with Section 7 (Rates and Fees)	\$5,000 per occurrence in addition to delinquent Franchise Fees subject to Section 7.6.
	Failure to submit reports to the CITY on time	\$50 per day per report.
	Willful submission to the CITY of inaccurate reports or data, including but not limited to diversion reports and data, service level information and financial information	\$10,000 per occurrence

**FIRST AMENDMENT TO  
PERSONAL SERVICES CONTRACT C-128880-1**

\*\*Assessable only after AMENDMENT EFFECTIVE DATE; the CITY shall not assess CONTRACTOR for occurrences that occurred prior to the AMENDMENT EFFECTIVE DATE.

**ARTICLE 37 IS HEREBY DELETED IN ITS ENTIRETY AND REPLACED BY THE FOLLOWING:**

**ARTICLE 37: MANDATORY PROVISIONS PERTAINING TO NON-DISCRIMINATION IN EMPLOYMENT**

Unless otherwise exempt, this CONTRACT is subject to the applicable non-discrimination, equal benefits, equal employment practices, and affirmative action program provisions in LAAC Section 10.8 et seq., as amended from time to time.

- A. CONTRACTOR shall comply with the applicable non-discrimination and affirmative action provisions of the laws of the United States of America, the State of California, and CITY. In performing this CONTRACT, CONTRACTOR shall not discriminate in any of its hiring or employment practices against any employee or applicant for employment because of such person's race, color, religion, national origin, ancestry, sex, sexual orientation, gender, gender identity, age, disability, domestic partner status, marital status or medical condition.
- B. The requirements of Section 10.8.2.1 of the LAAC, the Equal Benefits Ordinance, and the provisions of Section 10.8.2.1(f) are incorporated and made a part of this CONTRACT by reference.
- C. The provisions of Section 10.8.3 of the LAAC are incorporated and made a part of this CONTRACT by reference and will be known as the "Equal Employment Practices" provisions of this CONTRACT.
- D. The provisions of Section 10.8.4 of the LAAC are incorporated and made a part of this CONTRACT by reference and will be known as the "Affirmative Action Program" provisions of this CONTRACT.

Any subcontract entered into by CONTRACTOR for work to be performed under this CONTRACT must include an identical provision.

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PERSONAL SERVICES CONTRACT C-128880-1**

**ARTICLE 38 IS HEREBY DELETED IN ITS ENTIRETY**

**ARTICLE 39 IS HEREBY DELETED IN ITS ENTIRETY**

**ARTICLE 45 IS HEREBY DELETED IN ITS ENTIRETY**

**ARTICLE 41 IS HEREBY DELETED IN ITS ENTIRETY AND REPLACED BY THE FOLLOWING:**

**ARTICLE 41: WORKER RETENTION ORDINANCE**

CONTRACTOR shall comply with the Worker Retention Ordinance, LAAC Section 10.36 *et seq.*, as amended from time to time. Any subcontract entered into by CONTRACTOR for work to be performed under this CONTRACT must include an identical provision.

**ARTICLE 42 IS HEREBY DELETED IN ITS ENTIRETY AND REPLACED BY THE FOLLOWING:**

**ARTICLE 42: AMERICANS WITH DISABILITIES ACT**

CONTRACTOR represents and certifies that:

- A. CONTRACTOR shall comply with the Americans with Disabilities Act, as amended, 42 U.S.C. Section 12101 *et seq.*, the Rehabilitation Act of 1973, as amended, 29 U.S.C. Section 701 *et seq.*, the Fair Housing Act, and its implementing regulations and any subsequent amendments, and California Government Code Section 11135;
- B. CONTRACTOR shall not discriminate on the basis of disability or on the basis of a person's relationship to, or association with, a person who has a disability;
- C. CONTRACTOR shall provide reasonable accommodation upon request to ensure equal access to CITY-funded programs, services and activities;
- D. Construction will be performed in accordance with the Uniform Federal Accessibility Standards (UFAS), 24 C.F.R. Part 40; and
- E. The buildings and facilities used to provide services under this Contract are in compliance with the federal and state standards for accessibility as set forth in

**FIRST AMENDMENT TO  
PERSONAL SERVICES CONTRACT C-128880-1**

the 2010 ADA Standards, California Title 24, Chapter 11, or other applicable federal and state law.

CONTRACTOR understands that the CITY is relying upon these certifications and representations as a condition to funding this Contract. Any subcontract entered into by CONTRACTOR for work to be performed under this Contract must include an identical provision.

**ARTICLE 50 IS HEREBY DELETED IN ITS ENTIRETY AND REPLACED BY THE FOLLOWING:**

**ARTICLE 50: RESTRICTIONS ON CAMPAIGN CONTRIBUTIONS AND FUNDRAISING IN CITY ELECTIONS**

Unless otherwise exempt, if this CONTRACT is valued at \$100,000 or more and requires approval by an elected CITY office, CONTRACTOR, CONTRACTOR'S principals, and CONTRACTOR'S SUBCONTRACTORS expected to receive at least \$100,000 for performance under the CONTRACT, and the principals of those SUBCONTRACTORS (the "Restricted Persons") shall comply with Charter Section 470(c)(12) and LAMC Section 49.7.35. Failure to comply entitles CITY to terminate this CONTRACT and to pursue all available legal remedies. Charter Section 470(c)(12) and LAMC Section 49.7.35 limit the ability of the Restricted Persons to make campaign contributions to and engage in fundraising for certain elected CITY officials or candidates for elected CITY office for twelve months after this CONTRACT is signed. Additionally, a CONTRACTOR subject to Charter Section 470(c)(12) is required to comply with disclosure requirements by submitting a completed and signed Ethics Commission Form 55 and to amend the information in that form as specified by law. Any Contractor subject to Charter Section 470(c)(12) shall include the following notice in any contract with any Subcontractor expected to receive at least \$100,000 for performance under this CONTRACT:

"Notice Regarding Restrictions on Campaign Contributions and Fundraising in City Elections

You are a subcontractor on City of Los Angeles Contract C-128880. Pursuant to the City of Los Angeles Charter Section 470(c) (12) and related ordinances, you and your principals are prohibited from making campaign contributions to and fundraising for certain elected City of Los Angeles ("CITY") officials and candidates for elected CITY office for twelve months after the CITY contract is signed. You are required to provide the names and contact information of your principals to the CONTRACTOR and to amend that information within ten business days if it changes during the twelve month

**FIRST AMENDMENT TO  
PERSONAL SERVICES CONTRACT C-128880-1**

time period. Failure to comply may result in termination of this Contract and any other available legal remedies. Information about the restrictions may be found online at [ethics.lacity.org](http://ethics.lacity.org) or by calling the Los Angeles City Ethics Commission at (213) 978-1960."

**ARTICLE 52 IS HEREBY ADDED TO THE AGREEMENT AS FOLLOWS:**

**ARTICLE 52: LIMITATION OF CITY'S OBLIGATION TO MAKE PAYMENT TO CONTRACTOR**

Notwithstanding any other provision of this CONTRACT, including any exhibits or attachments incorporated therein, and in order for CITY to comply with its governing legal requirements, CITY shall have no obligation to make any payments to CONTRACTOR unless CITY shall have first made an appropriation of funds equal to or in excess of its obligation to make any payments as provided in this CONTRACT. CONTRACTOR agrees that any services provided by CONTRACTOR, purchases made by CONTRACTOR or expenses incurred by CONTRACTOR in excess of the appropriation(s) shall be free and without charge to CITY and CITY shall have no obligation to pay for the services, purchases or expenses. CONTRACTOR shall have no obligation to provide any services, provide any equipment or incur any expenses in excess of the appropriated amount(s) until CITY appropriates additional funds for this CONTRACT.

**ARTICLE 53 IS HEREBY ADDED TO THE AGREEMENT AS FOLLOWS:**

**ARTICLE 53: CONTRACTORS' USE OF CRIMINAL HISTORY FOR CONSIDERATION OF EMPLOYMENT APPLICATIONS**

CONTRACTOR shall comply with the City Contractors' Use of Criminal History for Consideration of Employment Applications Ordinance, LAAC Section 10.48 *et seq.*, as amended from time to time. Any subcontract entered into by CONTRACTOR for work to be performed under this CONTRACT must include an identical provision.

**ARTICLE 54 IS HEREBY ADDED TO THE AGREEMENT AS FOLLOWS:**

**ARTICLE 54: DISCLOSURE OF BORDER WALL CONTRACTING ORDINANCE**

CONTRACTOR shall comply with Los Angeles Administrative Code Section 10.50 *et seq.*, 'Disclosure of Border Wall Contracting.' The CITY may terminate this CONTRACT at any time if the CITY determines that the CONTRACTOR failed to fully and accurately complete the required affidavit and disclose all Border Wall Bids and Border Wall Contracts, as defined in LAAC Section 10.50.1.

**FIRST AMENDMENT TO  
PERSONAL SERVICES CONTRACT C-128880-1**

IN WITNESS WHEREOF, the parties hereto have executed this AGREEMENT on the day and year written below.

**CITY OF LOS ANGELES**

**CONSOLIDATED DISPOSAL SERVICE,  
LLC DBA REPUBLIC SERVICES**

By: \_\_\_\_\_

By: \_\_\_\_\_

Title: Commissioner, Board of Public Works

Title: \_\_\_\_\_

Date: \_\_\_\_\_

Date: \_\_\_\_\_

By: \_\_\_\_\_

Title: Commissioner, Board of Public Works

Date: \_\_\_\_\_

**APPROVED AS TO FORM**

**MICHAEL N. FEUER, City Attorney**

By: \_\_\_\_\_

Adena Hopenstand

Title: Deputy City Attorney

Date: \_\_\_\_\_

**ATTEST:**

**HOLLY WOLCOTT, City Clerk**

By: \_\_\_\_\_

Title: Deputy City Clerk

Date: \_\_\_\_\_

FIRST AMENDMENT TO  
PERSONAL SERVICES CONTRACT  
BETWEEN  
THE CITY OF LOS ANGELES  
AND  
ARAKELIAN ENTERPRISES, INC. DBA ATHENS SERVICES  
FOR  
EXCLUSIVE FRANCHISE TO PROVIDE COLLECTION, TRANSFER, PROCESSING, AND  
DISPOSAL SERVICES FOR SOLID RESOURCES TO COMMERCIAL ESTABLISHMENTS  
AND APPLICABLE MULTIFAMILY ESTABLISHMENTS  
IN THE WEST LOS ANGELES, NORTH CENTRAL AND HARBOR ZONES

City of Los Angeles  
Department of Public Works  
LA Sanitation and Environment  
Solid Resources Commercial Franchise Division

**FIRST AMENDMENT TO  
PERSONAL SERVICES CONTRACT C-128879-1**

BETWEEN THE CITY OF LOS ANGELES AND ARAKELIAN ENTERPRISES, INC. DBA ATHENS SERVICES FOR EXCLUSIVE FRANCHISE TO PROVIDE COLLECTION, TRANSFER, PROCESSING, AND DISPOSAL SERVICES FOR SOLID RESOURCES TO COMMERCIAL ESTABLISHMENTS AND APPLICABLE MULTIFAMILY ESTABLISHMENTS IN THE WEST LOS ANGELES, NORTH CENTRAL AND HARBOR ZONES.

THIS FIRST AMENDMENT TO CONTRACT C-128879 is made and entered into by and between the CITY OF LOS ANGELES, a municipal corporation, acting by and through its Board of Public Works, (hereinafter called the "CITY"), and ARAKELIAN ENTERPRISES, INC. DBA ATHENS SERVICES (hereinafter called "CONTRACTOR") with reference to the following facts:

WITNESSETH

WHEREAS, the CITY has complied with the State Public Resources Code, Section 49520, in notification of current permitted private waste haulers of a change to an exclusive franchise system for solid resources collection and handling, called RECYCLA; and

WHEREAS, there are approximately 65,000 commercial and industrial CUSTOMERS, including over 700,000 residential multifamily units receiving solid resources services from permitted private waste haulers; and

WHEREAS, it is in the CITY's interest to provide all residents and businesses with access to recycling programs, cleaner air, and better customer service; and

WHEREAS, private waste haulers were estimated to dispose over 1.5 million tons in landfills each year from these properties; and

WHEREAS, the CITY's goal is to reach 90 percent landfill diversion by year 2025; and

WHEREAS, the RECYCLA program as effectuated through the RECYCLA AGREEMENTS is intended to meet the CITY's Zero Waste goals by, among other things, establishing maximum disposal for each franchise zone and implementing waste diversion programs that are consistent with the Solid Waste Integrated Resource Plan Guiding Principles; and

WHEREAS, pursuant to the provisions of Mandatory Commercial Recycling (AB341) and Mandatory Organics Recycling (AB1826), businesses and multifamily residences are required to subscribe to recycling programs under certain conditions; and

**FIRST AMENDMENT TO  
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WHEREAS, a goal of the RECYCLA program as effectuated through the RECYCLA AGREEMENTS is to meet and exceed California requirements for waste diversion and mandatory commercial and multifamily recycling; and

WHEREAS, the Mayor and the City Council certified the Final Environmental Impact Report and adopted the ordinance (Ordinance #182986) authorizing the RECYCLA program; and

WHEREAS, this project will help Create a More Livable and Sustainable CITY, and the implementation of this project is critical and must be retained; and

WHEREAS, the CITY desired to retain the CONTRACTOR to provide the required solid resources collection and handling services in connection with the Scope of Services as outlined in the AGREEMENT; and

WHEREAS, a Request for Proposals (RFP) was prepared to create an exclusive franchise system that provides efficient handling of solid resources with clean fuel vehicles, real time customer service, and oversight of CONTRACTOR with accountability for lapses in service as well as other failures; and

WHEREAS, the RECYCLA Franchise Agreements set forth service criteria and expectations of the recycLA Service Providers (RSPs) within these AGREEMENTS, including but not limited to regulating the rates RSPs charge their CUSTOMERS; and

WHEREAS, on June 12, 2014, the CITY released a RFP to qualified and interested parties; and

WHEREAS, on September 26, 2016, the BOARD approved the AGREEMENT with ARAKELIAN ENTERPRISES, INC. DBA ATHENS SERVICES, Contract Number C-128879; and

WHEREAS, on December 9, 2016 the City Council approved the AGREEMENT with ARAKELIAN ENTERPRISES, INC. DBA ATHENS SERVICES, Contract Number C-128879; and

WHEREAS, on February 1, 2017 the Office of the City Clerk attested the AGREEMENT with ARAKELIAN ENTERPRISES, INC. DBA ATHENS SERVICES, Contract Number C-128879; and

WHEREAS, the CITY determined it was necessary to amend the AGREEMENT to meet the CITY goals;

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NOW THEREFORE, for good and valuable consideration, including the mutual promises set forth below, the CITY and the CONTRACTOR agree that the AGREEMENT be amended as follows:

**ARTICLE 1 IS HEREBY DELETED IN ENTIRETY AND REPLACED BY THE FOLLOWING:**

**ARTICLE 1: SECTION HEADINGS AND CONSTRUCTION OF PROVISIONS AND TITLES HEREIN**

All titles, subtitles, and/or section headings appearing herein have been inserted for convenience and shall not be deemed to govern, limit, modify or in any manner affect the scope, meaning, intent or construction of any of the terms or provisions hereof. The language of this CONTRACT shall be construed according to its fair meaning and not strictly for or against the CITY or the CONTRACTOR. The singular shall include the plural; use of the feminine, masculine, or neuter genders shall be deemed to include the genders not used. The terms "include" and "including" do not exclude items not enumerated that are in the same general class. Any rule or law that would require interpretation of any term or ambiguity in this CONTRACT against the party that drafted the applicable provision is waived. The Recitals to this CONTRACT are material terms hereof.

**ARTICLE 2: IS HEREBY AMENDED TO ADD/AMEND THE FOLLOWING:**

ACCESS AND DISTANCE EXTRA SERVICE CHARGES: The Distance/Access fees for Extra Services identified in Table 7-3 and referenced in Tables 7-4 and 7-5.

AMENDMENT EFFECTIVE DATE: The date when all the following events have occurred:

- The Amendment has been signed on behalf of CONTRACTOR by the person or persons authorized to bind CONTRACTOR hereto;
- The Amendment has been approved by the CITY COUNCIL or by the BOARD, officer or employee authorized to give such approval;
- The Office of the City Attorney has indicated in writing its approval of this Amendment as to form; and
- The Amendment has been signed on behalf of the CITY by the person designated by the CITY COUNCIL, or by the BOARD, officer or employee authorized to enter into this Amendment

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GROSS RECEIPTS: Those receipts defined under Gross Receipts in L.A.M.C. Section 21.00(a) as generated by the collection of SOLID RESOURCES including, but not limited to collection service, CONTAINER rental, EXTRA SERVICES, disposal, and processing charges. Fees and charges for services credited or not billed by CONTRACTORS shall not be considered GROSS RECEIPTS for purposes of FRANCHISE FEES.

MISSED COLLECTION: Collection Services that do not occur as detailed in the CUSTOMER'S service agreement with the CONTRACTOR (including on the day and/or frequency) that are not due to the fault of the RECYCLA CUSTOMER, regardless of whether the CONTRACTOR later performs the collection. A CUSTOMER'S complaint that the CUSTOMER did not receive timely service will be presumed legitimate, or presumed as a MISSED COLLECTION absent sufficient documentation to the contrary that rebuts the presumption.

OPTIMIZATION PERIOD: The period from February 1, 2018 through December 31, 2020 shall be considered the Optimization Period of the RECYCLA program in which concerted and specific efforts will be made to engage RECYCLA CUSTOMERS and for the CONTRACTOR to perform education and outreach to encourage diversion and recycling and to provide information and/or instruction regarding proper recycling at CUSTOMER sites.

RECYCLA: The statutory framework and program, including the FRANCHISE AGREEMENTS, in which the CITY oversees, regulates, and administers municipal waste diversion and management policies, practices, and has awarded contracts for exclusive franchises to provide collection, transfer, processing, and disposal services for solid resources as well as extra services to each commercial establishment and applicable multifamily establishment in the awarded franchise zones as authorized by contract and by Los Angeles Municipal Code section 66.33 *et seq.* and California Public Resources Code section 40059, *et seq.*

RECYCLA FRANCHISE AGREEMENT: The awarded contracts to the CONTRACTORS for an "Exclusive Franchise to Provide Collection, Transfer, Processing, and Disposal Services for Solid Resources to Commercial Establishments and Applicable Multifamily Establishments" in designated zones within the CITY (Contract Nos. C-128875, C-128876, C-128877, C-128878, C-128879, C-128880, C-128881), effective February 1, 2017, the date of CONTRACT EXECUTION.

ZWR: Trained CONTRACTOR and/or SUBCONTRACTOR staff responsible for outreach, education, CUSTOMER training and waste assessments.

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**SECTION 3.5 IS HEREBY AMENDED TO MODIFY THE SECTION AND ADD THE FOLLOWING:**

**3.5.1 Contaminated Containers Collected During OPTIMIZATION PERIOD**

The CONTRACTOR is responsible for visually inspecting each CUSTOMER'S BLUE BINS to determine whether they contain contaminated COMMINGLED RECYCLABLES. While BLUE BIN CONTAINERS ordinarily shall be considered contaminated if they contain more than 10% SOLID WASTE or 10% ORGANICS, individually or combined, in each BLUE BIN during the OPTIMIZATION PERIOD, the BLUE BIN shall be considered contaminated if it contains more than 20% SOLID WASTE or 20% ORGANICS, individually or combined.

The CONTRACTOR shall not charge the CUSTOMER for contaminated BLUE BINS collected during the OPTIMIZATION PERIOD. The object and goal of this OPTIMIZATION PERIOD is for the CONTRACTOR to provide additional outreach and education to CUSTOMERS on proper recycling in order to avoid contamination fees. During the OPTIMIZATION PERIOD, the CONTRACTOR shall continue to perform outreach and CUSTOMER education as specified in Section 5.13 in addition to outreach and education described in this Section 3.5.1.1.

For use during the OPTIMIZATION PERIOD, the CONTRACTOR shall develop, and submit to LASAN for approval, a specific contamination notice. This notice shall contain a list, pictorial or written, of recyclable items, policy for contamination during the OPTIMIZATION PERIOD and from where and how CUSTOMERS can obtain additional information as well as the CUSTOMER'S right to CONTRACTOR performing on-site outreach and education training.

Following the expiration of the OPTIMIZATION PERIOD commencing January 1, 2021, the Contamination Fee process set forth in Section 3.5 of the AGREEMENT shall be reinstated in full force and effect.

**3.5.1.1 Chronic Contamination**

During the CUSTOMER OPTIMIZATION PERIOD, the contamination percentage will be increased from 10% to 20% to allow CUSTOMERS more latitude to improve their internal processes and controls on BLUE BIN use, but if the container is contaminated more than 20%, the following remedial steps will apply. The remedial steps shall occur in conjunction with the OPTIMIZATION PERIOD outreach and education noted in Section 5.13.

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At no time during the OPTIMIZATION PERIOD will the CUSTOMER be assessed a BLUE BIN contamination fee per Section 3.5 of the FRANCHISE AGREEMENTS. During the OPTIMIZATION PERIOD, these provisions in Section 3.5.1.1 are an interim replacement for the process set forth at Section 3.5 of the AGREEMENT.

**1<sup>st</sup> Instance**

- CONTRACTOR shall leave a written notice, as approved to form by the CITY, which explains why the material was contaminated and not collected. The written notice shall also explain the policy for contamination and identify how the CUSTOMER can find more information on the subject.
- Photographic evidence demonstrating 20% contamination of the BLUE BIN will be uploaded by CONTRACTOR to CITY's CRM in REAL TIME.
- CONTRACTOR will notify the CUSTOMER by phone and/or by email, and offer an in-person or on-site visit with the CUSTOMER. In the CONTRACTOR's phone and/or email notification, the CONTRACTOR will also explain that the CUSTOMER'S BLUE BIN has been tagged for contamination, the contaminants found in the bin, and the CONTRACTOR shall offer a site visit by a CONTRACTOR representative for outreach and education. The CONTRACTOR shall document all communications with the CUSTOMER, and provide to the CITY upon request. Documentation shall include type of communication, date and time of communication, and resulting action, such as the date and time of scheduled on-site training and education, or the CUSTOMER'S refusal of training and education. Unless refusing an on-site visit, which shall include the failure to respond to an offer of same by CONTRACTOR, the CUSTOMER shall not have a 2<sup>nd</sup> Instance of contamination until the agreed upon outreach site-visit has occurred.
- Container is not collected.
- After making contact with the CUSTOMER by phone, email and/or by in-person, or within 24 hours of attempting such contact by phone and email, the CONTRACTOR's customer service will schedule for the container to be collected as trash at no additional cost to the CUSTOMER.
- If the CUSTOMER does not have any more contamination episodes for a period of 90 days, this instance of contamination will not be deemed a prior instance for purposes of this Section 3.5.1.1.

**2<sup>nd</sup> Instance**

- CONTRACTOR shall leave a written notice, as approved to form by the CITY, which explains why the material was contaminated and not

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collected. The written notice shall also explain the policy for contamination and identify how the CUSTOMER can find more information on the subject.

- Photographic evidence of contamination of the BLUE BIN will be uploaded by CONTRACTOR to CITY's CRM in REAL TIME.
- CONTRACTOR will notify the CUSTOMER by phone and/or by email, and offer an in-person or on-site visit with the CUSTOMER. In the CONTRACTOR's phone and/or email notification, the CONTRACTOR will also explain that the CUSTOMER'S BLUE BIN has been tagged for contamination, the contaminants found in the bin, and the CONTRACTOR shall offer a site visit by a CONTRACTOR representative for outreach and education. The CONTRACTOR shall document all communications with the CUSTOMER, and provide to the CITY upon request. Documentation shall include type of communication, date and time of communication, and resulting action, such as the date and time of scheduled on-site training and education, or the CUSTOMER'S refusal of training and education. Unless refusing an on-site visit, which shall include the failure to respond to an offer of same by CONTRACTOR, the CUSTOMER shall not have a 3<sup>rd</sup> Instance of contamination until the agreed upon outreach site-visit has occurred.
- Container is not collected.
- After making contact with the CUSTOMER by phone, email and/or by in-person, or within 24 hours of attempting such contact by phone and email, the CONTRACTOR's customer service will schedule for the container to be collected as trash at no additional cost to the CUSTOMER.
- If the CUSTOMER does not have any more contamination for a period of 90 days, this instance of contamination will not be deemed a prior instance for purposes of this Section 3.5.1.1.

**3<sup>rd</sup> Instance**

- CONTRACTOR shall leave a written notice, as approved to form by the CITY, which explains why the material was contaminated and not collected. The written notice shall also explain the policy for contamination and identify how the CUSTOMER can find more information on the subject.
- Photographic evidence of contamination of the BLUE BIN will be uploaded by CONTRACTOR to CITY's CRM in REAL TIME and CONTRACTOR will notify the CUSTOMER by phone and/or by email, and by an in-person (or on-site) visit. In all of these notifications, the CONTRACTOR will explain that the CUSTOMER'S BLUE BIN has been tagged for contamination, the

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contaminants found in the bin, and the CONTRACTOR shall offer a site visit by a CONTRACTOR representative for outreach and education.

- Container is not collected.
- CUSTOMER will be required to meet with a ZWR for retraining/education prior to the container being scheduled for collection. If the CUSTOMER refuses to meet with a ZWR by failing to return any communication within 7 calendar days after attempting to make contact by both by phone and email, or affirmatively stating its refusal to meet with a ZWR, then the CONTRACTOR may continue with this protocol. The CONTRACTOR shall document all communications with the CUSTOMER, and provide to the CITY upon request. Documentation shall include type of communication, date and time of communication, and resulting action, such as the date and time of scheduled on-site training and education, or the CUSTOMER'S refusal of training and education. The CUSTOMER shall not have a 4<sup>th</sup> Instance of contamination until the agreed upon outreach site-visit has occurred or been refused as set forth above.
- After making contact with the CUSTOMER by phone, email and/or by in-person, or within 24 hours of attempting such contact by phone and email, the CONTRACTOR's customer service will schedule for the container to be collected as trash at no additional cost to the CUSTOMER.
- If the CUSTOMER does not have any more contamination for a period of 90 days this offense will not be deemed a prior instance for purposes of this Section 3.5.1.1.

**4<sup>th</sup> Instance**

- CONTRACTOR shall leave a written notice, as approved to form by the CITY, which explains why the material collected was contaminated and not collected. The written notice shall also explain the policy for contamination and identify how the CUSTOMER can find more information on the subject.
- Photographic evidence of contamination of the BLUE BIN will be uploaded by CONTRACTOR to CITY's CRM in REAL TIME and CONTRACTOR will notify the CUSTOMER by phone, by email, and by in-person (or on-site) visit. In all of these notifications, the CONTRACTOR will explain that the CUSTOMER'S BLUE BIN has been tagged for contamination.
- The CONTRACTOR will have the sole option to:
  - Require the CUSTOMER to remove the contaminated waste from the container prior to container collection; or

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- Require the CUSTOMER to pay to have the container with contaminated waste collected as trash and pay a one-time service fee of \$50 to have the bin collected as SOLID WASTE, and remove the BLUE BIN for a minimum of 90 days, but cannot replace it with a BLACK BIN unless the CUSTOMER requests an additional BLACK BIN. The CONTRACTOR shall notify the CUSTOMER that the BLUE BIN has been removed.

**SECTION 3.7.1 IS HEREBY ADDED TO THE AGREEMENT AS FOLLOWS:**

**3.7.1 REPEATED MISSED COLLECTIONS**

All MISSED COLLECTION requests that occur more than once at the same CUSTOMER location within a 12 month period are subject to LIQUIDATED DAMAGES for repeated MISSED COLLECTION shown in Table 11-1, except as provided in this Section. MISSED COLLECTION occurring prior to the AMENDMENT EFFECTIVE DATE is (i) not considered a MISSED COLLECTION for the purposes of assessing LIQUIDATED DAMAGES (at \$300 per occurrence), and (ii) not considered a MISSED COLLECTION for which a subsequent MISSED COLLECTION after the AMENDMENT EFFECTIVE DATE might be characterized as a "Repeat MISSED COLLECTION at same CUSTOMER within twelve (12) months of previous missed collection."

The CITY shall not assess LIQUIDATED DAMAGES for "Repeat MISSED COLLECTIONS at same CUSTOMER within twelve (12) months of previous MISSED COLLECTION," as referenced in Table 11-1, on the second occurrence of a MISSED COLLECTION in a 12 month period if both the first and second instances of missed collection are collected within the required timeframe noted in Section 3.7. Only the third or subsequent instance of a missed collection within a 12 month period from the first missed collection in that same 12 month period would be deemed an assessable "repeat MISSED COLLECTION." However, if the first and second instances are not collected within the time noted in Section 3.7, then the second or subsequent instance of a MISSED COLLECTION within a 12 month period from the first MISSED COLLECTION in that same 12 month period would be deemed an assessable "repeat missed collection."

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Examples assuming Contract Amendment Effective Date of February 1, 2019

<b><u>Scenario 1 - Missed Collection Date</u></b>	<b><u>Collected Consistent with Section 3.7</u></b>	<b><u>LD for failure to collect in accordance with Section 3.7</u></b>	<b><u>LD for repeated missed within 12 months</u></b>	<b><u>Comments for 12 month look back</u></b>
<b>February 2, 2019</b>	Yes	No	No - \$0	
<b>March 2, 2019</b>	Yes	No	No - \$0	Not eligible
<b>January 2, 2020</b>	Yes	No	Yes - \$300	Repeated missed collection
<b>March 3, 2020</b>	Yes	No	No - \$0	Not eligible
<b>January 1, 2021</b>	Yes	No	Yes - 300	3 <sup>rd</sup> instance after the 1 <sup>st</sup> missed on January 2, 2020

<b><u>Scenario 2 - Missed Collection Date</u></b>	<b><u>Collected Consistent with Section 3.7</u></b>	<b><u>LD for failure to collect in accordance with Section 3.7</u></b>	<b><u>LD for repeated missed within 12 months</u></b>	<b><u>Comments for 12 month look back</u></b>
<b>February 2, 2019</b>	No	Yes - \$100	No - \$0	
<b>March 2, 2019</b>	No	Yes - \$100	Yes - \$300	Did not meet the criteria for eligibility - Repeat
<b>January 2, 2020</b>	No	Yes - \$100	Yes - \$300	Repeated missed collection
<b>March 3, 2020</b>	No	Yes - \$100	Yes - \$300	Did not meet the criteria for eligibility - Repeat
<b>March 4, 2021</b>	No	Yes - \$100	No	1 <sup>st</sup> instance in 12 months

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<u>Scenario 3 - Missed Collection Date</u>	<u>Collected Consistent with Section 3.7</u>	<u>LD for failure to collect in accordance with Section 3.7</u>	<u>LD for repeated missed within 12 months</u>	<u>Comments for 12 month look back</u>
<b>February 2, 2019</b>	Yes	No - \$0	No - \$0	
<b>March 2, 2019</b>	No	Yes - \$100	Yes - \$300	Did not meet the criteria for eligibility - Repeat
<b>January 2, 2020</b>	Yes	No - \$0	Yes - \$300	Repeated missed collection
<b>March 3, 2020</b>	No	Yes - \$100	Yes - \$300	Did not meet the criteria for eligibility - Repeat
<b>March 4, 2021</b>	No	Yes - \$100	No	1 <sup>st</sup> instance in 12 months

**SECTION 5.10.4 IS HEREBY DELETED IN ENTIRETY AND REPLACED BY THE FOLLOWING:**

**5.10.4 CONTRACTOR RESPONSIBLE FOR DISPOSAL**

The CONTRACTOR shall track all materials that are collected, processed, and disposed throughout the term of the AGREEMENT including but not limited to enable measurement of diversion performance. The CONTRACTOR shall be responsible for monitoring the success of their Diversion Programs and the reduction of disposal tonnage throughout the term of the AGREEMENT.

Table 5-1 defines the timeline of monitoring, measuring, and adjustments to the Disposal Reduction Targets, necessary to determine the success of the Diversion Plan and the progress toward Diversion Targets.

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Table 5-1: Disposal Targets and Adjustment Schedule

Months From the Start Of Service Date or Date as indicated	Diversion Period	Plan	Action Taken
(January 1, 2019 – December 31, 2019)	Baseline Period		Determine Baseline Disposal to reflect the actual amount of material collected over January 1, 2019 – December 31, 2019.
48-60 (February 1, 2022 – January 31, 2023)	First Measure Disposal Disposal Targets	Actual against	Measure Disposal starting 48 months after the START OF SERVICE DATE and ending 60 months after the START OF SERVICE DATE. CONTRACTOR may submit additional information to adjust Baseline.
61 (February 1, 2023)	Liquidated Assessable	Damages	Liquidated Damages assessable for measurement period
72-84 (February 1, 2024 – January 31, 2025)	Second Measure Disposal Disposal Targets	Actual against	Measure disposal starting 72 months after the START OF SERVICE DATE and ending 84 months after the START OF SERVICE DATE. CONTRACTOR may submit additional information to adjust Baseline.
85 (February 1, 2025)	LIQUIDATED DAMAGES Assessable		LIQUIDATED DAMAGES assessable for measurement period
97 (February 1, 2026)	Determine Targets for Contract Renewal	Disposal Potential	Determine Disposal Targets for each Zone in the case of renewal of the AGREEMENT.

**SECTION 5.13 IS HEREBY ADDED TO THE AGREEMENT AS FOLLOWS:**

**5.13 OUTREACH AND EDUCATION DURING THE OPTIMIZATION PERIOD**

The CONTRACTOR shall conduct a commercial and multifamily, outreach and education campaign as specified in this Section 5.13. During the OPTIMIZATION PERIOD, the CONTRACTOR shall offer education to all CUSTOMERS on proper recycling to encourage the recycling or reuse of SOLID RESOURCES and to reduce contamination in the BLUE BINS. The CONTRACTOR shall:

- Contact by telephone, by email, and by site visit, and coordinate with CUSTOMERS who have more than 20% contamination in the BLUE BINS and are receiving notifications and warnings from CONTRACTOR regarding contamination levels in the CUSTOMER’S BLUE BINS as described in Section 3.5.1, to work with the CUSTOMER to promote recycling and reduce contamination levels and for CONTRACTOR to determine the optimal onsite delivery of education and training material.
- Provide education determined suitable by CONTRACTOR and CUSTOMER for the CUSTOMER, that may include:

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- Onsite training to any resident, tenant or employee at CUSTOMER'S election following at least five repeated, documented offers by the CONTRACTOR of onsite training;
- Recycling education materials provided to the CUSTOMER for distribution to any resident, tenant or employee at CUSTOMER'S election and following at least five repeated, documented offers by the CONTRACTOR for recycling education materials;
- Recycling signage;
- Any other educational training, program, or signage deemed acceptable upon the mutual agreement of CONTRACTOR and CUSTOMER.
- Document all contacts with the CUSTOMER. The documentation shall include all attempted communications, agreed upon outreach and education approach, onsite training (with date, time and number of attendees), and the type and number of outreach material distributed.
- CONTRACTOR shall maintain such documentation and make it available to the CITY PROJECT MANAGER upon request.

The CONTRACTOR shall remain responsible for the outreach and education as detailed in this AGREEMENT.

**SECTION 5.10.5 IS HEREBY DELETED IN ENTIRETY AND REPLACED BY THE FOLLOWING:**

**5.10.5 DISPOSAL TARGET LIQUIDATED DAMAGES**

Prior to the proposed assessment of LIQUIDATED DAMAGES, CONTRACTOR shall have the option to request in writing, and the CITY shall reasonably consider an adjustment in disposal baseline as described in Section 5.10.3. LIQUIDATED DAMAGES associated with actual disposal tonnage exceeding the adjusted Disposal Targets shall be assessed in 100 ton increments, beginning at 1,000 tons disposed above the disposal targets. For the first disposal reduction assessment period ending at 60 months following the START OF SERVICE only (January 31, 2023), the DISPOSAL TARGET percentage (as a percentage of annual disposal compared to adjusted baseline tonnage) for 2022 (as set forth in APPENDIX A) increased by ten percentage points or 65 percent, whichever is greater, shall be used to determine whether LIQUIDATED DAMAGES shall be assessed. Failure to meet the aforementioned Disposal Targets shall result in LIQUIDATED DAMAGES of \$50,000 for the first 1,000 tons, and \$5,000 for every 100 tons thereafter. For the second disposal reduction assessment period ending at 84 months following the START OF SERVICE (January 31, 2025), the DISPOSAL TARGET percentage (as a

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percentage of annual disposal compared to adjusted baseline tonnage) of 45 percent shall be used to determine whether LIQUIDATED DAMAGES shall be assessed. Failure to meet the aforementioned DISPOSAL TARGETS shall result in LIQUIDATED DAMAGES of \$25,000 for the first 1,000 tons, and \$2,500 for every 100 tons thereafter.

Each additional 100 tons shall be considered, with amounts less than 100 tons rounded down, i.e., 4,103 tons counted for 4,100 tons, 1,395 tons considered 1,300 tons, 2,255 tons considered 2,200 tons, etc. CONTRACTOR shall have the right to appeal per Section 11.2 of the AGREEMENT.

**SECTION 7.3.2 IS HEREBY DELETED IN ENTIRETY AND REPLACED BY THE FOLLOWING:**

**7.3.2 ADJUSTMENTS FOR BLUE BIN COSTS**

CONTRACTOR shall receive a BLUE BIN cost rate adjustment effective January 1, 2020, and January 1, 2021 in which the rates and fees shall increase by 0.25 percent, above the annual weighted price index adjustment.

The CITY maintains contracts to process BLUE BIN material it collects through its curbside collection operations. In the event the CITY's overall contract revenue averages less than \$0 per delivered ton for BLUE BIN material collected through its curbside collection operations, as measured in a CITY fiscal year, CONTRACTOR may request a rate increase during the next adjustment period following the end of CITY's fiscal year, effective January 1. The CITY shall provide CONTRACTOR with documentation of the aforementioned average contract revenue by no later than 90 days after CITY's fiscal year end.

- Notwithstanding the foregoing, the assessment of any further adjustment beyond the .25 percent rate increases referenced above may be requested by the CONTRACTOR after June 30, 2022. The effective date of any such applicable BLUE BIN cost adjustment shall not occur prior to January 1, 2023. The City Project Manager will evaluate the request for Blue Bin Cost adjustment.

**SECTION 7.3.3 IS HEREBY DELETED IN ENTIRETY AND REPLACED BY THE FOLLOWING:**

**7.3.3 ADJUSTMENTS FOR IMPLEMENTING ORGANICS COLLECTION**

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The CITY recognizes that developing and implementing an ORGANICS collection program presents unique challenges and increased cost to the CONTRACTOR. To compensate for the challenges and cost of preparing for and implementing the ORGANICS program, the CONTRACTOR shall be entitled to two (2) extra rate compensation adjustments in addition to the annual weighted price index adjustment in Section 7.3. Effective January 1, 2020, and January 1, 2021 the rates and fees shall increase by 3.5 percent, above the annual weighted price index: rate or fee  $\times$  (1 + ((weighted index at Section 7.3) + 0.035)).

**SECTION 7.3.4 IS HEREBY DELETED IN ENTIRETY AND REPLACED BY THE FOLLOWING:**

**7.3.4 RATES LOOK BACK**

Effective January 1, 2022, the CONTRACTOR shall receive rate adjustment of 3%, above the annual weighted price index: rate  $\times$  (1 + ((weighted index at Section 7.3) + 0.03)). This shall be in addition to any other applicable rate and fee adjustment allowed under this AGREEMENT. Every sixty (60) months thereafter, CONTRACTOR may request that the LASAN DIRECTOR review the basis for the existing rate structure and determine the need for a rate adjustment due to CONTRACTOR's overall cost of service under this AGREEMENT, not to exceed three (3) percent. This analysis will take into consideration any cost of service increase beyond those items and indices in Section 7.3. The CITY's approval will be subject to negotiation with all FRANCHISEES and the CONTRACTOR to ensure the continuation of a fair and reasonable maximum allowable rate.

**SECTION 7.4 IS HEREBY DELETED IN ENTIRETY AND REPLACED BY THE FOLLOWING:**

**7.4 EXTRA SERVICES**

The CITY has established the following list of EXTRA SERVICES, which the CONTRACTOR shall offer their CUSTOMERS at the accompanying rate. Any services not listed in Table 7-3 shall be provided at no extra cost to the CUSTOMER, unless there is prior written approval from the CITY PROJECT MANAGER. EXTRA SERVICES fees shall be increased annually in accordance with the formulas and adjustments specified in Section 7.3.

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Table 7-3: Extra Collection Services and Associated Fees

<b>Extra Service</b>	<b>Condition Under Which Fee Applies</b>	<b>Total Fee (presented here as of CONTRACT EXECUTION)</b>
<b>Locks</b>		
Gravity lock installation – per CONTAINER	CUSTOMER request – one-time fee per CONTAINER	\$100 for purchase and installation
Lock bar installation – per CONTAINER	CUSTOMER request – one-time fee per CONTAINER	\$100 for purchase and installation
Locks for CONTAINERS – per lock	CUSTOMER request – one-time fee per lock	\$10
Unlocking and locking CONTAINERS – per CONTAINER	CUSTOMER request – per CONTAINER per collection event	No charge
<b>Distance/ Access</b>		
Entering Secured Building, unlocking and locking gates (see Extra Collection Services and Associated Fees Clarifications Table 7-4 for applicability)	Per collection event	\$10
Distance / Access (see Extra Collection Services and Associated Fees Clarifications Table 7-5 for applicability)		See Table 7-5
Distance Charge, between 100-200 ft, as measured from the CUSTOMER'S property line to the BINS' permanent location	Site requirement per CONTAINER per collection event	\$25
Distance Charge, over 200 ft, as measured from the CUSTOMER'S property line to the BINS' permanent location	Site requirement per CONTAINER per collection event	\$35
Blocked Access – Requiring Return or Delay	Driver observation, document with picture and note uploaded to CONTRACTOR's and the CITY's CRM in REAL TIME and notify the CUSTOMER within two (2) hours	\$50
Blocked Access (Accessing Via Intercom or Security Office) – Requiring a Return.	If driver has to wait due to a CUSTOMER created delay in excess of 5 minutes (documented using GPS technology) and with a note uploaded into the CITY's CRM in REAL TIME	\$50
<b>Supplemental Cleaning</b>		
Cart Cleaning (after one free cleaning/year)	CUSTOMER request – Fixed Fee Per CONTAINER	\$15
CONTAINER Pressure Wash/Steam Cleaning (after one free cleaning/year)	CUSTOMER request – Fixed Fee Per CONTAINER	\$30
Graffiti Removal from CUSTOMER-owned CONTAINERS	Driver observation or by request for removing graffiti from the CUSTOMER-owned CONTAINERS	\$25
Graffiti Removal from CONTRACTOR-owned CONTAINERS	CUSTOMER request to removing graffiti from the CONTRACTOR-owned CONTAINERS in excess of three times per every 12 months, in accordance with Section 3.20.5.1.	\$25

**FIRST AMENDMENT TO  
PERSONAL SERVICES CONTRACT C-128879-1**

Extra Service	Condition Under Which Fee Applies	Total Fee (presented here as of CONTRACT EXECUTION)
COMPACTOR CONTAINER Pressure Washing/Steam Cleaning (after one free cleaning/year)	CUSTOMER request – Fixed Fee Per CONTAINER	\$150
ROLL OFF CONTAINER Pressure Washing/Steam Cleaning (after one free cleaning/year)	CUSTOMER request – Fixed Fee Per CONTAINER	\$150
<b>CONTAINER Replacement/Repair</b>		
Repair or Replacement of Owned CUSTOMER CONTAINER(S)	CUSTOMER request; Time and Materials Fee; CONTRACTOR may direct replacement for safety and/or operational reasons; CONTRACTOR shall submit a list of replacements and deliver it with the monthly written report. The list shall include a description of why the CONTAINER was replaced, including pictures detailing the necessity of replacement	\$60 per repair hour plus materials, no charge for pick-up and delivery
Repair or Replacement of Owned CONTRACTOR CONTAINER(S) – CUSTOMER Error	CUSTOMER request or CONTRACTOR decision, with documentation supporting that the CUSTOMER is responsible for the damage to the CONTAINER	\$60 per repair hour plus materials, no charge for pick-up and delivery
Repair or Replacement of Owned CONTRACTOR CONTAINER(S) – Normal Wear and Tear or CUSTOMER Error	CUSTOMER request or CONTRACTOR decision	No charge
Changing CONTAINERS for an Increase or Decrease in Level of Service	CONTRACTOR shall submit a written list of replacements and deliver it with the monthly report. The list shall include a description of the service level change.	No charge
<b>Overflow of Materials and Contamination</b>		
Overfill Charge	Driver observation, document with picture and note uploaded to the CITY's CRM in REAL TIME, notify CUSTOMER within 2 hours, and otherwise follow the conditions and procedures described in Section 3.5	\$25 per occurrence
Overweight Charge	Driver observation, document with picture and note uploaded to the CITY's CRM in REAL TIME, notify CUSTOMER within 2 hours, and otherwise follow the conditions and procedures described in Section 3.5	\$100 per occurrence
Contamination Fee	Observation and Documentation, following the procedures described in Section 3.5	\$50 per occurrence
Hazardous, Radioactive, or Biomedical Waste Contamination Charge	Driver observation, document with picture and note uploaded to the CITY's CRM in REAL TIME, and notify CUSTOMER within 2 hours	\$100 per occurrence
<b>Other Fees</b>		
Collection of Bulky Waste from COMMERCIAL ESTABLISHMENT not subject to CITY Multifamily Bulky Item Fee – Per Item	CUSTOMER request – Fixed Fee Per Item	\$30
Idle Time Charge	If driver has to wait due to a CUSTOMER created delay in excess of 15 minutes (documented using GPS technology) and with a note uploaded into the CITY's CRM in REAL TIME	\$15 per every 15 minutes

## FIRST AMENDMENT TO PERSONAL SERVICES CONTRACT C-128879-1

Extra Service	Condition Under Which Fee Applies	Total Fee (presented here as of CONTRACT EXECUTION)
Idle Time Charge – Accessing Via Intercom or Security Office	If driver has to wait due to a CUSTOMER created delay in excess of 5 minutes (documented using GPS technology) and with a note uploaded into the CITY's CRM in REAL TIME	\$15 per every 5 minutes
Sunday Service	CUSTOMER Request	50% over Monday-Saturday Service
<b>Administrative Fees</b>		
Return Payment Fee	CUSTOMER remits payment using check rejected due to insufficient funds or remits payment using a credit card or electronic payment that is declined	\$25
Late Payment Fee (>30 days overdue)	CUSTOMER inaction	\$5 or 1.5% of the debt/month, whichever is greater
CONTAINER Removal Fee	CONTAINER is removed from service location due to CUSTOMER non-payment	\$5 per CONTAINER
Re-instatement of Account Fee	CUSTOMER request – Fixed Fee	\$70 per account
CONTAINER Delivery	Delivery fee for each CONTAINER brought to the CUSTOMER as part of the reinstatement	\$25 per CONTAINER
Compactors Less than 8 cubic yards	Additional compensation, above the Base Rate, for the collection of compactors less than 8 cubic yards in size.	\$8.00 per cubic yard of collection

Table 7-4: Extra Collection Services and Associated Fees Clarifications.

Entering Secured Building, unlocking and locking gates	Chargeable to CUSTOMER			
	BLACK BIN	BLUE BIN*	GREEN BIN	BROWN BIN
1. Opening a locked or closed gate by use of a remote, clicker or other electronic device.	Yes	No	Yes	Yes
2a. Accessing locked or secured premises that have been unlocked by the CUSTOMER regardless of whether a gate is present so long as the CONTRACTOR'S vehicle has unimpeded access to the premises.	No	No	No	No
2b. Accessing an unlocked gate that is partially closed and the CONTRACTOR'S collection vehicle cannot enter the property without having to exit the vehicle to address the gate or secured premises to provide for vehicle access	Yes	No	Yes	Yes
3. Accessing a locked gate when manual push out (no scout service) is required.	Yes	No	Yes	Yes
4. Accessing via intercom a security office that does not require the driver to leave his or her vehicle.	No	No	No	No

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Table 7-5: Extra Collection Services and Associated Fees Clarifications.

Distance/Access	Chargeable to CUSTOMER			
	BLACK BIN	BLUE BIN*	GREEN BIN	BROWN BIN
1. Distance charges on BLUE BINS/blue CONTAINERS.	N/A	No	N/A	N/A
2. Properties at which the collection vehicle does drive within 100 feet of the container.	Yes	No	Yes	Yes

\* The charges for Blue Bin Distance/Access as set forth in Tables 7-4 and Tables 7-5 will not be chargeable to CUSTOMERS, unless the CITY discontinues the Removing Barriers to Recycling Program, in which case these Access and Distance Extra Service Charges on Blue Bin collection will be reinstated to CUSTOMERS.

**SECTION 7.5 IS HEREBY DELETED IN ENTIRETY AND REPLACED BY THE FOLLOWING:**

**7.5 RECYCLING NOT PROVIDED (RNP)**

The intent of the source separated BLUE and GREEN BIN program is to ensure the CITY's and state's goals of landfill diversion are met. The minimum service level (weekly service volume and collection frequency) ratio is that the BLUE BIN and GREEN BIN service shall be at least fifty percent (50%) by volume of BLACK BIN service measured by cubic yards on a per FRANCHISE ZONE basis. Failure to provide the minimum level of BLUE and GREEN BIN service will result in monthly RNP LIQUIDATED DAMAGES in accordance with Section 11.1.

Service level ratios shall be calculated on the last day of the month on a FRANCHISE ZONE basis. Monthly service levels shall be calculated based on the level of service in a FRANCHISE ZONE for all CUSTOMERS based on bin size, number and frequency. The basis for determining monthly service shall be the CUSTOMER service level data provided to the CITY. If the CONTRACTOR'S monthly combined service level zone-wide of the BLUE BIN and GREEN BIN, falls below the minimum ratio of 50% compared to BLACK BIN service, measured monthly, the CONTRACTOR shall remit quarterly to the CITY LIQUIDATED DAMAGES in accordance with Section 11.1. The CONTRACTOR will not accrue, owe, or remit and the CITY shall not assess, charge, or calculate RNP LIQUIDATED DAMAGES prior to January 31, 2021. CONTRACTOR may present evidence for exceptions and the CITY PROJECT MANAGER may consider exceptions to the

**FIRST AMENDMENT TO  
PERSONAL SERVICES CONTRACT C-128879-1**

volume requirements for specific CUSTOMERS, but BLUE BIN service must be provided. CONTRACTOR has the right to appeal the LIQUIDATED DAMAGES per Section 11.2 of this AGREEMENT.

Example of application of RNP:

For example, if for a month there were 9,000 monthly cubic yards of BLUE BINS collected, 1,000 cubic yards of GREEN BINS and 30,000 cubic yards of BLACK BINS collected, RNP LIQUIDATED DAMAGES would apply. The minimum monthly collection of BLUE BINS and GREEN BINS is 15,000 cubic yards (50% of 30,000). The CONTRACTOR achieved a ratio of 33.33%  $((9,000CY+1,000CY)/30,000CY)$ . In accordance with Table 11-1 the associated liquidated damage is \$20,000 for this month.

The CONTRACTOR shall remit quarterly the monthly LIQUIDATED DAMAGES associated with the RNP, and payment shall be paid to the CITY and is due on or before thirty (30) days following the end of each calendar quarter in which the combined BLUE BIN and GREEN BIN services were not provided as set forth in this Section, with the quarterly fee payment schedule. This remittance shall be accompanied by a RNP form as designated by the CITY. Failure to pay any fees in accordance with this AGREEMENT shall be subject to LIQUIDATED DAMAGES as listed in Table 11-1.

**SECTION 7.8 IS HEREBY ADDED TO THE AGREEMENT AS FOLLOWS:**

**7.8 REMOVING BARRIERS TO RECYCLING PROGRAM**

The CITY and CONTRACTOR agree to jointly fund a program designed to encourage recycling by CUSTOMERS as more specifically set forth in the Settlement Agreement between the CITY and CONTRACTOR. In order to further encourage recycling, the CONTRACTOR shall not bill ACCESS AND DISTANCE EXTRA SERVICE CHARGES to all CUSTOMERS related to BLUE BINS (recycling), effective February 1, 2018. The CONTRACTOR thus agrees to waive ACCESS AND DISTANCE EXTRA SERVICE CHARGES associated with BLUE BIN collection, as specified so long as the CITY continues this Removing Barriers to Recycling Program. The baseline CITY contribution, for calendar year 2018, to fund this program is \$1,227,273. If CITY terminates the Removing Barriers to Recycling Program prior to the end of the CONTRACT term, CONTRACTOR shall bill CUSTOMERS for Extra Services for the ACCESS AND DISTANCE EXTRA SERVICE CHARGES as set forth in Tables 7-3, 7-4, and 7-5, and pursuant to the asterisk thereto.

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PERSONAL SERVICES CONTRACT C-128879-1**

**TABLE 11-1 IS HEREBY DELETED IN ENTIRETY AND REPLACED BY THE FOLLOWING:**

Table 11-1: Performance Standards and LIQUIDATED DAMAGES

Category	Performance Standard and Conditions When LIQUIDATED DAMAGES Will Apply	Administrative Assessment
Implementation of FRANCHISE SYSTEM	Failure to use reasonable business efforts to service an Abandoned Account, as stipulated in Section 5	\$100 per day (including during the TRANSITION PERIOD)
	CONTRACTOR abandoning an account, or implementing FRANCHISE service rates prior to CONTRACTOR NOTIFICATION	\$5,000 per verified occurrence (including during the TRANSITION PERIOD)
Provision of Services to CUSTOMERS	Failure to remove graffiti in accordance with Section 3.20.5.1 (Graffiti)	\$100 per occurrence**
	Failure to deliver CONTAINER(S) to a CUSTOMER within five (5) business days of the CUSTOMER'S request for service	\$200 per occurrence**
	Failure to repair or replace any bin, cart, CONTAINER, ROLL OFF, or COMPACTOR (any CONTAINER), in accordance with Section 3.20.5(Container maintenance) within two (2) business days of CUSTOMER report, considering availability of parts or equipment	\$100 per occurrence**
Provision of Services to CUSTOMERS (continued)	Failure to collect a MISSED COLLECTION in accordance with Section 3.7 , where not arising from or caused by a labor dispute.	\$100 per occurrence; \$200 for each day thereafter
	Repeat MISSED COLLECTIONS at same CUSTOMER within twelve (12) months of previous missed collection as set forth in Section 3.7.1	\$300 per occurrence**
	Failure to notify a CUSTOMER of improper CONTAINER set out, obstruction, or other causes for inability to provide a scheduled collection service within 2 hours	\$100 per occurrence**
	Use of profanity or hate speech by CONTRACTOR staff to CUSTOMERS	\$300 per occurrence, subject to Section 11.3 below.**
	Failure to answer 95 percent of all CUSTOMER calls received each month during normal business hours in less than 60 seconds (computed as a monthly average)	\$5,000 per month occurred
	Failure to provide service under this AGREEMENT due to Labor Disputes	The pro rata percentage of CITY estimated daily GROSS RECEIPTS under this AGREEMENT per day of service interruption, based on the number of CUSTOMERS not serviced, by either the CONTRACTOR, its contingency team or the CITY, compared with the total number of CUSTOMERS normally serviced.
	CONTRACTOR Operations	Collect, remove or transport SOLID RESOURCES from any CITY serviced CUSTOMERS
Collect, remove or transport SOLID RESOURCES from any other FRANCHISE hauler serviced CUSTOMERS		\$500 per verified occurrence, subject to Section 11.3 below.
Undertake collection operations outside of allowable hours of collection		\$300 per verified complaint

# FIRST AMENDMENT TO PERSONAL SERVICES CONTRACT C-128879-1

Category	Performance Standard and Conditions When LIQUIDATED DAMAGES Will Apply	Administrative Assessment
	Make changes to routes or route days affecting 5 percent or more of the CONTRACTOR'S CUSTOMERS without at least 7 business days' notice to CUSTOMERS	\$100 per CUSTOMER per day, subject to Section 11.3 below.
	Failure to properly cover material in collection or hauling vehicles	\$300 per occurrence
	Failure to correct, upon notification by the CITY, leakage of fluids from a collection or hauling vehicle prior to resuming use of the vehicle in the CITY	\$100 per occurrence
	Failure to clean up spillage or litter occurring during collection at time of collection	\$100 per occurrence
	Failure to have a vehicle properly licensed, registered and inspected	\$100 per vehicle
	Exceeding vehicle weight limits as set forth in the State of California Vehicle Code	\$1,000 per vehicle per occurrence, subject to Section 11.3 below.
	Failure to clean collection and hauling vehicles once per week, or within 1 business day of request from the CITY	\$100 per occurrence
	Failure to report known vehicle accidents to the CITY, in accordance with 3.17.2.	\$100 per day not notified
	Failure to maintain property, facilities and equipment in a clean, safe and sanitary manner, as determined by the CITY	\$100 per day, subject to Section 11.3 below.
	Failure to provide a minimum ratio of 50% of BLUE and GREEN Bin Service to BLACK BIN Service in accordance with 7.5	\$1,250 per every 1% below 50% but greater than 30%, per month; or \$100,000 for ratio of less than 30%, per month, as applicable
Segregation and Delivery of Collection Materials	Commingling of SOLID WASTE, COMMINGLED RECYCLABLES and/or ORGANICS material segregated by the CUSTOMER in the same truck	\$1,000 per occurrence
	Failure to deliver collected SOLID RESOURCES to a CITY CERTIFIED FACILITY	\$1,000 per occurrence
CONTRACTOR Personnel and Property	Failure to have a properly licensed vehicle driver operating a vehicle	\$300 per occurrence per day
	Failure to provide any required training for vehicle operators, including safety training and training related to the operation of equipment, as required by Federal and State laws	\$1,000 per occurrence
	Failure to repair damage to a CUSTOMER'S property or other private property, caused by or resulting from the actions of the CONTRACTOR'S personnel in accordance with 3.10	\$500 per occurrence, subject to Section 11.3 below.
Diversion Requirements	Failure to meet Disposal Reduction requirements per Article 5	See Section 5.10.5
Payment and Reporting Requirements	Failure to remit fees to the CITY in accordance with Section 7 (Rates and Fees)	\$5,000 per occurrence in addition to delinquent Franchise Fees subject to Section 7.6.
	Failure to submit reports to the CITY on time	\$50 per day per report.
	Willful submission to the CITY of inaccurate reports or data, including but not limited to diversion reports and data, service level information and financial information	\$10,000 per occurrence

**FIRST AMENDMENT TO  
PERSONAL SERVICES CONTRACT C-128879-1**

\*\*Assessable only after AMENDMENT EFFECTIVE DATE; the CITY shall not assess CONTRACTOR for occurrences that occurred prior to the AMENDMENT EFFECTIVE DATE.

**ARTICLE 37 IS HEREBY DELETED IN ITS ENTIRETY AND REPLACED BY THE FOLLOWING:**

**ARTICLE 37: MANDATORY PROVISIONS PERTAINING TO NON-DISCRIMINATION IN EMPLOYMENT**

Unless otherwise exempt, this CONTRACT is subject to the applicable non-discrimination, equal benefits, equal employment practices, and affirmative action program provisions in LAAC Section 10.8 et seq., as amended from time to time.

- A. CONTRACTOR shall comply with the applicable non-discrimination and affirmative action provisions of the laws of the United States of America, the State of California, and CITY. In performing this CONTRACT, CONTRACTOR shall not discriminate in any of its hiring or employment practices against any employee or applicant for employment because of such person's race, color, religion, national origin, ancestry, sex, sexual orientation, gender, gender identity, age, disability, domestic partner status, marital status or medical condition.
- B. The requirements of Section 10.8.2.1 of the LAAC, the Equal Benefits Ordinance, and the provisions of Section 10.8.2.1(f) are incorporated and made a part of this CONTRACT by reference.
- C. The provisions of Section 10.8.3 of the LAAC are incorporated and made a part of this CONTRACT by reference and will be known as the "Equal Employment Practices" provisions of this CONTRACT.
- D. The provisions of Section 10.8.4 of the LAAC are incorporated and made a part of this CONTRACT by reference and will be known as the "Affirmative Action Program" provisions of this CONTRACT.

Any subcontract entered into by CONTRACTOR for work to be performed under this CONTRACT must include an identical provision.

**FIRST AMENDMENT TO  
PERSONAL SERVICES CONTRACT C-128879-1**

**ARTICLE 38 IS HEREBY DELETED IN ITS ENTIRETY**

**ARTICLE 39 IS HEREBY DELETED IN ITS ENTIRETY**

**ARTICLE 45 IS HEREBY DELETED IN ITS ENTIRETY**

**ARTICLE 41 IS HEREBY DELETED IN ITS ENTIRETY AND REPLACED BY THE FOLLOWING:**

**ARTICLE 41: WORKER RETENTION ORDINANCE**

CONTRACTOR shall comply with the Worker Retention Ordinance, LAAC Section 10.36 *et seq.*, as amended from time to time. Any subcontract entered into by CONTRACTOR for work to be performed under this CONTRACT must include an identical provision.

**ARTICLE 42 IS HEREBY DELETED IN ITS ENTIRETY AND REPLACED BY THE FOLLOWING:**

**ARTICLE 42: AMERICANS WITH DISABILITIES ACT**

CONTRACTOR represents and certifies that:

- A. CONTRACTOR shall comply with the Americans with Disabilities Act, as amended, 42 U.S.C. Section 12101 *et seq.*, the Rehabilitation Act of 1973, as amended, 29 U.S.C. Section 701 *et seq.*, the Fair Housing Act, and its implementing regulations and any subsequent amendments, and California Government Code Section 11135;
- B. CONTRACTOR shall not discriminate on the basis of disability or on the basis of a person's relationship to, or association with, a person who has a disability;
- C. CONTRACTOR shall provide reasonable accommodation upon request to ensure equal access to CITY-funded programs, services and activities;
- D. Construction will be performed in accordance with the Uniform Federal Accessibility Standards (UFAS), 24 C.F.R. Part 40; and
- E. The buildings and facilities used to provide services under this Contract are in compliance with the federal and state standards for accessibility as set forth in

**FIRST AMENDMENT TO  
PERSONAL SERVICES CONTRACT C-128879-1**

the 2010 ADA Standards, California Title 24, Chapter 11, or other applicable federal and state law.

CONTRACTOR understands that the CITY is relying upon these certifications and representations as a condition to funding this Contract. Any subcontract entered into by CONTRACTOR for work to be performed under this Contract must include an identical provision.

**ARTICLE 50 IS HEREBY DELETED IN ITS ENTIRETY AND REPLACED BY THE FOLLOWING:**

**ARTICLE 50: RESTRICTIONS ON CAMPAIGN CONTRIBUTIONS AND FUNDRAISING IN CITY ELECTIONS**

Unless otherwise exempt, if this CONTRACT is valued at \$100,000 or more and requires approval by an elected CITY office, CONTRACTOR, CONTRACTOR'S principals, and CONTRACTOR'S SUBCONTRACTORS expected to receive at least \$100,000 for performance under the CONTRACT, and the principals of those SUBCONTRACTORS (the "Restricted Persons") shall comply with Charter Section 470(c)(12) and LAMC Section 49.7.35. Failure to comply entitles CITY to terminate this CONTRACT and to pursue all available legal remedies. Charter Section 470(c)(12) and LAMC Section 49.7.35 limit the ability of the Restricted Persons to make campaign contributions to and engage in fundraising for certain elected CITY officials or candidates for elected CITY office for twelve months after this CONTRACT is signed. Additionally, a CONTRACTOR subject to Charter Section 470(c)(12) is required to comply with disclosure requirements by submitting a completed and signed Ethics Commission Form 55 and to amend the information in that form as specified by law. Any Contractor subject to Charter Section 470(c)(12) shall include the following notice in any contract with any Subcontractor expected to receive at least \$100,000 for performance under this CONTRACT:

"Notice Regarding Restrictions on Campaign Contributions and Fundraising in City Elections

You are a subcontractor on City of Los Angeles Contract C-128879. Pursuant to the City of Los Angeles Charter Section 470(c) (12) and related ordinances, you and your principals are prohibited from making campaign contributions to and fundraising for certain elected City of Los Angeles ("CITY") officials and candidates for elected CITY office for twelve months after the CITY contract is signed. You are required to provide the names and contact information of your principals to the CONTRACTOR and to amend that information within ten business days if it changes during the twelve month

**FIRST AMENDMENT TO  
PERSONAL SERVICES CONTRACT C-128879-1**

time period. Failure to comply may result in termination of this Contract and any other available legal remedies. Information about the restrictions may be found online at [ethics.lacity.org](http://ethics.lacity.org) or by calling the Los Angeles City Ethics Commission at (213) 978-1960.”

**ARTICLE 52 IS HEREBY ADDED TO THE AGREEMENT AS FOLLOWS:**

**ARTICLE 52: LIMITATION OF CITY’S OBLIGATION TO MAKE PAYMENT TO CONTRACTOR**

Notwithstanding any other provision of this CONTRACT, including any exhibits or attachments incorporated therein, and in order for CITY to comply with its governing legal requirements, CITY shall have no obligation to make any payments to CONTRACTOR unless CITY shall have first made an appropriation of funds equal to or in excess of its obligation to make any payments as provided in this CONTRACT. CONTRACTOR agrees that any services provided by CONTRACTOR, purchases made by CONTRACTOR or expenses incurred by CONTRACTOR in excess of the appropriation(s) shall be free and without charge to CITY and CITY shall have no obligation to pay for the services, purchases or expenses. CONTRACTOR shall have no obligation to provide any services, provide any equipment or incur any expenses in excess of the appropriated amount(s) until CITY appropriates additional funds for this CONTRACT.

**ARTICLE 53 IS HEREBY ADDED TO THE AGREEMENT AS FOLLOWS:**

**ARTICLE 53: CONTRACTORS’ USE OF CRIMINAL HISTORY FOR CONSIDERATION OF EMPLOYMENT APPLICATIONS**

CONTRACTOR shall comply with the City Contractors’ Use of Criminal History for Consideration of Employment Applications Ordinance, LAAC Section 10.48 *et seq.*, as amended from time to time. Any subcontract entered into by CONTRACTOR for work to be performed under this CONTRACT must include an identical provision.

**ARTICLE 54 IS HEREBY ADDED TO THE AGREEMENT AS FOLLOWS:**

**ARTICLE 54: DISCLOSURE OF BORDER WALL CONTRACTING ORDINANCE**

CONTRACTOR shall comply with Los Angeles Administrative Code Section 10.50 *et seq.*, 'Disclosure of Border Wall Contracting.' The CITY may terminate this CONTRACT at any time if the CITY determines that the CONTRACTOR failed to fully and accurately complete the required affidavit and disclose all Border Wall Bids and Border Wall Contracts, as defined in LAAC Section 10.50.1.

**FIRST AMENDMENT TO  
PERSONAL SERVICES CONTRACT C-128879-1**

IN WITNESS WHEREOF, the parties hereto have executed this AGREEMENT on the day and year written below.

**CITY OF LOS ANGELES**

**ARAKELIAN ENTERPRISES,  
INC., DBA, ATHENS SERVICES**

By: \_\_\_\_\_

By: \_\_\_\_\_

Title: Commissioner, Board of Public Works

Title: \_\_\_\_\_

Date: \_\_\_\_\_

Date: \_\_\_\_\_

By: \_\_\_\_\_

Title: Commissioner, Board of Public Works

Date: \_\_\_\_\_

**APPROVED AS TO FORM**

**MICHAEL N. FEUER, City Attorney**

By: \_\_\_\_\_

Adena Hopenstand

Title: Deputy City Attorney

Date: \_\_\_\_\_

**ATTEST:**

**HOLLY WOLCOTT, City Clerk**

By: \_\_\_\_\_

Title: Deputy City Clerk

Date: \_\_\_\_\_

FIRST AMENDMENT TO  
PERSONAL SERVICES CONTRACT  
BETWEEN  
THE CITY OF LOS ANGELES  
AND  
USA WASTE OF CALIFORNIA, INC. DBA WASTE MANAGEMENT  
FOR  
EXCLUSIVE FRANCHISE TO PROVIDE COLLECTION, TRANSFER, PROCESSING, AND  
DISPOSAL SERVICES FOR SOLID RESOURCES TO COMMERCIAL ESTABLISHMENTS  
AND APPLICABLE MULTIFAMILY ESTABLISHMENTS  
IN THE WEST VALLEY AND SOUTH EAST VALLEY ZONES

City of Los Angeles  
Department of Public Works  
LA Sanitation and Environment  
Solid Resources Commercial Franchise Division

**FIRST AMENDMENT TO  
PERSONAL SERVICES CONTRACT C-128878-1**

BETWEEN THE CITY OF LOS ANGELES AND USA WASTE OF CALIFORNIA, INC. DBA WASTE MANAGEMENT FOR EXCLUSIVE FRANCHISE TO PROVIDE COLLECTION, TRANSFER, PROCESSING, AND DISPOSAL SERVICES FOR SOLID RESOURCES TO COMMERCIAL ESTABLISHMENTS AND APPLICABLE MULTIFAMILY ESTABLISHMENTS IN THE WEST VALLEY AND SOUTH EAST VALLEY ZONES.

THIS FIRST AMENDMENT TO CONTRACT C-128878 is made and entered into by and between the CITY OF LOS ANGELES, a municipal corporation, acting by and through its Board of Public Works, (hereinafter called the "CITY"), and USA WASTE OF CALIFORNIA, INC. DBA WASTE MANAGEMENT (hereinafter called "CONTRACTOR") with reference to the following facts:

WITNESSETH

WHEREAS, the CITY has complied with the State Public Resources Code, Section 49520, in notification of current permitted private waste haulers of a change to an exclusive franchise system for solid resources collection and handling, called RECYCLA; and

WHEREAS, there are approximately 65,000 commercial and industrial CUSTOMERS, including over 700,000 residential multifamily units receiving solid resources services from permitted private waste haulers; and

WHEREAS, it is in the CITY's interest to provide all residents and businesses with access to recycling programs, cleaner air, and better customer service; and

WHEREAS, private waste haulers were estimated to dispose over 1.5 million tons in landfills each year from these properties; and

WHEREAS, the CITY's goal is to reach 90 percent landfill diversion by year 2025; and

WHEREAS, the RECYCLA program as effectuated through the RECYCLA AGREEMENTS is intended to meet the CITY's Zero Waste goals by, among other things, establishing maximum disposal for each franchise zone and implementing waste diversion programs that are consistent with the Solid Waste Integrated Resource Plan Guiding Principles; and

WHEREAS, pursuant to the provisions of Mandatory Commercial Recycling (AB341) and Mandatory Organics Recycling (AB1826), businesses and multifamily residences are required to subscribe to recycling programs under certain conditions; and

**FIRST AMENDMENT TO  
PERSONAL SERVICES CONTRACT C-128878-1**

WHEREAS, a goal of the RECYCLA program as effectuated through the RECYCLA AGREEMENTS is to meet and exceed California requirements for waste diversion and mandatory commercial and multifamily recycling; and

WHEREAS, the Mayor and the City Council certified the Final Environmental Impact Report and adopted the ordinance (Ordinance #182986) authorizing the RECYCLA program; and

WHEREAS, this project will help Create a More Livable and Sustainable CITY, and the implementation of this project is critical and must be retained; and

WHEREAS, the CITY desired to retain the CONTRACTOR to provide the required solid resources collection and handling services in connection with the Scope of Services as outlined in the AGREEMENT; and

WHEREAS, a Request for Proposals (RFP) was prepared to create an exclusive franchise system that provides efficient handling of solid resources with clean fuel vehicles, real time customer service, and oversight of CONTRACTOR with accountability for lapses in service as well as other failures; and

WHEREAS, the RECYCLA Franchise Agreements set forth service criteria and expectations of the recycLA Service Providers (RSPs) within these AGREEMENTS, including but not limited to regulating the rates RSPs charge their CUSTOMERS; and

WHEREAS, on June 12, 2014, the CITY released a RFP to qualified and interested parties; and

WHEREAS, on September 26, 2016 the BOARD approved the AGREEMENT with USA WASTE OF CALIFORNIA, INC. DBA WASTE MANAGEMENT, Contract Number C-128878; and

WHEREAS, on December 9, 2016 the City Council approved the AGREEMENT with USA WASTE OF CALIFORNIA, INC. DBA WASTE MANAGEMENT, Contract Number C-128878; and

WHEREAS, on February 1, 2017 the Office of the City Clerk attested the AGREEMENT with USA WASTE OF CALIFORNIA, INC. DBA WASTE MANAGEMENT, Contract Number C-128878; and

WHEREAS, the CITY determined it was necessary to amend the AGREEMENT to meet the CITY goals;

**FIRST AMENDMENT TO  
PERSONAL SERVICES CONTRACT C-128878-1**

NOW THEREFORE, for good and valuable consideration, including the mutual promises set forth below, the CITY and the CONTRACTOR agree that the AGREEMENT be amended as follows:

**ARTICLE 1 IS HEREBY DELETED IN ENTIRETY AND REPLACED BY THE FOLLOWING:**

**ARTICLE 1: SECTION HEADINGS AND CONSTRUCTION OF PROVISIONS AND TITLES HEREIN**

All titles, subtitles, and/or section headings appearing herein have been inserted for convenience and shall not be deemed to govern, limit, modify or in any manner affect the scope, meaning, intent or construction of any of the terms or provisions hereof. The language of this CONTRACT shall be construed according to its fair meaning and not strictly for or against the CITY or the CONTRACTOR. The singular shall include the plural; use of the feminine, masculine, or neuter genders shall be deemed to include the genders not used. The terms "include" and "including" do not exclude items not enumerated that are in the same general class. Any rule or law that would require interpretation of any term or ambiguity in this CONTRACT against the party that drafted the applicable provision is waived. The Recitals to this CONTRACT are material terms hereof.

**ARTICLE 2: IS HEREBY AMENDED TO ADD/AMEND THE FOLLOWING:**

ACCESS AND DISTANCE EXTRA SERVICE CHARGES: The Distance/Access fees for Extra Services identified in Table 7-3 and referenced in Tables 7-4 and 7-5.

AMENDMENT EFFECTIVE DATE: The date when all the following events have occurred:

- The Amendment has been signed on behalf of CONTRACTOR by the person or persons authorized to bind CONTRACTOR hereto;
- The Amendment has been approved by the CITY COUNCIL or by the BOARD, officer or employee authorized to give such approval;
- The Office of the City Attorney has indicated in writing its approval of this Amendment as to form; and
- The Amendment has been signed on behalf of the CITY by the person designated by the CITY COUNCIL, or by the BOARD, officer or employee authorized to enter into this Amendment

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GROSS RECEIPTS: Those receipts defined under Gross Receipts in L.A.M.C. Section 21.00(a) as generated by the collection of SOLID RESOURCES including, but not limited to collection service, CONTAINER rental, EXTRA SERVICES, disposal, and processing charges. Fees and charges for services credited or not billed by CONTRACTORS shall not be considered GROSS RECEIPTS for purposes of FRANCHISE FEES.

MISSED COLLECTION: Collection Services that do not occur as detailed in the CUSTOMER'S service agreement with the CONTRACTOR (including on the day and/or frequency) that are not due to the fault of the RECYCLA CUSTOMER, regardless of whether the CONTRACTOR later performs the collection. A CUSTOMER'S complaint that the CUSTOMER did not receive timely service will be presumed legitimate, or presumed as a MISSED COLLECTION absent sufficient documentation to the contrary that rebuts the presumption.

OPTIMIZATION PERIOD: The period from February 1, 2018 through December 31, 2020 shall be considered the Optimization Period of the RECYCLA program in which concerted and specific efforts will be made to engage RECYCLA CUSTOMERS and for the CONTRACTOR to perform education and outreach to encourage diversion and recycling and to provide information and/or instruction regarding proper recycling at CUSTOMER sites.

RECYCLA: The statutory framework and program, including the FRANCHISE AGREEMENTS, in which the CITY oversees, regulates, and administers municipal waste diversion and management policies, practices, and has awarded contracts for exclusive franchises to provide collection, transfer, processing, and disposal services for solid resources as well as extra services to each commercial establishment and applicable multifamily establishment in the awarded franchise zones as authorized by contract and by Los Angeles Municipal Code section 66.33 *et seq.* and California Public Resources Code section 40059, *et seq.*

RECYCLA FRANCHISE AGREEMENT: The awarded contracts to the CONTRACTORS for an "Exclusive Franchise to Provide Collection, Transfer, Processing, and Disposal Services for Solid Resources to Commercial Establishments and Applicable Multifamily Establishments" in designated zones within the CITY (Contract Nos. C-128875, C-128876, C-128877, C-128878, C-128879, C-128880, C-128881), effective February 1, 2017, the date of CONTRACT EXECUTION.

ZWR: Trained CONTRACTOR and/or SUBCONTRACTOR staff responsible for outreach, education, CUSTOMER training and waste assessments.

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**SECTION 3.5 IS HEREBY AMENDED TO MODIFY THE SECTION AND ADD THE FOLLOWING:**

3.5.1 Contaminated Containers Collected During OPTIMIZATION PERIOD

The CONTRACTOR is responsible for visually inspecting each CUSTOMER'S BLUE BINS to determine whether they contain contaminated COMMINGLED RECYCLABLES. While BLUE BIN CONTAINERS ordinarily shall be considered contaminated if they contain more than 10% SOLID WASTE or 10% ORGANICS, individually or combined, in each BLUE BIN during the OPTIMIZATION PERIOD, the BLUE BIN shall be considered contaminated if it contains more than 20% SOLID WASTE or 20% ORGANICS, individually or combined.

The CONTRACTOR shall not charge the CUSTOMER for contaminated BLUE BINS collected during the OPTIMIZATION PERIOD. The object and goal of this OPTIMIZATION PERIOD is for the CONTRACTOR to provide additional outreach and education to CUSTOMERS on proper recycling in order to avoid contamination fees. During the OPTIMIZATION PERIOD, the CONTRACTOR shall continue to perform outreach and CUSTOMER education as specified in Section 5.13 in addition to outreach and education described in this Section 3.5.1.1.

For use during the OPTIMIZATION PERIOD, the CONTRACTOR shall develop, and submit to LASAN for approval, a specific contamination notice. This notice shall contain a list, pictorial or written, of recyclable items, policy for contamination during the OPTIMIZATION PERIOD and from where and how CUSTOMERS can obtain additional information as well as the CUSTOMER'S right to CONTRACTOR performing on-site outreach and education training.

Following the expiration of the OPTIMIZATION PERIOD commencing January 1, 2021, the Contamination Fee process set forth in Section 3.5 of the AGREEMENT shall be reinstated in full force and effect.

3.5.1.1 Chronic Contamination

During the CUSTOMER OPTIMIZATION PERIOD, the contamination percentage will be increased from 10% to 20% to allow CUSTOMERS more latitude to improve their internal processes and controls on BLUE BIN use, but if the container is contaminated more than 20%, the following remedial steps will apply. The remedial steps shall occur in conjunction with the OPTIMIZATION PERIOD outreach and education noted in Section 5.13.

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At no time during the OPTIMIZATION PERIOD will the CUSTOMER be assessed a BLUE BIN contamination fee per Section 3.5 of the FRANCHISE AGREEMENTS. During the OPTIMIZATION PERIOD, these provisions in Section 3.5.1.1 are an interim replacement for the process set forth at Section 3.5 of the AGREEMENT.

**1<sup>st</sup> Instance**

- CONTRACTOR shall leave a written notice, as approved to form by the CITY, which explains why the material was contaminated and not collected. The written notice shall also explain the policy for contamination and identify how the CUSTOMER can find more information on the subject.
- Photographic evidence demonstrating 20% contamination of the BLUE BIN will be uploaded by CONTRACTOR to CITY's CRM in REAL TIME.
- CONTRACTOR will notify the CUSTOMER by phone and/or by email, and offer an in-person or on-site visit with the CUSTOMER. In the CONTRACTOR's phone and/or email notification, the CONTRACTOR will also explain that the CUSTOMER'S BLUE BIN has been tagged for contamination, the contaminants found in the bin, and the CONTRACTOR shall offer a site visit by a CONTRACTOR representative for outreach and education. The CONTRACTOR shall document all communications with the CUSTOMER, and provide to the CITY upon request. Documentation shall include type of communication, date and time of communication, and resulting action, such as the date and time of scheduled on-site training and education, or the CUSTOMER'S refusal of training and education. Unless refusing an on-site visit, which shall include the failure to respond to an offer of same by CONTRACTOR, the CUSTOMER shall not have a 2<sup>nd</sup> Instance of contamination until the agreed upon outreach site-visit has occurred.
- Container is not collected.
- After making contact with the CUSTOMER by phone, email and/or by in-person, or within 24 hours of attempting such contact by phone and email, the CONTRACTOR's customer service will schedule for the container to be collected as trash at no additional cost to the CUSTOMER.
- If the CUSTOMER does not have any more contamination episodes for a period of 90 days, this instance of contamination will not be deemed a prior instance for purposes of this Section 3.5.1.1.

**2<sup>nd</sup> Instance**

- CONTRACTOR shall leave a written notice, as approved to form by the CITY, which explains why the material was contaminated and not

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collected. The written notice shall also explain the policy for contamination and identify how the CUSTOMER can find more information on the subject.

- Photographic evidence of contamination of the BLUE BIN will be uploaded by CONTRACTOR to CITY's CRM in REAL TIME.
- CONTRACTOR will notify the CUSTOMER by phone and/or by email, and offer an in-person or on-site visit with the CUSTOMER. In the CONTRACTOR's phone and/or email notification, the CONTRACTOR will also explain that the CUSTOMER'S BLUE BIN has been tagged for contamination, the contaminants found in the bin, and the CONTRACTOR shall offer a site visit by a CONTRACTOR representative for outreach and education. The CONTRACTOR shall document all communications with the CUSTOMER, and provide to the CITY upon request. Documentation shall include type of communication, date and time of communication, and resulting action, such as the date and time of scheduled on-site training and education, or the CUSTOMER'S refusal of training and education. Unless refusing an on-site visit, which shall include the failure to respond to an offer of same by CONTRACTOR, the CUSTOMER shall not have a 3<sup>rd</sup> Instance of contamination until the agreed upon outreach site-visit has occurred.
- Container is not collected.
- After making contact with the CUSTOMER by phone, email and/or by in-person, or within 24 hours of attempting such contact by phone and email, the CONTRACTOR's customer service will schedule for the container to be collected as trash at no additional cost to the CUSTOMER.
- If the CUSTOMER does not have any more contamination for a period of 90 days, this instance of contamination will not be deemed a prior instance for purposes of this Section 3.5.1.1.

**3<sup>rd</sup> Instance**

- CONTRACTOR shall leave a written notice, as approved to form by the CITY, which explains why the material was contaminated and not collected. The written notice shall also explain the policy for contamination and identify how the CUSTOMER can find more information on the subject.
- Photographic evidence of contamination of the BLUE BIN will be uploaded by CONTRACTOR to CITY's CRM in REAL TIME and CONTRACTOR will notify the CUSTOMER by phone and/or by email, and by an in-person (or on-site) visit. In all of these notifications, the CONTRACTOR will explain that the CUSTOMER'S BLUE BIN has been tagged for contamination, the

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contaminants found in the bin, and the CONTRACTOR shall offer a site visit by a CONTRACTOR representative for outreach and education.

- Container is not collected.
- CUSTOMER will be required to meet with a ZWR for retraining/education prior to the container being scheduled for collection. If the CUSTOMER refuses to meet with a ZWR by failing to return any communication within 7 calendar days after attempting to make contact by both by phone and email, or affirmatively stating its refusal to meet with a ZWR, then the CONTRACTOR may continue with this protocol. The CONTRACTOR shall document all communications with the CUSTOMER, and provide to the CITY upon request. Documentation shall include type of communication, date and time of communication, and resulting action, such as the date and time of scheduled on-site training and education, or the CUSTOMER'S refusal of training and education. The CUSTOMER shall not have a 4<sup>th</sup> Instance of contamination until the agreed upon outreach site-visit has occurred or been refused as set forth above.
- After making contact with the CUSTOMER by phone, email and/or by in-person, or within 24 hours of attempting such contact by phone and email, the CONTRACTOR's customer service will schedule for the container to be collected as trash at no additional cost to the CUSTOMER.
- If the CUSTOMER does not have any more contamination for a period of 90 days this offense will not be deemed a prior instance for purposes of this Section 3.5.1.1.

**4<sup>th</sup> Instance**

- CONTRACTOR shall leave a written notice, as approved to form by the CITY, which explains why the material collected was contaminated and not collected. The written notice shall also explain the policy for contamination and identify how the CUSTOMER can find more information on the subject.
- Photographic evidence of contamination of the BLUE BIN will be uploaded by CONTRACTOR to CITY's CRM in REAL TIME and CONTRACTOR will notify the CUSTOMER by phone, by email, and by in-person (or on-site) visit. In all of these notifications, the CONTRACTOR will explain that the CUSTOMER'S BLUE BIN has been tagged for contamination.
- The CONTRACTOR will have the sole option to:
  - Require the CUSTOMER to remove the contaminated waste from the container prior to container collection; or

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- Require the CUSTOMER to pay to have the container with contaminated waste collected as trash and pay a one-time service fee of \$50 to have the bin collected as SOLID WASTE, and remove the BLUE BIN for a minimum of 90 days, but cannot replace it with a BLACK BIN unless the CUSTOMER requests an additional BLACK BIN. The CONTRACTOR shall notify the CUSTOMER that the BLUE BIN has been removed.

**SECTION 3.7.1 IS HEREBY ADDED TO THE AGREEMENT AS FOLLOWS:**

**3.7.1 REPEATED MISSED COLLECTIONS**

All MISSED COLLECTION requests that occur more than once at the same CUSTOMER location within a 12 month period are subject to LIQUIDATED DAMAGES for repeated MISSED COLLECTION shown in Table 11-1, except as provided in this Section. MISSED COLLECTION occurring prior to the AMENDMENT EFFECTIVE DATE is (i) not considered a MISSED COLLECTION for the purposes of assessing LIQUIDATED DAMAGES (at \$300 per occurrence), and (ii) not considered a MISSED COLLECTION for which a subsequent MISSED COLLECTION after the AMENDMENT EFFECTIVE DATE might be characterized as a "Repeat MISSED COLLECTION at same CUSTOMER within twelve (12) months of previous missed collection."

The CITY shall not assess LIQUIDATED DAMAGES for "Repeat MISSED COLLECTIONS at same CUSTOMER within twelve (12) months of previous MISSED COLLECTION," as referenced in Table 11-1, on the second occurrence of a MISSED COLLECTION in a 12 month period if both the first and second instances of missed collection are collected within the required timeframe noted in Section 3.7. Only the third or subsequent instance of a missed collection within a 12 month period from the first missed collection in that same 12 month period would be deemed an assessable "repeat MISSED COLLECTION." However, if the first and second instances are not collected within the time noted in Section 3.7, then the second or subsequent instance of a MISSED COLLECTION within a 12 month period from the first MISSED COLLECTION in that same 12 month period would be deemed an assessable "repeat missed collection."

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Examples assuming Contract Amendment Effective Date of February 1, 2019

<b><u>Scenario 1 - Missed Collection Date</u></b>	<b><u>Collected Consistent with Section 3.7</u></b>	<b><u>LD for failure to collect in accordance with Section 3.7</u></b>	<b><u>LD for repeated missed within 12 months</u></b>	<b><u>Comments for 12 month look back</u></b>
<b>February 2, 2019</b>	Yes	No	No - \$0	
<b>March 2, 2019</b>	Yes	No	No - \$0	Not eligible
<b>January 2, 2020</b>	Yes	No	Yes - \$300	Repeated missed collection
<b>March 3, 2020</b>	Yes	No	No - \$0	Not eligible
<b>January 1, 2021</b>	Yes	No	Yes - 300	3 <sup>rd</sup> instance after the 1 <sup>st</sup> missed on January 2, 2020

<b><u>Scenario 2 - Missed Collection Date</u></b>	<b><u>Collected Consistent with Section 3.7</u></b>	<b><u>LD for failure to collect in accordance with Section 3.7</u></b>	<b><u>LD for repeated missed within 12 months</u></b>	<b><u>Comments for 12 month look back</u></b>
<b>February 2, 2019</b>	No	Yes - \$100	No - \$0	
<b>March 2, 2019</b>	No	Yes - \$100	Yes - \$300	Did not meet the criteria for eligibility - Repeat
<b>January 2, 2020</b>	No	Yes - \$100	Yes - \$300	Repeated missed collection
<b>March 3, 2020</b>	No	Yes - \$100	Yes - \$300	Did not meet the criteria for eligibility - Repeat
<b>March 4, 2021</b>	No	Yes - \$100	No	1 <sup>st</sup> instance in 12 months

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<b><u>Scenario 3 - Missed Collection Date</u></b>	<b><u>Collected Consistent with Section 3.7</u></b>	<b><u>LD for failure to collect in accordance with Section 3.7</u></b>	<b><u>LD for repeated missed within 12 months</u></b>	<b><u>Comments for 12 month look back</u></b>
<b>February 2, 2019</b>	Yes	No - \$0	No - \$0	
<b>March 2, 2019</b>	No	Yes - \$100	Yes - \$300	Did not meet the criteria for eligibility - Repeat
<b>January 2, 2020</b>	Yes	No - \$0	Yes - \$300	Repeated missed collection
<b>March 3, 2020</b>	No	Yes - \$100	Yes - \$300	Did not meet the criteria for eligibility - Repeat
<b>March 4, 2021</b>	No	Yes - \$100	No	1 <sup>st</sup> instance in 12 months

**SECTION 5.10.4 IS HEREBY DELETED IN ENTIRETY AND REPLACED BY THE FOLLOWING:**

**5.10.4 CONTRACTOR RESPONSIBLE FOR DISPOSAL**

The CONTRACTOR shall track all materials that are collected, processed, and disposed throughout the term of the AGREEMENT including but not limited to enable measurement of diversion performance. The CONTRACTOR shall be responsible for monitoring the success of their Diversion Programs and the reduction of disposal tonnage throughout the term of the AGREEMENT.

Table 5-1 defines the timeline of monitoring, measuring, and adjustments to the Disposal Reduction Targets, necessary to determine the success of the Diversion Plan and the progress toward Diversion Targets.

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Table 5-1: Disposal Targets and Adjustment Schedule

<b>Months From the Start Of Service Date or Date as indicated</b>	<b>Diversion Period</b>	<b>Plan</b>	<b>Action Taken</b>
(January 1, 2019 – December 31, 2019)	Baseline Period		Determine Baseline Disposal to reflect the actual amount of material collected over January 1, 2019 – December 31, 2019.
48-60 (February 1, 2022 – January 31, 2023)	First Measure Disposal Disposal Targets	Actual against	Measure Disposal starting 48 months after the START OF SERVICE DATE and ending 60 months after the START OF SERVICE DATE. CONTRACTOR may submit additional information to adjust Baseline.
61 (February 1, 2023)	Liquidated Assessable	Damages	Liquidated Damages assessable for measurement period
72-84 (February 1, 2024 – January 31, 2025)	Second Measure Disposal Disposal Targets	Actual against	Measure disposal starting 72 months after the START OF SERVICE DATE and ending 84 months after the START OF SERVICE DATE. CONTRACTOR may submit additional information to adjust Baseline.
85 (February 1, 2025)	LIQUIDATED DAMAGES Assessable		LIQUIDATED DAMAGES assessable for measurement period
97 (February 1, 2026)	Determine Targets for Contract Renewal	Disposal Potential	Determine Disposal Targets for each Zone in the case of renewal of the AGREEMENT.

**SECTION 5.13 IS HEREBY ADDED TO THE AGREEMENT AS FOLLOWS:**

**5.13 OUTREACH AND EDUCATION DURING THE OPTIMIZATION PERIOD**

The CONTRACTOR shall conduct a commercial and multifamily, outreach and education campaign as specified in this Section 5.13. During the OPTIMIZATION PERIOD, the CONTRACTOR shall offer education to all CUSTOMERS on proper recycling to encourage the recycling or reuse of SOLID RESOURCES and to reduce contamination in the BLUE BINS. The CONTRACTOR shall:

- Contact by telephone, by email, and by site visit, and coordinate with CUSTOMERS who have more than 20% contamination in the BLUE BINS and are receiving notifications and warnings from CONTRACTOR regarding contamination levels in the CUSTOMER’S BLUE BINS as described in Section 3.5.1, to work with the CUSTOMER to promote recycling and reduce contamination levels and for CONTRACTOR to determine the optimal onsite delivery of education and training material.
- Provide education determined suitable by CONTRACTOR and CUSTOMER for the CUSTOMER, that may include:

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- Onsite training to any resident, tenant or employee at CUSTOMER'S election following at least five repeated, documented offers by the CONTRACTOR of onsite training;
- Recycling education materials provided to the CUSTOMER for distribution to any resident, tenant or employee at CUSTOMER'S election and following at least five repeated, documented offers by the CONTRACTOR for recycling education materials;
- Recycling signage;
- Any other educational training, program, or signage deemed acceptable upon the mutual agreement of CONTRACTOR and CUSTOMER.
- Document all contacts with the CUSTOMER. The documentation shall include all attempted communications, agreed upon outreach and education approach, onsite training (with date, time and number of attendees), and the type and number of outreach material distributed.
- CONTRACTOR shall maintain such documentation and make it available to the CITY PROJECT MANAGER upon request.

The CONTRACTOR shall remain responsible for the outreach and education as detailed in this AGREEMENT.

**SECTION 5.10.5 IS HEREBY DELETED IN ENTIRETY AND REPLACED BY THE FOLLOWING:**

**5.10.5 DISPOSAL TARGET LIQUIDATED DAMAGES**

Prior to the proposed assessment of LIQUIDATED DAMAGES, CONTRACTOR shall have the option to request in writing, and the CITY shall reasonably consider an adjustment in disposal baseline as described in Section 5.10.3. LIQUIDATED DAMAGES associated with actual disposal tonnage exceeding the adjusted Disposal Targets shall be assessed in 100 ton increments, beginning at 1,000 tons disposed above the disposal targets. For the first disposal reduction assessment period ending at 60 months following the START OF SERVICE only (January 31, 2023), the DISPOSAL TARGET percentage (as a percentage of annual disposal compared to adjusted baseline tonnage) for 2022 (as set forth in APPENDIX A) increased by ten percentage points or 65 percent, whichever is greater, shall be used to determine whether LIQUIDATED DAMAGES shall be assessed. Failure to meet the aforementioned Disposal Targets shall result in LIQUIDATED DAMAGES of \$50,000 for the first 1,000 tons, and \$5,000 for every 100 tons thereafter. For the second disposal reduction assessment period ending at 84 months following the START OF SERVICE (January 31, 2025), the DISPOSAL TARGET percentage (as a

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percentage of annual disposal compared to adjusted baseline tonnage) of 45 percent shall be used to determine whether LIQUIDATED DAMAGES shall be assessed. Failure to meet the aforementioned DISPOSAL TARGETS shall result in LIQUIDATED DAMAGES of \$25,000 for the first 1,000 tons, and \$2,500 for every 100 tons thereafter.

Each additional 100 tons shall be considered, with amounts less than 100 tons rounded down, i.e., 4,103 tons counted for 4,100 tons, 1,395 tons considered 1,300 tons, 2,255 tons considered 2,200 tons, etc. CONTRACTOR shall have the right to appeal per Section 11.2 of the AGREEMENT.

**SECTION 7.3.2 IS HEREBY DELETED IN ENTIRETY AND REPLACED BY THE FOLLOWING:**

**7.3.2 ADJUSTMENTS FOR BLUE BIN COSTS**

CONTRACTOR shall receive a BLUE BIN cost rate adjustment effective January 1, 2020, and January 1, 2021 in which the rates and fees shall increase by 0.25 percent, above the annual weighted price index adjustment.

The CITY maintains contracts to process BLUE BIN material it collects through its curbside collection operations. In the event the CITY's overall contract revenue averages less than \$0 per delivered ton for BLUE BIN material collected through its curbside collection operations, as measured in a CITY fiscal year, CONTRACTOR may request a rate increase during the next adjustment period following the end of CITY's fiscal year, effective January 1. The CITY shall provide CONTRACTOR with documentation of the aforementioned average contract revenue by no later than 90 days after CITY's fiscal year end.

- Notwithstanding the foregoing, the assessment of any further adjustment beyond the .25 percent rate increases referenced above may be requested by the CONTRACTOR after June 30, 2022. The effective date of any such applicable BLUE BIN cost adjustment shall not occur prior to January 1, 2023. The City Project Manager will evaluate the request for Blue Bin Cost adjustment.

**SECTION 7.3.3 IS HEREBY DELETED IN ENTIRETY AND REPLACED BY THE FOLLOWING:**

**7.3.3 ADJUSTMENTS FOR IMPLEMENTING ORGANICS COLLECTION**

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The CITY recognizes that developing and implementing an ORGANICS collection program presents unique challenges and increased cost to the CONTRACTOR. To compensate for the challenges and cost of preparing for and implementing the ORGANICS program, the CONTRACTOR shall be entitled to two (2) extra rate compensation adjustments in addition to the annual weighted price index adjustment in Section 7.3. Effective January 1, 2020, and January 1, 2021 the rates and fees shall increase by 3.5 percent, above the annual weighted price index: rate or fee  $\times (1 + ((\text{weighted index at Section 7.3}) + 0.035))$ .

**SECTION 7.3.4 IS HEREBY DELETED IN ENTIRETY AND REPLACED BY THE FOLLOWING:**

**7.3.4 RATES LOOK BACK**

Effective January 1, 2022, the CONTRACTOR shall receive rate adjustment of 3%, above the annual weighted price index: rate  $\times (1 + ((\text{weighted index at Section 7.3}) + 0.03))$ . This shall be in addition to any other applicable rate and fee adjustment allowed under this AGREEMENT. Every sixty (60) months thereafter, CONTRACTOR may request that the LASAN DIRECTOR review the basis for the existing rate structure and determine the need for a rate adjustment due to CONTRACTOR's overall cost of service under this AGREEMENT, not to exceed three (3) percent. This analysis will take into consideration any cost of service increase beyond those items and indices in Section 7.3. The CITY's approval will be subject to negotiation with all FRANCHISEES and the CONTRACTOR to ensure the continuation of a fair and reasonable maximum allowable rate.

**SECTION 7.4 IS HEREBY DELETED IN ENTIRETY AND REPLACED BY THE FOLLOWING:**

**7.4 EXTRA SERVICES**

The CITY has established the following list of EXTRA SERVICES, which the CONTRACTOR shall offer their CUSTOMERS at the accompanying rate. Any services not listed in Table 7-3 shall be provided at no extra cost to the CUSTOMER, unless there is prior written approval from the CITY PROJECT MANAGER. EXTRA SERVICES fees shall be increased annually in accordance with the formulas and adjustments specified in Section 7.3.

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Table 7-3: Extra Collection Services and Associated Fees

<b>Extra Service</b>	<b>Condition Under Which Fee Applies</b>	<b>Total Fee (presented here as of CONTRACT EXECUTION)</b>
<b>Locks</b>		
Gravity lock installation – per CONTAINER	CUSTOMER request – one-time fee per CONTAINER	\$100 for purchase and installation
Lock bar installation – per CONTAINER	CUSTOMER request – one-time fee per CONTAINER	\$100 for purchase and installation
Locks for CONTAINERS – per lock	CUSTOMER request – one-time fee per lock	\$10
Unlocking and locking CONTAINERS – per CONTAINER	CUSTOMER request – per CONTAINER per collection event	No charge
<b>Distance/ Access</b>		
Entering Secured Building, unlocking and locking gates (see Extra Collection Services and Associated Fees Clarifications Table 7-4 for applicability)	Per collection event	\$10
Distance / Access (see Extra Collection Services and Associated Fees Clarifications Table 7-5 for applicability)		See Table 7-5
Distance Charge, between 100-200 ft, as measured from the CUSTOMER'S property line to the BINS' permanent location	Site requirement per CONTAINER per collection event	\$25
Distance Charge, over 200 ft, as measured from the CUSTOMER'S property line to the BINS' permanent location	Site requirement per CONTAINER per collection event	\$35
Blocked Access – Requiring Return or Delay	Driver observation, document with picture and note uploaded to CONTRACTOR's and the CITY's CRM in REAL TIME and notify the CUSTOMER within two (2) hours	\$50
Blocked Access (Accessing Via Intercom or Security Office) – Requiring a Return.	If driver has to wait due to a CUSTOMER created delay in excess of 5 minutes (documented using GPS technology) and with a note uploaded into the CITY's CRM in REAL TIME	\$50
<b>Supplemental Cleaning</b>		
Cart Cleaning (after one free cleaning/year)	CUSTOMER request – Fixed Fee Per CONTAINER	\$15
CONTAINER Pressure Wash/Steam Cleaning (after one free cleaning/year)	CUSTOMER request – Fixed Fee Per CONTAINER	\$30
Graffiti Removal from CUSTOMER-owned CONTAINERS	Driver observation or by request for removing graffiti from the CUSTOMER-owned CONTAINERS	\$25
Graffiti Removal from CONTRACTOR-owned CONTAINERS	CUSTOMER request to removing graffiti from the CONTRACTOR-owned CONTAINERS in excess of three times per every 12 months, in accordance with Section 3.20.5.1.	\$25

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Extra Service	Condition Under Which Fee Applies	Total Fee (presented here as of CONTRACT EXECUTION)
COMPACTOR CONTAINER Pressure Washing/Steam Cleaning (after one free cleaning/year)	CUSTOMER request – Fixed Fee Per CONTAINER	\$150
ROLL OFF CONTAINER Pressure Washing/Steam Cleaning (after one free cleaning/year)	CUSTOMER request – Fixed Fee Per CONTAINER	\$150
<b>CONTAINER Replacement/Repair</b>		
Repair or Replacement of CUSTOMER Owned CONTAINER(S)	CUSTOMER request; Time and Materials Fee; CONTRACTOR may direct replacement for safety and/or operational reasons; CONTRACTOR shall submit a list of replacements and deliver it with the monthly written report. The list shall include a description of why the CONTAINER was replaced, including pictures detailing the necessity of replacement	\$60 per repair hour plus materials, no charge for pick-up and delivery
Repair or Replacement of CONTRACTOR Owned CONTAINER(S) – CUSTOMER Error	CUSTOMER request or CONTRACTOR decision, with documentation supporting that the CUSTOMER is responsible for the damage to the CONTAINER	\$60 per repair hour plus materials, no charge for pick-up and delivery
Repair or Replacement of CONTRACTOR Owned CONTAINER(S) – Normal Wear and Tear or CUSTOMER Error	CUSTOMER request or CONTRACTOR decision	No charge
Changing CONTAINERS for an Increase or Decrease in Level of Service	CONTRACTOR shall submit a written list of replacements and deliver it with the monthly report. The list shall include a description of the service level change.	No charge
<b>Overflow of Materials and Contamination</b>		
Overfill Charge	Driver observation, document with picture and note uploaded to the CITY's CRM in REAL TIME, notify CUSTOMER within 2 hours, and otherwise follow the conditions and procedures described in Section 3.5	\$25 per occurrence
Overweight Charge	Driver observation, document with picture and note uploaded to the CITY's CRM in REAL TIME, notify CUSTOMER within 2 hours, and otherwise follow the conditions and procedures described in Section 3.5	\$100 per occurrence
Contamination Fee	Observation and Documentation, following the procedures described in Section 3.5	\$50 per occurrence
Hazardous, Radioactive, or Biomedical Waste Contamination Charge	Driver observation, document with picture and note uploaded to the CITY's CRM in REAL TIME, and notify CUSTOMER within 2 hours	\$100 per occurrence
<b>Other Fees</b>		
Collection of Bulky Waste from COMMERCIAL ESTABLISHMENT not subject to CITY Multifamily Bulky Item Fee – Per Item	CUSTOMER request – Fixed Fee Per Item	\$30
Idle Time Charge	If driver has to wait due to a CUSTOMER created delay in excess of 15 minutes (documented using GPS technology) and with a note uploaded into the CITY's CRM in REAL TIME	\$15 per every 15 minutes

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Idle Time Charge – Accessing Via Intercom or Security Office	If driver has to wait due to a CUSTOMER created delay in excess of 5 minutes (documented using GPS technology) and with a note uploaded into the CITY's CRM in REAL TIME	\$15 per every 5 minutes
Sunday Service	CUSTOMER Request	50% over Monday-Saturday Service
<b>Administrative Fees</b>		
Return Payment Fee	CUSTOMER remits payment using check rejected due to insufficient funds or remits payment using a credit card or electronic payment that is declined	\$25
Late Payment Fee (>30 days overdue)	CUSTOMER inaction	\$5 or 1.5% of the debt/month, whichever is greater
CONTAINER Removal Fee	CONTAINER is removed from service location due to CUSTOMER non-payment	\$5 per CONTAINER
Re-instatement of Account Fee	CUSTOMER request – Fixed Fee	\$70 per account
CONTAINER Delivery	Delivery fee for each CONTAINER brought to the CUSTOMER as part of the reinstatement	\$25 per CONTAINER
Compactors Less than 8 cubic yards	Additional compensation, above the Base Rate, for the collection of compactors less than 8 cubic yards in size.	\$8.00 per cubic yard of collection

Table 7-4: Extra Collection Services and Associated Fees Clarifications.

Entering Secured Building, unlocking and locking gates	Chargeable to CUSTOMER			
	BLACK BIN	BLUE BIN*	GREEN BIN	BROWN BIN
1. Opening a locked or closed gate by use of a remote, clicker or other electronic device.	Yes	No	Yes	Yes
2a. Accessing locked or secured premises that have been unlocked by the CUSTOMER regardless of whether a gate is present so long as the CONTRACTOR'S vehicle has unimpeded access to the premises.	No	No	No	No
2b. Accessing an unlocked gate that is partially closed and the CONTRACTOR'S collection vehicle cannot enter the property without having to exit the vehicle to address the gate or secured premises to provide for vehicle access	Yes	No	Yes	Yes
3. Accessing a locked gate when manual push out (no scout service) is required.	Yes	No	Yes	Yes
4. Accessing via intercom a security office that does not require the driver to leave his or her vehicle.	No	No	No	No

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Table 7-5: Extra Collection Services and Associated Fees Clarifications.

Distance/Access	Chargeable to CUSTOMER			
	BLACK BIN	BLUE BIN*	GREEN BIN	BROWN BIN
1. Distance charges on BLUE BINS/blue CONTAINERS.	N/A	No	N/A	N/A
2. Properties at which the collection vehicle does drive within 100 feet of the container.	Yes	No	Yes	Yes

\* The charges for Blue Bin Distance/Access as set forth in Tables 7-4 and Tables 7-5 will not be chargeable to CUSTOMERS, unless the CITY discontinues the Removing Barriers to Recycling Program, in which case these Access and Distance Extra Service Charges on Blue Bin collection will be reinstated to CUSTOMERS.

**SECTION 7.5 IS HEREBY DELETED IN ENTIRETY AND REPLACED BY THE FOLLOWING:**

**7.5 RECYCLING NOT PROVIDED (RNP)**

The intent of the source separated BLUE and GREEN BIN program is to ensure the CITY's and state's goals of landfill diversion are met. The minimum service level (weekly service volume and collection frequency) ratio is that the BLUE BIN and GREEN BIN service shall be at least fifty percent (50%) by volume of BLACK BIN service measured by cubic yards on a per FRANCHISE ZONE basis. Failure to provide the minimum level of BLUE and GREEN BIN service will result in monthly RNP LIQUIDATED DAMAGES in accordance with Section 11.1.

Service level ratios shall be calculated on the last day of the month on a FRANCHISE ZONE basis. Monthly service levels shall be calculated based on the level of service in a FRANCHISE ZONE for all CUSTOMERS based on bin size, number and frequency. The basis for determining monthly service shall be the CUSTOMER service level data provided to the CITY. If the CONTRACTOR'S monthly combined service level zone-wide of the BLUE BIN and GREEN BIN, falls below the minimum ratio of 50% compared to BLACK BIN service, measured monthly, the CONTRACTOR shall remit quarterly to the CITY LIQUIDATED DAMAGES in accordance with Section 11.1. The CONTRACTOR will not accrue, owe, or remit and the CITY shall not assess, charge, or calculate RNP LIQUIDATED DAMAGES prior to January 31, 2021. CONTRACTOR may present evidence for exceptions and the CITY PROJECT MANAGER may consider exceptions to the

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volume requirements for specific CUSTOMERS, but BLUE BIN service must be provided. CONTRACTOR has the right to appeal the LIQUIDATED DAMAGES per Section 11.2 of this AGREEMENT.

Example of application of RNP:

For example, if for a month there were 9,000 monthly cubic yards of BLUE BINS collected, 1,000 cubic yards of GREEN BINS and 30,000 cubic yards of BLACK BINS collected, RNP LIQUIDATED DAMAGES would apply. The minimum monthly collection of BLUE BINS and GREEN BINS is 15,000 cubic yards (50% of 30,000). The CONTRACTOR achieved a ratio of 33.33%  $((9,000CY+1,000CY)/30,000CY)$ . In accordance with Table 11-1 the associated liquidated damage is \$20,000 for this month.

The CONTRACTOR shall remit quarterly the monthly LIQUIDATED DAMAGES associated with the RNP, and payment shall be paid to the CITY and is due on or before thirty (30) days following the end of each calendar quarter in which the combined BLUE BIN and GREEN BIN services were not provided as set forth in this Section, with the quarterly fee payment schedule. This remittance shall be accompanied by a RNP form as designated by the CITY. Failure to pay any fees in accordance with this AGREEMENT shall be subject to LIQUIDATED DAMAGES as listed in Table 11-1.

**SECTION 7.8 IS HEREBY ADDED TO THE AGREEMENT AS FOLLOWS:**

**7.8 REMOVING BARRIERS TO RECYCLING PROGRAM**

The CITY and CONTRACTOR agree to jointly fund a program designed to encourage recycling by CUSTOMERS as more specifically set forth in the Settlement Agreement between the CITY and CONTRACTOR. In order to further encourage recycling, the CONTRACTOR shall not bill ACCESS AND DISTANCE EXTRA SERVICE CHARGES to all CUSTOMERS related to BLUE BINS (recycling), effective February 1, 2018. The CONTRACTOR thus agrees to waive ACCESS AND DISTANCE EXTRA SERVICE CHARGES associated with BLUE BIN collection, as specified so long as the CITY continues this Removing Barriers to Recycling Program. The baseline CITY contribution, for calendar year 2018, to fund this program is \$954,545. If CITY terminates the Removing Barriers to Recycling Program prior to the end of the CONTRACT term, CONTRACTOR shall bill CUSTOMERS for Extra Services for the ACCESS AND DISTANCE EXTRA SERVICE CHARGES as set forth in Tables 7-3, 7-4, and 7-5, and pursuant to the asterisk thereto.

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**TABLE 11-1 IS HEREBY DELETED IN ENTIRETY AND REPLACED BY THE FOLLOWING:**

Table 11-1: Performance Standards and LIQUIDATED DAMAGES

Category	Performance Standard and Conditions When LIQUIDATED DAMAGES Will Apply	Administrative Assessment
Implementation of FRANCHISE SYSTEM	Failure to use reasonable business efforts to service an Abandoned Account, as stipulated in Section 5	\$100 per day (including during the TRANSITION PERIOD)
	CONTRACTOR abandoning an account, or implementing FRANCHISE service rates prior to CONTRACTOR NOTIFICATION	\$5,000 per verified occurrence (including during the TRANSITION PERIOD)
Provision of Services to CUSTOMERS	Failure to remove graffiti in accordance with Section 3.20.5.1 (Graffiti)	\$100 per occurrence**
	Failure to deliver CONTAINER(S) to a CUSTOMER within five (5) business days of the CUSTOMER'S request for service	\$200 per occurrence**
	Failure to repair or replace any bin, cart, CONTAINER, ROLL OFF, or COMPACTOR (any CONTAINER), in accordance with Section 3.20.5(Container maintenance) within two (2) business days of CUSTOMER report, considering availability of parts or equipment	\$100 per occurrence**
Provision of Services to CUSTOMERS (continued)	Failure to collect a MISSED COLLECTION in accordance with Section 3.7 , where not arising from or caused by a labor dispute.	\$100 per occurrence; \$200 for each day thereafter
	Repeat MISSED COLLECTIONS at same CUSTOMER within twelve (12) months of previous missed collection as set forth in Section 3.7.1	\$300 per occurrence**
	Failure to notify a CUSTOMER of improper CONTAINER set out, obstruction, or other causes for inability to provide a scheduled collection service within 2 hours	\$100 per occurrence**
	Use of profanity or hate speech by CONTRACTOR staff to CUSTOMERS	\$300 per occurrence, subject to Section 11.3 below.**
	Failure to answer 95 percent of all CUSTOMER calls received each month during normal business hours in less than 60 seconds (computed as a monthly average)	\$5,000 per month occurred
	Failure to provide service under this AGREEMENT due to Labor Disputes	The pro rata percentage of CITY estimated daily GROSS RECEIPTS under this AGREEMENT per day of service interruption, based on the number of CUSTOMERS not serviced, by either the CONTRACTOR, its contingency team or the CITY, compared with the total number of CUSTOMERS normally serviced.
	CONTRACTOR Operations	Collect, remove or transport SOLID RESOURCES from any CITY serviced CUSTOMERS
Collect, remove or transport SOLID RESOURCES from any other FRANCHISE hauler serviced CUSTOMERS		\$500 per verified occurrence, subject to Section 11.3 below.
Undertake collection operations outside of allowable hours of collection		\$300 per verified complaint

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Category	Performance Standard and Conditions When LIQUIDATED DAMAGES Will Apply	Administrative Assessment
	Make changes to routes or route days affecting 5 percent or more of the CONTRACTOR'S CUSTOMERS without at least 7 business days' notice to CUSTOMERS	\$100 per CUSTOMER per day, subject to Section 11.3 below.
	Failure to properly cover material in collection or hauling vehicles	\$300 per occurrence
	Failure to correct, upon notification by the CITY, leakage of fluids from a collection or hauling vehicle prior to resuming use of the vehicle in the CITY	\$100 per occurrence
	Failure to clean up spillage or litter occurring during collection at time of collection	\$100 per occurrence
	Failure to have a vehicle properly licensed, registered and inspected	\$100 per vehicle
	Exceeding vehicle weight limits as set forth in the State of California Vehicle Code	\$1,000 per vehicle per occurrence, subject to Section 11.3 below.
	Failure to clean collection and hauling vehicles once per week, or within 1 business day of request from the CITY	\$100 per occurrence
	Failure to report known vehicle accidents to the CITY, in accordance with 3.17.2.	\$100 per day not notified
	Failure to maintain property, facilities and equipment in a clean, safe and sanitary manner, as determined by the CITY	\$100 per day, subject to Section 11.3 below.
	Failure to provide a minimum ratio of 50% of BLUE and GREEN Bin Service to BLACK BIN Service in accordance with 7.5	\$1,250 per every 1% below 50% but greater than 30%, per month; or \$100,000 for ratio of less than 30%, per month, as applicable
Segregation and Delivery of Collection Materials	Commingling of SOLID WASTE, COMMINGLED RECYCLABLES and/or ORGANICS material segregated by the CUSTOMER in the same truck	\$1,000 per occurrence
	Failure to deliver collected SOLID RESOURCES to a CITY CERTIFIED FACILITY	\$1,000 per occurrence
CONTRACTOR Personnel and Property	Failure to have a properly licensed vehicle driver operating a vehicle	\$300 per occurrence per day
	Failure to provide any required training for vehicle operators, including safety training and training related to the operation of equipment, as required by Federal and State laws	\$1,000 per occurrence
	Failure to repair damage to a CUSTOMER'S property or other private property, caused by or resulting from the actions of the CONTRACTOR'S personnel in accordance with 3.10	\$500 per occurrence, subject to Section 11.3 below.
Diversion Requirements	Failure to meet Disposal Reduction requirements per Article 5	See Section 5.10.5
Payment and Reporting Requirements	Failure to remit fees to the CITY in accordance with Section 7 (Rates and Fees)	\$5,000 per occurrence in addition to delinquent Franchise Fees subject to Section 7.6.
	Failure to submit reports to the CITY on time	\$50 per day per report.
	Willful submission to the CITY of inaccurate reports or data, including but not limited to diversion reports and data, service level information and financial information	\$10,000 per occurrence

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\*\*Assessable only after AMENDMENT EFFECTIVE DATE; the CITY shall not assess CONTRACTOR for occurrences that occurred prior to the AMENDMENT EFFECTIVE DATE.

**ARTICLE 37 IS HEREBY DELETED IN ITS ENTIRETY AND REPLACED BY THE FOLLOWING:**

**ARTICLE 37: MANDATORY PROVISIONS PERTAINING TO NON-DISCRIMINATION IN EMPLOYMENT**

Unless otherwise exempt, this CONTRACT is subject to the applicable non-discrimination, equal benefits, equal employment practices, and affirmative action program provisions in LAAC Section 10.8 et seq., as amended from time to time.

- A. CONTRACTOR shall comply with the applicable non-discrimination and affirmative action provisions of the laws of the United States of America, the State of California, and CITY. In performing this CONTRACT, CONTRACTOR shall not discriminate in any of its hiring or employment practices against any employee or applicant for employment because of such person's race, color, religion, national origin, ancestry, sex, sexual orientation, gender, gender identity, age, disability, domestic partner status, marital status or medical condition.
- B. The requirements of Section 10.8.2.1 of the LAAC, the Equal Benefits Ordinance, and the provisions of Section 10.8.2.1(f) are incorporated and made a part of this CONTRACT by reference.
- C. The provisions of Section 10.8.3 of the LAAC are incorporated and made a part of this CONTRACT by reference and will be known as the "Equal Employment Practices" provisions of this CONTRACT.
- D. The provisions of Section 10.8.4 of the LAAC are incorporated and made a part of this CONTRACT by reference and will be known as the "Affirmative Action Program" provisions of this CONTRACT.

Any subcontract entered into by CONTRACTOR for work to be performed under this CONTRACT must include an identical provision.

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PERSONAL SERVICES CONTRACT C-128878-1**

**ARTICLE 38 IS HEREBY DELETED IN ITS ENTIRETY**

**ARTICLE 39 IS HEREBY DELETED IN ITS ENTIRETY**

**ARTICLE 45 IS HEREBY DELETED IN ITS ENTIRETY**

**ARTICLE 41 IS HEREBY DELETED IN ITS ENTIRETY AND REPLACED BY THE FOLLOWING:**

**ARTICLE 41: WORKER RETENTION ORDINANCE**

CONTRACTOR shall comply with the Worker Retention Ordinance, LAAC Section 10.36 *et seq.*, as amended from time to time. Any subcontract entered into by CONTRACTOR for work to be performed under this CONTRACT must include an identical provision.

**ARTICLE 42 IS HEREBY DELETED IN ITS ENTIRETY AND REPLACED BY THE FOLLOWING:**

**ARTICLE 42: AMERICANS WITH DISABILITIES ACT**

CONTRACTOR represents and certifies that:

- A. CONTRACTOR shall comply with the Americans with Disabilities Act, as amended, 42 U.S.C. Section 12101 *et seq.*, the Rehabilitation Act of 1973, as amended, 29 U.S.C. Section 701 *et seq.*, the Fair Housing Act, and its implementing regulations and any subsequent amendments, and California Government Code Section 11135;
- B. CONTRACTOR shall not discriminate on the basis of disability or on the basis of a person's relationship to, or association with, a person who has a disability;
- C. CONTRACTOR shall provide reasonable accommodation upon request to ensure equal access to CITY-funded programs, services and activities;
- D. Construction will be performed in accordance with the Uniform Federal Accessibility Standards (UFAS), 24 C.F.R. Part 40; and
- E. The buildings and facilities used to provide services under this Contract are in compliance with the federal and state standards for accessibility as set forth in

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the 2010 ADA Standards, California Title 24, Chapter 11, or other applicable federal and state law.

CONTRACTOR understands that the CITY is relying upon these certifications and representations as a condition to funding this Contract. Any subcontract entered into by CONTRACTOR for work to be performed under this Contract must include an identical provision.

**ARTICLE 50 IS HEREBY DELETED IN ITS ENTIRETY AND REPLACED BY THE FOLLOWING:**

**ARTICLE 50: RESTRICTIONS ON CAMPAIGN CONTRIBUTIONS AND FUNDRAISING IN CITY ELECTIONS**

Unless otherwise exempt, if this CONTRACT is valued at \$100,000 or more and requires approval by an elected CITY office, CONTRACTOR, CONTRACTOR'S principals, and CONTRACTOR'S SUBCONTRACTORS expected to receive at least \$100,000 for performance under the CONTRACT, and the principals of those SUBCONTRACTORS (the "Restricted Persons") shall comply with Charter Section 470(c)(12) and LAMC Section 49.7.35. Failure to comply entitles CITY to terminate this CONTRACT and to pursue all available legal remedies. Charter Section 470(c)(12) and LAMC Section 49.7.35 limit the ability of the Restricted Persons to make campaign contributions to and engage in fundraising for certain elected CITY officials or candidates for elected CITY office for twelve months after this CONTRACT is signed. Additionally, a CONTRACTOR subject to Charter Section 470(c)(12) is required to comply with disclosure requirements by submitting a completed and signed Ethics Commission Form 55 and to amend the information in that form as specified by law. Any Contractor subject to Charter Section 470(c)(12) shall include the following notice in any contract with any Subcontractor expected to receive at least \$100,000 for performance under this CONTRACT:

"Notice Regarding Restrictions on Campaign Contributions and Fundraising in City Elections

You are a subcontractor on City of Los Angeles Contract C-128878. Pursuant to the City of Los Angeles Charter Section 470(c) (12) and related ordinances, you and your principals are prohibited from making campaign contributions to and fundraising for certain elected City of Los Angeles ("CITY") officials and candidates for elected CITY office for twelve months after the CITY contract is signed. You are required to provide the names and contact information of your principals to the CONTRACTOR and to amend that information within ten business days if it changes during the twelve month

**FIRST AMENDMENT TO  
PERSONAL SERVICES CONTRACT C-128878-1**

time period. Failure to comply may result in termination of this Contract and any other available legal remedies. Information about the restrictions may be found online at [ethics.lacity.org](http://ethics.lacity.org) or by calling the Los Angeles City Ethics Commission at (213) 978-1960."

**ARTICLE 52 IS HEREBY ADDED TO THE AGREEMENT AS FOLLOWS:**

**ARTICLE 52: LIMITATION OF CITY'S OBLIGATION TO MAKE PAYMENT TO CONTRACTOR**

Notwithstanding any other provision of this CONTRACT, including any exhibits or attachments incorporated therein, and in order for CITY to comply with its governing legal requirements, CITY shall have no obligation to make any payments to CONTRACTOR unless CITY shall have first made an appropriation of funds equal to or in excess of its obligation to make any payments as provided in this CONTRACT. CONTRACTOR agrees that any services provided by CONTRACTOR, purchases made by CONTRACTOR or expenses incurred by CONTRACTOR in excess of the appropriation(s) shall be free and without charge to CITY and CITY shall have no obligation to pay for the services, purchases or expenses. CONTRACTOR shall have no obligation to provide any services, provide any equipment or incur any expenses in excess of the appropriated amount(s) until CITY appropriates additional funds for this CONTRACT.

**ARTICLE 53 IS HEREBY ADDED TO THE AGREEMENT AS FOLLOWS:**

**ARTICLE 53: CONTRACTORS' USE OF CRIMINAL HISTORY FOR CONSIDERATION OF EMPLOYMENT APPLICATIONS**

CONTRACTOR shall comply with the City Contractors' Use of Criminal History for Consideration of Employment Applications Ordinance, LAAC Section 10.48 *et seq.*, as amended from time to time. Any subcontract entered into by CONTRACTOR for work to be performed under this CONTRACT must include an identical provision.

**ARTICLE 54 IS HEREBY ADDED TO THE AGREEMENT AS FOLLOWS:**

**ARTICLE 54: DISCLOSURE OF BORDER WALL CONTRACTING ORDINANCE**

CONTRACTOR shall comply with Los Angeles Administrative Code Section 10.50 *et seq.*, 'Disclosure of Border Wall Contracting.' The CITY may terminate this CONTRACT at any time if the CITY determines that the CONTRACTOR failed to fully and accurately complete the required affidavit and disclose all Border Wall Bids and Border Wall Contracts, as defined in LAAC Section 10.50.1.

**FIRST AMENDMENT TO  
PERSONAL SERVICES CONTRACT C-128878-1**

IN WITNESS WHEREOF, the parties hereto have executed this AGREEMENT on the day and year written below.

**CITY OF LOS ANGELES**

**USA WASTE OF CALIFORNIA, INC.  
DBA, WASTE MANAGEMENT**

By: \_\_\_\_\_

By: \_\_\_\_\_

Title: Commissioner, Board of Public Works

Title: \_\_\_\_\_

Date: \_\_\_\_\_

Date: \_\_\_\_\_

By: \_\_\_\_\_

Title: Commissioner, Board of Public Works

Date: \_\_\_\_\_

**APPROVED AS TO FORM**

**MICHAEL N. FEUER, City Attorney**

By: \_\_\_\_\_

Adena Hopenstand

Title: Deputy City Attorney

Date: \_\_\_\_\_

**ATTEST:**

**HOLLY WOLCOTT, City Clerk**

By: \_\_\_\_\_

Title: Deputy City Clerk

Date: \_\_\_\_\_

FIRST AMENDMENT TO  
PERSONAL SERVICES CONTRACT  
BETWEEN  
THE CITY OF LOS ANGELES  
AND  
WARE DISPOSAL COMPANY, INC  
FOR  
EXCLUSIVE FRANCHISE TO PROVIDE COLLECTION, TRANSFER, PROCESSING, AND  
DISPOSAL SERVICES FOR SOLID RESOURCES TO COMMERCIAL ESTABLISHMENTS  
AND APPLICABLE MULTIFAMILY ESTABLISHMENTS  
IN THE SOUTHEAST ZONE

City of Los Angeles  
Department of Public Works  
LA Sanitation and Environment  
Solid Resources Commercial Franchise Division

**FIRST AMENDMENT TO  
PERSONAL SERVICES CONTRACT C-128877-1**

BETWEEN THE CITY OF LOS ANGELES AND WARE DISPOSAL COMPANY, INC. FOR EXCLUSIVE FRANCHISE TO PROVIDE COLLECTION, TRANSFER, PROCESSING, AND DISPOSAL SERVICES FOR SOLID RESOURCES TO COMMERCIAL ESTABLISHMENTS AND APPLICABLE MULTIFAMILY ESTABLISHMENTS IN THE SOUTHEAST ZONE.

THIS FIRST AMENDMENT TO CONTRACT C-128877 is made and entered into by and between the CITY OF LOS ANGELES, a municipal corporation, acting by and through its Board of Public Works, (hereinafter called the "CITY"), and WARE DISPOSAL COMPANY, INC. (hereinafter called "CONTRACTOR") with reference to the following facts:

WITNESSETH

WHEREAS, the CITY has complied with the State Public Resources Code, Section 49520, in notification of current permitted private waste haulers of a change to an exclusive franchise system for solid resources collection and handling, called RECYCLA; and

WHEREAS, there are approximately 65,000 commercial and industrial CUSTOMERS, including over 700,000 residential multifamily units receiving solid resources services from permitted private waste haulers; and

WHEREAS, it is in the CITY's interest to provide all residents and businesses with access to recycling programs, cleaner air, and better customer service; and

WHEREAS, private waste haulers were estimated to dispose over 1.5 million tons in landfills each year from these properties; and

WHEREAS, the CITY's goal is to reach 90 percent landfill diversion by year 2025; and

WHEREAS, the RECYCLA program as effectuated through the RECYCLA AGREEMENTS is intended to meet the CITY's Zero Waste goals by, among other things, establishing maximum disposal for each franchise zone and implementing waste diversion programs that are consistent with the Solid Waste Integrated Resource Plan Guiding Principles; and

WHEREAS, pursuant to the provisions of Mandatory Commercial Recycling (AB341) and Mandatory Organics Recycling (AB1826), businesses and multifamily residences are required to subscribe to recycling programs under certain conditions; and

WHEREAS, a goal of the RECYCLA program as effectuated through the RECYCLA AGREEMENTS is to meet and exceed California requirements for waste diversion and mandatory commercial and multifamily recycling; and

**FIRST AMENDMENT TO  
PERSONAL SERVICES CONTRACT C-128877-1**

WHEREAS, the Mayor and the City Council certified the Final Environmental Impact Report and adopted the ordinance (Ordinance #182986) authorizing the RECYCLA program; and

WHEREAS, this project will help Create a More Livable and Sustainable CITY, and the implementation of this project is critical and must be retained; and

WHEREAS, the CITY desired to retain the CONTRACTOR to provide the required solid resources collection and handling services in connection with the Scope of Services as outlined in the AGREEMENT; and

WHEREAS, a Request for Proposals (RFP) was prepared to create an exclusive franchise system that provides efficient handling of solid resources with clean fuel vehicles, real time customer service, and oversight of CONTRACTOR with accountability for lapses in service as well as other failures; and

WHEREAS, the RECYCLA Franchise Agreements set forth service criteria and expectations of the recycLA Service Providers (RSPs) within these AGREEMENTS, including but not limited to regulating the rates RSPs charge their CUSTOMERS; and

WHEREAS, on June 12, 2014, the CITY released a RFP to qualified and interested parties; and

WHEREAS, on September 26, 2016, the BOARD approved the AGREEMENT with WARE DISPOSAL COMPANY, INC., Contract Number C-128877; and

WHEREAS, on December 9, 2016 the City Council approved the AGREEMENT with WARE DISPOSAL COMPANY, INC., Contract Number C-128877; and

WHEREAS, on February 1, 2017 the Office of the City Clerk attested the AGREEMENT with WARE DISPOSAL COMPANY, INC., Contract Number C-128877; and

WHEREAS, the CITY determined it was necessary to amend the AGREEMENT to meet the CITY goals;

**FIRST AMENDMENT TO  
PERSONAL SERVICES CONTRACT C-128877-1**

NOW THEREFORE, for good and valuable consideration, including the mutual promises set forth below, the CITY and the CONTRACTOR agree that the AGREEMENT be amended as follows:

**ARTICLE 1 IS HEREBY DELETED IN ENTIRETY AND REPLACED BY THE FOLLOWING:**

**ARTICLE 1: SECTION HEADINGS AND CONSTRUCTION OF PROVISIONS  
AND TITLES HEREIN**

All titles, subtitles, and/or section headings appearing herein have been inserted for convenience and shall not be deemed to govern, limit, modify or in any manner affect the scope, meaning, intent or construction of any of the terms or provisions hereof. The language of this CONTRACT shall be construed according to its fair meaning and not strictly for or against the CITY or the CONTRACTOR. The singular shall include the plural; use of the feminine, masculine, or neuter genders shall be deemed to include the genders not used. The terms "include" and "including" do not exclude items not enumerated that are in the same general class. Any rule or law that would require interpretation of any term or ambiguity in this CONTRACT against the party that drafted the applicable provision is waived. The Recitals to this CONTRACT are material terms hereof.

**ARTICLE 2: IS HEREBY AMENDED TO ADD/AMEND THE FOLLOWING:**

ACCESS AND DISTANCE EXTRA SERVICE CHARGES: The Distance/Access fees for Extra Services identified in Table 7-3 and referenced in Tables 7-4 and 7-5.

AMENDMENT EFFECTIVE DATE: The date when all the following events have occurred:

- The Amendment has been signed on behalf of CONTRACTOR by the person or persons authorized to bind CONTRACTOR hereto;
- The Amendment has been approved by the CITY COUNCIL or by the BOARD, officer or employee authorized to give such approval;
- The Office of the City Attorney has indicated in writing its approval of this Amendment as to form; and
- The Amendment has been signed on behalf of the CITY by the person designated by the CITY COUNCIL, or by the BOARD, officer or employee authorized to enter into this Amendment

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PERSONAL SERVICES CONTRACT C-128877-1**

GROSS RECEIPTS: Those receipts defined under Gross Receipts in L.A.M.C. Section 21.00(a) as generated by the collection of SOLID RESOURCES including, but not limited to collection service, CONTAINER rental, EXTRA SERVICES, disposal, and processing charges. Fees and charges for services credited or not billed by CONTRACTORS shall not be considered GROSS RECEIPTS for purposes of FRANCHISE FEES.

MISSED COLLECTION: Collection Services that do not occur as detailed in the CUSTOMER'S service agreement with the CONTRACTOR (including on the day and/or frequency) that are not due to the fault of the RECYCLA CUSTOMER, regardless of whether the CONTRACTOR later performs the collection. A CUSTOMER'S complaint that the CUSTOMER did not receive timely service will be presumed legitimate, or presumed as a MISSED COLLECTION absent sufficient documentation to the contrary that rebuts the presumption.

OPTIMIZATION PERIOD: The period from February 1, 2018 through December 31, 2020 shall be considered the Optimization Period of the RECYCLA program in which concerted and specific efforts will be made to engage RECYCLA CUSTOMERS and for the CONTRACTOR to perform education and outreach to encourage diversion and recycling and to provide information and/or instruction regarding proper recycling at CUSTOMER sites.

RECYCLA: The statutory framework and program, including the FRANCHISE AGREEMENTS, in which the CITY oversees, regulates, and administers municipal waste diversion and management policies, practices, and has awarded contracts for exclusive franchises to provide collection, transfer, processing, and disposal services for solid resources as well as extra services to each commercial establishment and applicable multifamily establishment in the awarded franchise zones as authorized by contract and by Los Angeles Municipal Code section 66.33 *et seq.* and California Public Resources Code section 40059, *et seq.*

RECYCLA FRANCHISE AGREEMENT: The awarded contracts to the CONTRACTORS for an "Exclusive Franchise to Provide Collection, Transfer, Processing, and Disposal Services for Solid Resources to Commercial Establishments and Applicable Multifamily Establishments" in designated zones within the CITY (Contract Nos. C-128875, C-128876, C-128877, C-128878, C-128879, C-128880, C-128881), effective February 1, 2017, the date of CONTRACT EXECUTION.

ZWR: Trained CONTRACTOR and/or SUBCONTRACTOR staff responsible for outreach, education, CUSTOMER training and waste assessments.

**FIRST AMENDMENT TO  
PERSONAL SERVICES CONTRACT C-128877-1**

**SECTION 3.5 IS HEREBY AMENDED TO MODIFY THE SECTION AND ADD THE FOLLOWING:**

3.5.1 Contaminated Containers Collected During OPTIMIZATION PERIOD

The CONTRACTOR is responsible for visually inspecting each CUSTOMER'S BLUE BINS to determine whether they contain contaminated COMMINGLED RECYCLABLES. While BLUE BIN CONTAINERS ordinarily shall be considered contaminated if they contain more than 10% SOLID WASTE or 10% ORGANICS, individually or combined, in each BLUE BIN during the OPTIMIZATION PERIOD, the BLUE BIN shall be considered contaminated if it contains more than 20% SOLID WASTE or 20% ORGANICS, individually or combined.

The CONTRACTOR shall not charge the CUSTOMER for contaminated BLUE BINS collected during the OPTIMIZATION PERIOD. The object and goal of this OPTIMIZATION PERIOD is for the CONTRACTOR to provide additional outreach and education to CUSTOMERS on proper recycling in order to avoid contamination fees. During the OPTIMIZATION PERIOD, the CONTRACTOR shall continue to perform outreach and CUSTOMER education as specified in Section 5.13 in addition to outreach and education described in this Section 3.5.1.1.

For use during the OPTIMIZATION PERIOD, the CONTRACTOR shall develop, and submit to LASAN for approval, a specific contamination notice. This notice shall contain a list, pictorial or written, of recyclable items, policy for contamination during the OPTIMIZATION PERIOD and from where and how CUSTOMERS can obtain additional information as well as the CUSTOMER'S right to CONTRACTOR performing on-site outreach and education training.

Following the expiration of the OPTIMIZATION PERIOD commencing January 1, 2021, the Contamination Fee process set forth in Section 3.5 of the AGREEMENT shall be reinstated in full force and effect.

3.5.1.1 Chronic Contamination

During the CUSTOMER OPTIMIZATION PERIOD, the contamination percentage will be increased from 10% to 20% to allow CUSTOMERS more latitude to improve their internal processes and controls on BLUE BIN use, but if the container is contaminated more than 20%, the following remedial steps will apply. The remedial steps shall occur in conjunction with the OPTIMIZATION PERIOD outreach and education noted in Section 5.13.

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At no time during the OPTIMIZATION PERIOD will the CUSTOMER be assessed a BLUE BIN contamination fee per Section 3.5 of the FRANCHISE AGREEMENTS. During the OPTIMIZATION PERIOD, these provisions in Section 3.5.1.1 are an interim replacement for the process set forth at Section 3.5 of the AGREEMENT.

**1<sup>st</sup> Instance**

- CONTRACTOR shall leave a written notice, as approved to form by the CITY, which explains why the material was contaminated and not collected. The written notice shall also explain the policy for contamination and identify how the CUSTOMER can find more information on the subject.
- Photographic evidence demonstrating 20% contamination of the BLUE BIN will be uploaded by CONTRACTOR to CITY's CRM in REAL TIME.
- CONTRACTOR will notify the CUSTOMER by phone and/or by email, and offer an in-person or on-site visit with the CUSTOMER. In the CONTRACTOR's phone and/or email notification, the CONTRACTOR will also explain that the CUSTOMER'S BLUE BIN has been tagged for contamination, the contaminants found in the bin, and the CONTRACTOR shall offer a site visit by a CONTRACTOR representative for outreach and education. The CONTRACTOR shall document all communications with the CUSTOMER, and provide to the CITY upon request. Documentation shall include type of communication, date and time of communication, and resulting action, such as the date and time of scheduled on-site training and education, or the CUSTOMER'S refusal of training and education. Unless refusing an on-site visit, which shall include the failure to respond to an offer of same by CONTRACTOR, the CUSTOMER shall not have a 2<sup>nd</sup> Instance of contamination until the agreed upon outreach site-visit has occurred.
- Container is not collected.
- After making contact with the CUSTOMER by phone, email and/or by in-person, or within 24 hours of attempting such contact by phone and email, the CONTRACTOR's customer service will schedule for the container to be collected as trash at no additional cost to the CUSTOMER.
- If the CUSTOMER does not have any more contamination episodes for a period of 90 days, this instance of contamination will not be deemed a prior instance for purposes of this Section 3.5.1.1.

**2<sup>nd</sup> Instance**

- CONTRACTOR shall leave a written notice, as approved to form by the CITY, which explains why the material was contaminated and not

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collected. The written notice shall also explain the policy for contamination and identify how the CUSTOMER can find more information on the subject.

- Photographic evidence of contamination of the BLUE BIN will be uploaded by CONTRACTOR to CITY's CRM in REAL TIME.
- CONTRACTOR will notify the CUSTOMER by phone and/or by email, and offer an in-person or on-site visit with the CUSTOMER. In the CONTRACTOR's phone and/or email notification, the CONTRACTOR will also explain that the CUSTOMER'S BLUE BIN has been tagged for contamination, the contaminants found in the bin, and the CONTRACTOR shall offer a site visit by a CONTRACTOR representative for outreach and education. The CONTRACTOR shall document all communications with the CUSTOMER, and provide to the CITY upon request. Documentation shall include type of communication, date and time of communication, and resulting action, such as the date and time of scheduled on-site training and education, or the CUSTOMER'S refusal of training and education. Unless refusing an on-site visit, which shall include the failure to respond to an offer of same by CONTRACTOR, the CUSTOMER shall not have a 3<sup>rd</sup> Instance of contamination until the agreed upon outreach site-visit has occurred.
- Container is not collected.
- After making contact with the CUSTOMER by phone, email and/or by in-person, or within 24 hours of attempting such contact by phone and email, the CONTRACTOR's customer service will schedule for the container to be collected as trash at no additional cost to the CUSTOMER.
- If the CUSTOMER does not have any more contamination for a period of 90 days, this instance of contamination will not be deemed a prior instance for purposes of this Section 3.5.1.1.

**3<sup>rd</sup> Instance**

- CONTRACTOR shall leave a written notice, as approved to form by the CITY, which explains why the material was contaminated and not collected. The written notice shall also explain the policy for contamination and identify how the CUSTOMER can find more information on the subject.
- Photographic evidence of contamination of the BLUE BIN will be uploaded by CONTRACTOR to CITY's CRM in REAL TIME and CONTRACTOR will notify the CUSTOMER by phone and/or by email, and by an in-person (or on-site) visit. In all of these notifications, the CONTRACTOR will explain that the CUSTOMER'S BLUE BIN has been tagged for contamination, the

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contaminants found in the bin, and the CONTRACTOR shall offer a site visit by a CONTRACTOR representative for outreach and education.

- Container is not collected.
- CUSTOMER will be required to meet with a ZWR for retraining/education prior to the container being scheduled for collection. If the CUSTOMER refuses to meet with a ZWR by failing to return any communication within 7 calendar days after attempting to make contact by both by phone and email, or affirmatively stating its refusal to meet with a ZWR, then the CONTRACTOR may continue with this protocol. The CONTRACTOR shall document all communications with the CUSTOMER, and provide to the CITY upon request. Documentation shall include type of communication, date and time of communication, and resulting action, such as the date and time of scheduled on-site training and education, or the CUSTOMER'S refusal of training and education. The CUSTOMER shall not have a 4<sup>th</sup> Instance of contamination until the agreed upon outreach site-visit has occurred or been refused as set forth above.
- After making contact with the CUSTOMER by phone, email and/or by in-person, or within 24 hours of attempting such contact by phone and email, the CONTRACTOR's customer service will schedule for the container to be collected as trash at no additional cost to the CUSTOMER.
- If the CUSTOMER does not have any more contamination for a period of 90 days this offense will not be deemed a prior instance for purposes of this Section 3.5.1.1.

**4<sup>th</sup> Instance**

- CONTRACTOR shall leave a written notice, as approved to form by the CITY, which explains why the material collected was contaminated and not collected. The written notice shall also explain the policy for contamination and identify how the CUSTOMER can find more information on the subject.
- Photographic evidence of contamination of the BLUE BIN will be uploaded by CONTRACTOR to CITY's CRM in REAL TIME and CONTRACTOR will notify the CUSTOMER by phone, by email, and by in-person (or on-site) visit. In all of these notifications, the CONTRACTOR will explain that the CUSTOMER'S BLUE BIN has been tagged for contamination.
- The CONTRACTOR will have the sole option to:
  - Require the CUSTOMER to remove the contaminated waste from the container prior to container collection; or

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- Require the CUSTOMER to pay to have the container with contaminated waste collected as trash and pay a one-time service fee of \$50 to have the bin collected as SOLID WASTE, and remove the BLUE BIN for a minimum of 90 days, but cannot replace it with a BLACK BIN unless the CUSTOMER requests an additional BLACK BIN. The CONTRACTOR shall notify the CUSTOMER that the BLUE BIN has been removed.

**SECTION 3.7.1 IS HEREBY ADDED TO THE AGREEMENT AS FOLLOWS:**

**3.7.1 REPEATED MISSED COLLECTIONS**

All MISSED COLLECTION requests that occur more than once at the same CUSTOMER location within a 12 month period are subject to LIQUIDATED DAMAGES for repeated MISSED COLLECTION shown in Table 11-1, except as provided in this Section. MISSED COLLECTION occurring prior to the AMENDMENT EFFECTIVE DATE is (i) not considered a MISSED COLLECTION for the purposes of assessing LIQUIDATED DAMAGES (at \$300 per occurrence), and (ii) not considered a MISSED COLLECTION for which a subsequent MISSED COLLECTION after the AMENDMENT EFFECTIVE DATE might be characterized as a "Repeat MISSED COLLECTION at same CUSTOMER within twelve (12) months of previous missed collection."

The CITY shall not assess LIQUIDATED DAMAGES for "Repeat MISSED COLLECTIONS at same CUSTOMER within twelve (12) months of previous MISSED COLLECTION," as referenced in Table 11-1, on the second occurrence of a MISSED COLLECTION in a 12 month period if both the first and second instances of missed collection are collected within the required timeframe noted in Section 3.7. Only the third or subsequent instance of a missed collection within a 12 month period from the first missed collection in that same 12 month period would be deemed an assessable "repeat MISSED COLLECTION." However, if the first and second instances are not collected within the time noted in Section 3.7, then the second or subsequent instance of a MISSED COLLECTION within a 12 month period from the first MISSED COLLECTION in that same 12 month period would be deemed an assessable "repeat missed collection."

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Examples assuming Contract Amendment Effective Date of February 1, 2019

<b><u>Scenario 1 - Missed Collection Date</u></b>	<b><u>Collected Consistent with Section 3.7</u></b>	<b><u>LD for failure to collect in accordance with Section 3.7</u></b>	<b><u>LD for repeated missed within 12 months</u></b>	<b><u>Comments for 12 month look back</u></b>
<b>February 2, 2019</b>	Yes	No	No - \$0	
<b>March 2, 2019</b>	Yes	No	No - \$0	Not eligible
<b>January 2, 2020</b>	Yes	No	Yes - \$300	Repeated missed collection
<b>March 3, 2020</b>	Yes	No	No - \$0	Not eligible
<b>January 1, 2021</b>	Yes	No	Yes - 300	3 <sup>rd</sup> instance after the 1 <sup>st</sup> missed on January 2, 2020

<b><u>Scenario 2 - Missed Collection Date</u></b>	<b><u>Collected Consistent with Section 3.7</u></b>	<b><u>LD for failure to collect in accordance with Section 3.7</u></b>	<b><u>LD for repeated missed within 12 months</u></b>	<b><u>Comments for 12 month look back</u></b>
<b>February 2, 2019</b>	No	Yes - \$100	No - \$0	
<b>March 2, 2019</b>	No	Yes - \$100	Yes - \$300	Did not meet the criteria for eligibility - Repeat
<b>January 2, 2020</b>	No	Yes - \$100	Yes - \$300	Repeated missed collection
<b>March 3, 2020</b>	No	Yes - \$100	Yes - \$300	Did not meet the criteria for eligibility - Repeat
<b>March 4, 2021</b>	No	Yes - \$100	No	1 <sup>st</sup> instance in 12 months

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<u>Scenario 3 - Missed Collection Date</u>	<u>Collected Consistent with Section 3.7</u>	<u>LD for failure to collect in accordance with Section 3.7</u>	<u>LD for repeated missed within 12 months</u>	<u>Comments for 12 month look back</u>
<b>February 2, 2019</b>	Yes	No - \$0	No - \$0	
<b>March 2, 2019</b>	No	Yes - \$100	Yes - \$300	Did not meet the criteria for eligibility - Repeat
<b>January 2, 2020</b>	Yes	No - \$0	Yes - \$300	Repeated missed collection
<b>March 3, 2020</b>	No	Yes - \$100	Yes - \$300	Did not meet the criteria for eligibility - Repeat
<b>March 4, 2021</b>	No	Yes - \$100	No	1 <sup>st</sup> instance in 12 months

**SECTION 5.10.4 IS HEREBY DELETED IN ENTIRETY AND REPLACED BY THE FOLLOWING:**

**5.10.4 CONTRACTOR RESPONSIBLE FOR DISPOSAL**

The CONTRACTOR shall track all materials that are collected, processed, and disposed throughout the term of the AGREEMENT including but not limited to enable measurement of diversion performance. The CONTRACTOR shall be responsible for monitoring the success of their Diversion Programs and the reduction of disposal tonnage throughout the term of the AGREEMENT.

Table 5-1 defines the timeline of monitoring, measuring, and adjustments to the Disposal Reduction Targets, necessary to determine the success of the Diversion Plan and the progress toward Diversion Targets.

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Table 5-1: Disposal Targets and Adjustment Schedule

Months From the Start Of Service Date or Date as indicated	Diversion Period	Plan	Action Taken
(January 1, 2019 – December 31, 2019)	Baseline Period		Determine Baseline Disposal to reflect the actual amount of material collected over January 1, 2019 – December 31, 2019.
48-60 (February 1, 2022 – January 31, 2023)	First Measure Disposal Disposal Targets	Actual against	Measure Disposal starting 48 months after the START OF SERVICE DATE and ending 60 months after the START OF SERVICE DATE. CONTRACTOR may submit additional information to adjust Baseline.
61 (February 1, 2023)	Liquidated Assessable	Damages	Liquidated Damages assessable for measurement period
72-84 (February 1, 2024 – January 31, 2025)	Second Measure Disposal Disposal Targets	Actual against	Measure disposal starting 72 months after the START OF SERVICE DATE and ending 84 months after the START OF SERVICE DATE. CONTRACTOR may submit additional information to adjust Baseline.
85 (February 1, 2025)	LIQUIDATED DAMAGES Assessable		LIQUIDATED DAMAGES assessable for measurement period
97 (February 1, 2026)	Determine Targets for Contract Renewal	Disposal Potential	Determine Disposal Targets for each Zone in the case of renewal of the AGREEMENT.

**SECTION 5.13 IS HEREBY ADDED TO THE AGREEMENT AS FOLLOWS:**

**5.13 OUTREACH AND EDUCATION DURING THE OPTIMIZATION PERIOD**

The CONTRACTOR shall conduct a commercial and multifamily, outreach and education campaign as specified in this Section 5.13. During the OPTIMIZATION PERIOD, the CONTRACTOR shall offer education to all CUSTOMERS on proper recycling to encourage the recycling or reuse of SOLID RESOURCES and to reduce contamination in the BLUE BINS. The CONTRACTOR shall:

- Contact by telephone, by email, and by site visit, and coordinate with CUSTOMERS who have more than 20% contamination in the BLUE BINS and are receiving notifications and warnings from CONTRACTOR regarding contamination levels in the CUSTOMER’S BLUE BINS as described in Section 3.5.1, to work with the CUSTOMER to promote recycling and reduce contamination levels and for CONTRACTOR to determine the optimal onsite delivery of education and training material.
- Provide education determined suitable by CONTRACTOR and CUSTOMER for the CUSTOMER, that may include:

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- Onsite training to any resident, tenant or employee at CUSTOMER'S election following at least five repeated, documented offers by the CONTRACTOR of onsite training;
- Recycling education materials provided to the CUSTOMER for distribution to any resident, tenant or employee at CUSTOMER'S election and following at least five repeated, documented offers by the CONTRACTOR for recycling education materials;
- Recycling signage;
- Any other educational training, program, or signage deemed acceptable upon the mutual agreement of CONTRACTOR and CUSTOMER.
- Document all contacts with the CUSTOMER. The documentation shall include all attempted communications, agreed upon outreach and education approach, onsite training (with date, time and number of attendees), and the type and number of outreach material distributed.
- CONTRACTOR shall maintain such documentation and make it available to the CITY PROJECT MANAGER upon request.

The CONTRACTOR shall remain responsible for the outreach and education as detailed in this AGREEMENT.

**SECTION 5.10.5 IS HEREBY DELETED IN ENTIRETY AND REPLACED BY THE FOLLOWING:**

**5.10.5 DISPOSAL TARGET LIQUIDATED DAMAGES**

Prior to the proposed assessment of LIQUIDATED DAMAGES, CONTRACTOR shall have the option to request in writing, and the CITY shall reasonably consider an adjustment in disposal baseline as described in Section 5.10.3. LIQUIDATED DAMAGES associated with actual disposal tonnage exceeding the adjusted Disposal Targets shall be assessed in 100 ton increments, beginning at 1,000 tons disposed above the disposal targets. For the first disposal reduction assessment period ending at 60 months following the START OF SERVICE only (January 31, 2023), the DISPOSAL TARGET percentage (as a percentage of annual disposal compared to adjusted baseline tonnage) for 2022 (as set forth in APPENDIX A) increased by ten percentage points or 65 percent, whichever is greater, shall be used to determine whether LIQUIDATED DAMAGES shall be assessed. Failure to meet the aforementioned Disposal Targets shall result in LIQUIDATED DAMAGES of \$50,000 for the first 1,000 tons, and \$5,000 for every 100 tons thereafter. For the second disposal reduction assessment period ending at 84 months following the START OF SERVICE (January 31, 2025), the DISPOSAL TARGET percentage (as a

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percentage of annual disposal compared to adjusted baseline tonnage) of 45 percent shall be used to determine whether LIQUIDATED DAMAGES shall be assessed. Failure to meet the aforementioned DISPOSAL TARGETS shall result in LIQUIDATED DAMAGES of \$25,000 for the first 1,000 tons, and \$2,500 for every 100 tons thereafter.

Each additional 100 tons shall be considered, with amounts less than 100 tons rounded down, i.e., 4,103 tons counted for 4,100 tons, 1,395 tons considered 1,300 tons, 2,255 tons considered 2,200 tons, etc. CONTRACTOR shall have the right to appeal per Section 11.2 of the AGREEMENT.

**SECTION 7.3.2 IS HEREBY DELETED IN ENTIRETY AND REPLACED BY THE FOLLOWING:**

**7.3.2 ADJUSTMENTS FOR BLUE BIN COSTS**

CONTRACTOR shall receive a BLUE BIN cost rate adjustment effective January 1, 2020, and January 1, 2021 in which the rates and fees shall increase by 0.25 percent, above the annual weighted price index adjustment.

The CITY maintains contracts to process BLUE BIN material it collects through its curbside collection operations. In the event the CITY's overall contract revenue averages less than \$0 per delivered ton for BLUE BIN material collected through its curbside collection operations, as measured in a CITY fiscal year, CONTRACTOR may request a rate increase during the next adjustment period following the end of CITY's fiscal year, effective January 1. The CITY shall provide CONTRACTOR with documentation of the aforementioned average contract revenue by no later than 90 days after CITY's fiscal year end.

- Notwithstanding the foregoing, the assessment of any further adjustment beyond the .25 percent rate increases referenced above may be requested by the CONTRACTOR after June 30, 2022. The effective date of any such applicable BLUE BIN cost adjustment shall not occur prior to January 1, 2023. The City Project Manager will evaluate the request for Blue Bin Cost adjustment.

**SECTION 7.3.3 IS HEREBY DELETED IN ENTIRETY AND REPLACED BY THE FOLLOWING:**

**7.3.3 ADJUSTMENTS FOR IMPLEMENTING ORGANICS COLLECTION**

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The CITY recognizes that developing and implementing an ORGANICS collection program presents unique challenges and increased cost to the CONTRACTOR. To compensate for the challenges and cost of preparing for and implementing the ORGANICS program, the CONTRACTOR shall be entitled to two (2) extra rate compensation adjustments in addition to the annual weighted price index adjustment in Section 7.3. Effective January 1, 2020, and January 1, 2021 the rates and fees shall increase by 3.5 percent, above the annual weighted price index: rate or fee  $\times$  (1 + ((weighted index at Section 7.3) + 0.035)).

**SECTION 7.3.4 IS HEREBY DELETED IN ENTIRETY AND REPLACED BY THE FOLLOWING:**

**7.3.4 RATES LOOK BACK**

Effective January 1, 2022, the CONTRACTOR shall receive rate adjustment of 3%, above the annual weighted price index: rate  $\times$  (1 + ((weighted index at Section 7.3) + 0.03)). This shall be in addition to any other applicable rate and fee adjustment allowed under this AGREEMENT. Every sixty (60) months thereafter, CONTRACTOR may request that the LASAN DIRECTOR review the basis for the existing rate structure and determine the need for a rate adjustment due to CONTRACTOR's overall cost of service under this AGREEMENT, not to exceed three (3) percent. This analysis will take into consideration any cost of service increase beyond those items and indices in Section 7.3. The CITY's approval will be subject to negotiation with all FRANCHISEES and the CONTRACTOR to ensure the continuation of a fair and reasonable maximum allowable rate.

**SECTION 7.4 IS HEREBY DELETED IN ENTIRETY AND REPLACED BY THE FOLLOWING:**

**7.4 EXTRA SERVICES**

The CITY has established the following list of EXTRA SERVICES, which the CONTRACTOR shall offer their CUSTOMERS at the accompanying rate. Any services not listed in Table 7-3 shall be provided at no extra cost to the CUSTOMER, unless there is prior written approval from the CITY PROJECT MANAGER. EXTRA SERVICES fees shall be increased annually in accordance with the formulas and adjustments specified in Section 7.3.

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Table 7-3: Extra Collection Services and Associated Fees

<b>Extra Service</b>	<b>Condition Under Which Fee Applies</b>	<b>Total Fee (presented here as of CONTRACT EXECUTION)</b>
<b>Locks</b>		
Gravity lock installation – per CONTAINER	CUSTOMER request – one-time fee per CONTAINER	\$100 for purchase and installation
Lock bar installation – per CONTAINER	CUSTOMER request – one-time fee per CONTAINER	\$100 for purchase and installation
Locks for CONTAINERS – per lock	CUSTOMER request – one-time fee per lock	\$10
Unlocking and locking CONTAINERS – per CONTAINER	CUSTOMER request – per CONTAINER per collection event	No charge
<b>Distance/ Access</b>		
Entering Secured Building, unlocking and locking gates (see Extra Collection Services and Associated Fees Clarifications Table 7-4 for applicability)	Per collection event	\$10
Distance / Access (see Extra Collection Services and Associated Fees Clarifications Table 7-5 for applicability)		See Table 7-5
Distance Charge, between 100-200 ft, as measured from the CUSTOMER'S property line to the BINS' permanent location	Site requirement per CONTAINER per collection event	\$25
Distance Charge, over 200 ft, as measured from the CUSTOMER'S property line to the BINS' permanent location	Site requirement per CONTAINER per collection event	\$35
Blocked Access – Requiring Return or Delay	Driver observation, document with picture and note uploaded to CONTRACTOR's and the CITY's CRM in REAL TIME and notify the CUSTOMER within two (2) hours	\$50
Blocked Access (Accessing Via Intercom or Security Office) – Requiring a Return.	If driver has to wait due to a CUSTOMER created delay in excess of 5 minutes (documented using GPS technology) and with a note uploaded into the CITY's CRM in REAL TIME	\$50
<b>Supplemental Cleaning</b>		
Cart Cleaning (after one free cleaning/year)	CUSTOMER request – Fixed Fee Per CONTAINER	\$15
CONTAINER Pressure Wash/Steam Cleaning (after one free cleaning/year)	CUSTOMER request – Fixed Fee Per CONTAINER	\$30
Graffiti Removal from CUSTOMER-owned CONTAINERS	Driver observation or by request for removing graffiti from the CUSTOMER-owned CONTAINERS	\$25
Graffiti Removal from CONTRACTOR-owned CONTAINERS	CUSTOMER request to removing graffiti from the CONTRACTOR-owned CONTAINERS in excess of three times per every 12 months, in accordance with Section 3.20.5.1.	\$25

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Extra Service	Condition Under Which Fee Applies	Total Fee (presented here as of CONTRACT EXECUTION)
COMPACTOR CONTAINER Pressure Washing/Steam Cleaning (after one free cleaning/year)	CUSTOMER request -- Fixed Fee Per CONTAINER	\$150
ROLL OFF CONTAINER Pressure Washing/Steam Cleaning (after one free cleaning/year)	CUSTOMER request -- Fixed Fee Per CONTAINER	\$150
<b>CONTAINER Replacement/Repair</b>		
Repair or Replacement of CUSTOMER Owned CONTAINER(S)	CUSTOMER request; Time and Materials Fee; CONTRACTOR may direct replacement for safety and/or operational reasons; CONTRACTOR shall submit a list of replacements and deliver it with the monthly written report. The list shall include a description of why the CONTAINER was replaced, including pictures detailing the necessity of replacement	\$60 per repair hour plus materials, no charge for pick-up and delivery
Repair or Replacement of CONTRACTOR Owned CONTAINER(S) -- CUSTOMER Error	CUSTOMER request or CONTRACTOR decision, with documentation supporting that the CUSTOMER is responsible for the damage to the CONTAINER	\$60 per repair hour plus materials, no charge for pick-up and delivery
Repair or Replacement of CONTRACTOR Owned CONTAINER(S) -- Normal Wear and Tear or CUSTOMER Error	CUSTOMER request or CONTRACTOR decision	No charge
Changing CONTAINERS for an Increase or Decrease in Level of Service	CONTRACTOR shall submit a written list of replacements and deliver it with the monthly report. The list shall include a description of the service level change.	No charge
<b>Overflow of Materials and Contamination</b>		
Overfill Charge	Driver observation, document with picture and note uploaded to the CITY's CRM in REAL TIME, notify CUSTOMER within 2 hours, and otherwise follow the conditions and procedures described in Section 3.5	\$25 per occurrence
Overweight Charge	Driver observation, document with picture and note uploaded to the CITY's CRM in REAL TIME, notify CUSTOMER within 2 hours, and otherwise follow the conditions and procedures described in Section 3.5	\$100 per occurrence
Contamination Fee	Observation and Documentation, following the procedures described in Section 3.5	\$50 per occurrence
Hazardous, Radioactive, or Biomedical Waste Contamination Charge	Driver observation, document with picture and note uploaded to the CITY's CRM in REAL TIME, and notify CUSTOMER within 2 hours	\$100 per occurrence
<b>Other Fees</b>		
Collection of Bulky Waste from COMMERCIAL ESTABLISHMENT not subject to CITY Multifamily Bulky Item Fee -- Per Item	CUSTOMER request -- Fixed Fee Per Item	\$30
Idle Time Charge	If driver has to wait due to a CUSTOMER created delay in excess of 15 minutes (documented using GPS technology) and with a note uploaded into the CITY's CRM in REAL TIME	\$15 per every 15 minutes

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Idle Time Charge – Accessing Via Intercom or Security Office	If driver has to wait due to a CUSTOMER created delay in excess of 5 minutes (documented using GPS technology) and with a note uploaded into the CITY's CRM in REAL TIME	\$15 per every 5 minutes
Sunday Service	CUSTOMER Request	50% over Monday-Saturday Service
<b>Administrative Fees</b>		
Return Payment Fee	CUSTOMER remits payment using check rejected due to insufficient funds or remits payment using a credit card or electronic payment that is declined	\$25
Late Payment Fee (>30 days overdue)	CUSTOMER inaction	\$5 or 1.5% of the debt/month, whichever is greater
CONTAINER Removal Fee	CONTAINER is removed from service location due to CUSTOMER non-payment	\$5 per CONTAINER
Re-instatement of Account Fee	CUSTOMER request – Fixed Fee	\$70 per account
CONTAINER Delivery	Delivery fee for each CONTAINER brought to the CUSTOMER as part of the reinstatement	\$25 per CONTAINER
Compactors Less than 8 cubic yards	Additional compensation, above the Base Rate, for the collection of compactors less than 8 cubic yards in size.	\$8.00 per cubic yard of collection

Table 7-4: Extra Collection Services and Associated Fees Clarifications.

Entering Secured Building, unlocking and locking gates	Chargeable to CUSTOMER			
	BLACK BIN	BLUE BIN*	GREEN BIN	BROWN BIN
1. Opening a locked or closed gate by use of a remote, clicker or other electronic device.	Yes	No	Yes	Yes
2a. Accessing locked or secured premises that have been unlocked by the CUSTOMER regardless of whether a gate is present so long as the CONTRACTOR'S vehicle has unimpeded access to the premises.	No	No	No	No
2b. Accessing an unlocked gate that is partially closed and the CONTRACTOR'S collection vehicle cannot enter the property without having to exit the vehicle to address the gate or secured premises to provide for vehicle access	Yes	No	Yes	Yes
3. Accessing a locked gate when manual push out (no scout service) is required.	Yes	No	Yes	Yes
4. Accessing via intercom a security office that does not require the driver to leave his or her vehicle.	No	No	No	No

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Table 7-5: Extra Collection Services and Associated Fees Clarifications.

Distance/Access	Chargeable to CUSTOMER			
	BLACK BIN	BLUE BIN*	GREEN BIN	BROWN BIN
1. Distance charges on BLUE BINS/blue CONTAINERS.	N/A	No	N/A	N/A
2. Properties at which the collection vehicle does drive within 100 feet of the container.	Yes	No	Yes	Yes

\* The charges for Blue Bin Distance/Access as set forth in Tables 7-4 and Tables 7-5 will not be chargeable to CUSTOMERS, unless the CITY discontinues the Removing Barriers to Recycling Program, in which case these Access and Distance Extra Service Charges on Blue Bin collection will be reinstated to CUSTOMERS.

**SECTION 7.5 IS HEREBY DELETED IN ENTIRETY AND REPLACED BY THE FOLLOWING:**

**7.5 RECYCLING NOT PROVIDED (RNP)**

The intent of the source separated BLUE and GREEN BIN program is to ensure the CITY's and state's goals of landfill diversion are met. The minimum service level (weekly service volume and collection frequency) ratio is that the BLUE BIN and GREEN BIN service shall be at least fifty percent (50%) by volume of BLACK BIN service measured by cubic yards on a per FRANCHISE ZONE basis. Failure to provide the minimum level of BLUE and GREEN BIN service will result in monthly RNP LIQUIDATED DAMAGES in accordance with Section 11.1.

Service level ratios shall be calculated on the last day of the month on a FRANCHISE ZONE basis. Monthly service levels shall be calculated based on the level of service in a FRANCHISE ZONE for all CUSTOMERS based on bin size, number and frequency. The basis for determining monthly service shall be the CUSTOMER service level data provided to the CITY. If the CONTRACTOR'S monthly combined service level zone-wide of the BLUE BIN and GREEN BIN, falls below the minimum ratio of 50% compared to BLACK BIN service, measured monthly, the CONTRACTOR shall remit quarterly to the CITY LIQUIDATED DAMAGES in accordance with Section 11.1. The CONTRACTOR will not accrue, owe, or remit and the CITY shall not assess, charge, or calculate RNP LIQUIDATED DAMAGES prior to January 31, 2021. CONTRACTOR may present evidence for exceptions and the CITY PROJECT MANAGER may consider exceptions to the

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volume requirements for specific CUSTOMERS, but BLUE BIN service must be provided. CONTRACTOR has the right to appeal the LIQUIDATED DAMAGES per Section 11.2 of this AGREEMENT.

Example of application of RNP:

For example, if for a month there were 9,000 monthly cubic yards of BLUE BINS collected, 1,000 cubic yards of GREEN BINS and 30,000 cubic yards of BLACK BINS collected, RNP LIQUIDATED DAMAGES would apply. The minimum monthly collection of BLUE BINS and GREEN BINS is 15,000 cubic yards (50% of 30,000). The CONTRACTOR achieved a ratio of 33.33%  $((9,000\text{CY}+1,000\text{CY})/30,000\text{CY})$ . In accordance with Table 11-1 the associated liquidated damage is \$14,000 for this month.

The CONTRACTOR shall remit quarterly the monthly LIQUIDATED DAMAGES associated with the RNP, and payment shall be paid to the CITY and is due on or before thirty (30) days following the end of each calendar quarter in which the combined BLUE BIN and GREEN BIN services were not provided as set forth in this Section, with the quarterly fee payment schedule. This remittance shall be accompanied by a RNP form as designated by the CITY. Failure to pay any fees in accordance with this AGREEMENT shall be subject to LIQUIDATED DAMAGES as listed in Table 11-1.

**SECTION 7.8 IS HEREBY ADDED TO THE AGREEMENT AS FOLLOWS:**

**7.8 REMOVING BARRIERS TO RECYCLING PROGRAM**

The CITY and CONTRACTOR agree to jointly fund a program designed to encourage recycling by CUSTOMERS as more specifically set forth in the Settlement Agreement between the CITY and CONTRACTOR. In order to further encourage recycling, the CONTRACTOR shall not bill ACCESS AND DISTANCE EXTRA SERVICE CHARGES to all CUSTOMERS related to BLUE BINS (recycling), effective February 1, 2018. The CONTRACTOR thus agrees to waive ACCESS AND DISTANCE EXTRA SERVICE CHARGES associated with BLUE BIN collection, as specified so long as the CITY continues this Removing Barriers to Recycling Program. The baseline CITY contribution, for calendar year 2018, to fund this program is \$135,651. If CITY terminates the Removing Barriers to Recycling Program prior to the end of the CONTRACT term, CONTRACTOR shall bill CUSTOMERS for Extra Services for the ACCESS AND DISTANCE EXTRA SERVICE CHARGES as set forth in Tables 7-3, 7-4, and 7-5, and pursuant to the asterisk thereto.

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**TABLE 11-1 IS HEREBY DELETED IN ENTIRETY AND REPLACED BY THE FOLLOWING:**

Table 11-1: Performance Standards and LIQUIDATED DAMAGES

Category	Performance Standard and Conditions When LIQUIDATED DAMAGES Will Apply	Administrative Assessment
Implementation of FRANCHISE SYSTEM	Failure to use reasonable business efforts to service an Abandoned Account, as stipulated in Section 5	\$100 per day (including during the TRANSITION PERIOD)
	CONTRACTOR abandoning an account, or implementing FRANCHISE service rates prior to CONTRACTOR NOTIFICATION	\$5,000 per verified occurrence (including during the TRANSITION PERIOD)
Provision of Services to CUSTOMERS	Failure to remove graffiti in accordance with Section 3.20.5.1 (Graffiti)	\$100 per occurrence**
	Failure to deliver CONTAINER(S) to a CUSTOMER within five (5) business days of the CUSTOMER'S request for service	\$200 per occurrence**
	Failure to repair or replace any bin, cart, CONTAINER, ROLL OFF, or COMPACTOR (any CONTAINER), in accordance with Section 3.20.5(Container maintenance) within two (2) business days of CUSTOMER report, considering availability of parts or equipment	\$100 per occurrence**
Provision of Services to CUSTOMERS (continued)	Failure to collect a MISSED COLLECTION in accordance with Section 3.7 , where not arising from or caused by a labor dispute.	\$100 per occurrence; \$200 for each day thereafter
	Repeat MISSED COLLECTIONS at same CUSTOMER within twelve (12) months of previous missed collection as set forth in Section 3.7.1	\$300 per occurrence**
	Failure to notify a CUSTOMER of improper CONTAINER set out, obstruction, or other causes for inability to provide a scheduled collection service within 2 hours	\$100 per occurrence**
	Use of profanity or hate speech by CONTRACTOR staff to CUSTOMERS	\$300 per occurrence, subject to Section 11.3 below.**
	Failure to answer 95 percent of all CUSTOMER calls received each month during normal business hours in less than 60 seconds (computed as a monthly average)	\$5,000 per month occurred
	Failure to provide service under this AGREEMENT due to Labor Disputes	The pro rata percentage of CITY estimated daily GROSS RECEIPTS under this AGREEMENT per day of service interruption, based on the number of CUSTOMERS not serviced, by either the CONTRACTOR, its contingency team or the CITY, compared with the total number of CUSTOMERS normally serviced.
	CONTRACTOR Operations	Collect, remove or transport SOLID RESOURCES from any CITY serviced CUSTOMERS
Collect, remove or transport SOLID RESOURCES from any other FRANCHISE hauler serviced CUSTOMERS		\$500 per verified occurrence, subject to Section 11.3 below.
Undertake collection operations outside of allowable hours of collection		\$300 per verified complaint

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Category	Performance Standard and Conditions When LIQUIDATED DAMAGES Will Apply	Administrative Assessment
	Make changes to routes or route days affecting 5 percent or more of the CONTRACTOR'S CUSTOMERS without at least 7 business days' notice to CUSTOMERS	\$100 per CUSTOMER per day, subject to Section 11.3 below.
	Failure to properly cover material in collection or hauling vehicles	\$300 per occurrence
	Failure to correct, upon notification by the CITY, leakage of fluids from a collection or hauling vehicle prior to resuming use of the vehicle in the CITY	\$100 per occurrence
	Failure to clean up spillage or litter occurring during collection at time of collection	\$100 per occurrence
	Failure to have a vehicle properly licensed, registered and inspected	\$100 per vehicle
	Exceeding vehicle weight limits as set forth in the State of California Vehicle Code	\$1,000 per vehicle per occurrence, subject to Section 11.3 below.
	Failure to clean collection and hauling vehicles once per week, or within 1 business day of request from the CITY	\$100 per occurrence
	Failure to report known vehicle accidents to the CITY, in accordance with 3.17.2.	\$100 per day not notified
	Failure to maintain property, facilities and equipment in a clean, safe and sanitary manner, as determined by the CITY	\$100 per day, subject to Section 11.3 below.
	Failure to provide a minimum ratio of 50% of BLUE and GREEN Bin Service to BLACK BIN Service in accordance with 7.5	\$875 per every 1% below 50% but greater than 30%, per month; or \$70,000 for ratio of less than 30%, per month, as applicable
Segregation and Delivery of Collection Materials	Commingling of SOLID WASTE, COMMINGLED RECYCLABLES and/or ORGANICS material segregated by the CUSTOMER in the same truck	\$1,000 per occurrence
	Failure to deliver collected SOLID RESOURCES to a CITY CERTIFIED FACILITY	\$1,000 per occurrence
CONTRACTOR Personnel and Property	Failure to have a properly licensed vehicle driver operating a vehicle	\$300 per occurrence per day
	Failure to provide any required training for vehicle operators, including safety training and training related to the operation of equipment, as required by Federal and State laws	\$1,000 per occurrence
	Failure to repair damage to a CUSTOMER'S property or other private property, caused by or resulting from the actions of the CONTRACTOR'S personnel in accordance with 3.10	\$500 per occurrence, subject to Section 11.3 below.
Diversion Requirements	Failure to meet Disposal Reduction requirements per Article 5	See Section 5.10.5
Payment and Reporting Requirements	Failure to remit fees to the CITY in accordance with Section 7 (Rates and Fees)	\$5,000 per occurrence in addition to delinquent Franchise Fees subject to Section 7.6.
	Failure to submit reports to the CITY on time	\$50 per day per report.
	Willful submission to the CITY of inaccurate reports or data, including but not limited to diversion reports and data, service level information and financial information	\$10,000 per occurrence

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\*\*Assessable only after AMENDMENT EFFECTIVE DATE; the CITY shall not assess CONTRACTOR for occurrences that occurred prior to the AMENDMENT EFFECTIVE DATE.

**ARTICLE 37 IS HEREBY DELETED IN ITS ENTIRETY AND REPLACED BY THE FOLLOWING:**

**ARTICLE 37: MANDATORY PROVISIONS PERTAINING TO NON-DISCRIMINATION IN EMPLOYMENT**

Unless otherwise exempt, this CONTRACT is subject to the applicable non-discrimination, equal benefits, equal employment practices, and affirmative action program provisions in LAAC Section 10.8 et seq., as amended from time to time.

- A. CONTRACTOR shall comply with the applicable non-discrimination and affirmative action provisions of the laws of the United States of America, the State of California, and CITY. In performing this CONTRACT, CONTRACTOR shall not discriminate in any of its hiring or employment practices against any employee or applicant for employment because of such person's race, color, religion, national origin, ancestry, sex, sexual orientation, gender, gender identity, age, disability, domestic partner status, marital status or medical condition.
- B. The requirements of Section 10.8.2.1 of the LAAC, the Equal Benefits Ordinance, and the provisions of Section 10.8.2.1(f) are incorporated and made a part of this CONTRACT by reference.
- C. The provisions of Section 10.8.3 of the LAAC are incorporated and made a part of this CONTRACT by reference and will be known as the "Equal Employment Practices" provisions of this CONTRACT.
- D. The provisions of Section 10.8.4 of the LAAC are incorporated and made a part of this CONTRACT by reference and will be known as the "Affirmative Action Program" provisions of this CONTRACT.

Any subcontract entered into by CONTRACTOR for work to be performed under this CONTRACT must include an identical provision.

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**ARTICLE 38 IS HEREBY DELETED IN ITS ENTIRETY**

**ARTICLE 39 IS HEREBY DELETED IN ITS ENTIRETY**

**ARTICLE 45 IS HEREBY DELETED IN ITS ENTIRETY**

**ARTICLE 41 IS HEREBY DELETED IN ITS ENTIRETY AND REPLACED BY THE FOLLOWING:**

**ARTICLE 41: WORKER RETENTION ORDINANCE**

CONTRACTOR shall comply with the Worker Retention Ordinance, LAAC Section 10.36 *et seq.*, as amended from time to time. Any subcontract entered into by CONTRACTOR for work to be performed under this CONTRACT must include an identical provision.

**ARTICLE 42 IS HEREBY DELETED IN ITS ENTIRETY AND REPLACED BY THE FOLLOWING:**

**ARTICLE 42: AMERICANS WITH DISABILITIES ACT**

CONTRACTOR represents and certifies that:

- A. CONTRACTOR shall comply with the Americans with Disabilities Act, as amended, 42 U.S.C. Section 12101 *et seq.*, the Rehabilitation Act of 1973, as amended, 29 U.S.C. Section 701 *et seq.*, the Fair Housing Act, and its implementing regulations and any subsequent amendments, and California Government Code Section 11135;
- B. CONTRACTOR shall not discriminate on the basis of disability or on the basis of a person's relationship to, or association with, a person who has a disability;
- C. CONTRACTOR shall provide reasonable accommodation upon request to ensure equal access to CITY-funded programs, services and activities;
- D. Construction will be performed in accordance with the Uniform Federal Accessibility Standards (UFAS), 24 C.F.R. Part 40; and
- E. The buildings and facilities used to provide services under this Contract are in compliance with the federal and state standards for accessibility as set forth in

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the 2010 ADA Standards, California Title 24, Chapter 11, or other applicable federal and state law.

CONTRACTOR understands that the CITY is relying upon these certifications and representations as a condition to funding this Contract. Any subcontract entered into by CONTRACTOR for work to be performed under this Contract must include an identical provision.

**ARTICLE 50 IS HEREBY DELETED IN ITS ENTIRETY AND REPLACED BY THE FOLLOWING:**

**ARTICLE 50: RESTRICTIONS ON CAMPAIGN CONTRIBUTIONS AND FUNDRAISING IN CITY ELECTIONS**

Unless otherwise exempt, if this CONTRACT is valued at \$100,000 or more and requires approval by an elected CITY office, CONTRACTOR, CONTRACTOR'S principals, and CONTRACTOR'S SUBCONTRACTORS expected to receive at least \$100,000 for performance under the CONTRACT, and the principals of those SUBCONTRACTORS (the "Restricted Persons") shall comply with Charter Section 470(c)(12) and LAMC Section 49.7.35. Failure to comply entitles CITY to terminate this CONTRACT and to pursue all available legal remedies. Charter Section 470(c)(12) and LAMC Section 49.7.35 limit the ability of the Restricted Persons to make campaign contributions to and engage in fundraising for certain elected CITY officials or candidates for elected CITY office for twelve months after this CONTRACT is signed. Additionally, a CONTRACTOR subject to Charter Section 470(c)(12) is required to comply with disclosure requirements by submitting a completed and signed Ethics Commission Form 55 and to amend the information in that form as specified by law. Any Contractor subject to Charter Section 470(c)(12) shall include the following notice in any contract with any Subcontractor expected to receive at least \$100,000 for performance under this CONTRACT:

"Notice Regarding Restrictions on Campaign Contributions and Fundraising in City Elections

You are a subcontractor on City of Los Angeles Contract C-128877. Pursuant to the City of Los Angeles Charter Section 470(c) (12) and related ordinances, you and your principals are prohibited from making campaign contributions to and fundraising for certain elected City of Los Angeles ("CITY") officials and candidates for elected CITY office for twelve months after the CITY contract is signed. You are required to provide the names and contact information of your principals to the CONTRACTOR and to amend that information within ten business days if it changes during the twelve month

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time period. Failure to comply may result in termination of this Contract and any other available legal remedies. Information about the restrictions may be found online at [ethics.lacity.org](http://ethics.lacity.org) or by calling the Los Angeles City Ethics Commission at (213) 978-1960."

**ARTICLE 52 IS HEREBY ADDED TO THE AGREEMENT AS FOLLOWS:**

**ARTICLE 52: LIMITATION OF CITY'S OBLIGATION TO MAKE PAYMENT TO CONTRACTOR**

Notwithstanding any other provision of this CONTRACT, including any exhibits or attachments incorporated therein, and in order for CITY to comply with its governing legal requirements, CITY shall have no obligation to make any payments to CONTRACTOR unless CITY shall have first made an appropriation of funds equal to or in excess of its obligation to make any payments as provided in this CONTRACT. CONTRACTOR agrees that any services provided by CONTRACTOR, purchases made by CONTRACTOR or expenses incurred by CONTRACTOR in excess of the appropriation(s) shall be free and without charge to CITY and CITY shall have no obligation to pay for the services, purchases or expenses. CONTRACTOR shall have no obligation to provide any services, provide any equipment or incur any expenses in excess of the appropriated amount(s) until CITY appropriates additional funds for this CONTRACT.

**ARTICLE 53 IS HEREBY ADDED TO THE AGREEMENT AS FOLLOWS:**

**ARTICLE 53: CONTRACTORS' USE OF CRIMINAL HISTORY FOR CONSIDERATION OF EMPLOYMENT APPLICATIONS**

CONTRACTOR shall comply with the City Contractors' Use of Criminal History for Consideration of Employment Applications Ordinance, LAAC Section 10.48 *et seq.*, as amended from time to time. Any subcontract entered into by CONTRACTOR for work to be performed under this CONTRACT must include an identical provision.

**ARTICLE 54 IS HEREBY ADDED TO THE AGREEMENT AS FOLLOWS:**

**ARTICLE 54: DISCLOSURE OF BORDER WALL CONTRACTING ORDINANCE**

CONTRACTOR shall comply with Los Angeles Administrative Code Section 10.50 *et seq.*, 'Disclosure of Border Wall Contracting.' The CITY may terminate this CONTRACT at any time if the CITY determines that the CONTRACTOR failed to fully and accurately complete the required affidavit and disclose all Border Wall Bids and Border Wall Contracts, as defined in LAAC Section 10.50.1.

**FIRST AMENDMENT TO  
PERSONAL SERVICES CONTRACT C-128877-1**

IN WITNESS WHEREOF, the parties hereto have executed this AGREEMENT on the day and year written below.

**CITY OF LOS ANGELES**

**WARE DISPOSAL COMPANY, INC.**

By: \_\_\_\_\_

By: \_\_\_\_\_

Title: Commissioner, Board of Public Works

Title: \_\_\_\_\_

Date: \_\_\_\_\_

Date: \_\_\_\_\_

By: \_\_\_\_\_

Title: Commissioner, Board of Public Works

Date: \_\_\_\_\_

**APPROVED AS TO FORM**

**MICHAEL N. FEUER, City Attorney**

By: \_\_\_\_\_

Adena Hopenstand

Title: Deputy City Attorney

Date: \_\_\_\_\_

**ATTEST:**

**HOLLY WOLCOTT, City Clerk**

By: \_\_\_\_\_

Title: Deputy City Clerk

Date: \_\_\_\_\_

FIRST AMENDMENT TO  
PERSONAL SERVICES CONTRACT

BETWEEN

THE CITY OF LOS ANGELES

AND

NASA SERVICES, INC

FOR

EXCLUSIVE FRANCHISE TO PROVIDE COLLECTION, TRANSFER, PROCESSING, AND  
DISPOSAL SERVICES FOR SOLID RESOURCES TO COMMERCIAL ESTABLISHMENTS

AND APPLICABLE MULTIFAMILY ESTABLISHMENTS

IN THE DOWNTOWN ZONE

City of Los Angeles

Department of Public Works

LA Sanitation and Environment

Solid Resources Commercial Franchise Division

**FIRST AMENDMENT TO  
PERSONAL SERVICES CONTRACT C-128876-1**

BETWEEN THE CITY OF LOS ANGELES AND NASA SERVICES, INC FOR EXCLUSIVE FRANCHISE TO PROVIDE COLLECTION, TRANSFER, PROCESSING, AND DISPOSAL SERVICES FOR SOLID RESOURCES TO COMMERCIAL ESTABLISHMENTS AND APPLICABLE MULTIFAMILY ESTABLISHMENTS IN THE DOWNTOWN ZONE.

THIS FIRST AMENDMENT TO CONTRACT C-128876 is made and entered into by and between the CITY OF LOS ANGELES, a municipal corporation, acting by and through its Board of Public Works, (hereinafter called the "CITY"), and NASA SERVICES, INC. (hereinafter called "CONTRACTOR") with reference to the following facts:

WITNESSETH

WHEREAS, the CITY has complied with the State Public Resources Code, Section 49520, in notification of current permitted private waste haulers of a change to an exclusive franchise system for solid resources collection and handling, called RECYCLA; and

WHEREAS, there are approximately 65,000 commercial and industrial CUSTOMERS, including over 700,000 residential multifamily units receiving solid resources services from permitted private waste haulers; and

WHEREAS, it is in the CITY's interest to provide all residents and businesses with access to recycling programs, cleaner air, and better customer service; and

WHEREAS, private waste haulers were estimated to dispose over 1.5 million tons in landfills each year from these properties; and

WHEREAS, the CITY's goal is to reach 90 percent landfill diversion by year 2025; and

WHEREAS, the RECYCLA program as effectuated through the RECYCLA AGREEMENTS is intended to meet the CITY's Zero Waste goals by, among other things, establishing maximum disposal for each franchise zone and implementing waste diversion programs that are consistent with the Solid Waste Integrated Resource Plan Guiding Principles; and

WHEREAS, pursuant to the provisions of Mandatory Commercial Recycling (AB341) and Mandatory Organics Recycling (AB1826), businesses and multifamily residences are required to subscribe to recycling programs under certain conditions; and

WHEREAS, a goal of the RECYCLA program as effectuated through the RECYCLA AGREEMENTS is to meet and exceed California requirements for waste diversion and mandatory commercial and multifamily recycling; and

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WHEREAS, the Mayor and the City Council certified the Final Environmental Impact Report and adopted the ordinance (Ordinance #182986) authorizing the RECYCLA program; and

WHEREAS, this project will help Create a More Livable and Sustainable CITY, and the implementation of this project is critical and must be retained; and

WHEREAS, the CITY desired to retain the CONTRACTOR to provide the required solid resources collection and handling services in connection with the Scope of Services as outlined in the AGREEMENT; and

WHEREAS, a Request for Proposals (RFP) was prepared to create an exclusive franchise system that provides efficient handling of solid resources with clean fuel vehicles, real time customer service, and oversight of CONTRACTOR with accountability for lapses in service as well as other failures; and

WHEREAS, the RECYCLA Franchise Agreements set forth service criteria and expectations of the recycLA Service Providers (RSPs) within these AGREEMENTS, including but not limited to regulating the rates RSPs charge their CUSTOMERS; and

WHEREAS, on June 12, 2014, the CITY released a RFP to qualified and interested parties; and

WHEREAS, on September 26, 2016, the BOARD approved the AGREEMENT with NASA SERVICES, INC., Contract Number C-128876; and

WHEREAS, on December 9, 2016 the City Council approved the AGREEMENT with NASA SERVICES, INC., Contract Number C-128876; and

WHEREAS, on February 1, 2017 the Office of the City Clerk attested the AGREEMENT with NASA SERVICES, INC., Contract Number C-128876; and

WHEREAS, the CITY determined it was necessary to amend the AGREEMENT to meet the CITY goals;

**FIRST AMENDMENT TO  
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NOW THEREFORE, for good and valuable consideration, including the mutual promises set forth below, the CITY and the CONTRACTOR agree that the AGREEMENT be amended as follows:

**ARTICLE 1 IS HEREBY DELETED IN ENTIRETY AND REPLACED BY THE FOLLOWING:**

**ARTICLE 1: SECTION HEADINGS AND CONSTRUCTION OF PROVISIONS AND TITLES HEREIN**

All titles, subtitles, and/or section headings appearing herein have been inserted for convenience and shall not be deemed to govern, limit, modify or in any manner affect the scope, meaning, intent or construction of any of the terms or provisions hereof. The language of this CONTRACT shall be construed according to its fair meaning and not strictly for or against the CITY or the CONTRACTOR. The singular shall include the plural; use of the feminine, masculine, or neuter genders shall be deemed to include the genders not used. The terms "include" and "including" do not exclude items not enumerated that are in the same general class. Any rule or law that would require interpretation of any term or ambiguity in this CONTRACT against the party that drafted the applicable provision is waived. The Recitals to this CONTRACT are material terms hereof.

**ARTICLE 2: IS HEREBY AMENDED TO ADD/AMEND THE FOLLOWING:**

ACCESS AND DISTANCE EXTRA SERVICE CHARGES: The Distance/Access fees for Extra Services identified in Table 7-3 and referenced in Tables 7-4 and 7-5.

AMENDMENT EFFECTIVE DATE: The date when all the following events have occurred:

- The Amendment has been signed on behalf of CONTRACTOR by the person or persons authorized to bind CONTRACTOR hereto;
- The Amendment has been approved by the CITY COUNCIL or by the BOARD, officer or employee authorized to give such approval;
- The Office of the City Attorney has indicated in writing its approval of this Amendment as to form; and
- The Amendment has been signed on behalf of the CITY by the person designated by the CITY COUNCIL, or by the BOARD, officer or employee authorized to enter into this Amendment

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GROSS RECEIPTS: Those receipts defined under Gross Receipts in L.A.M.C. Section 21.00(a) as generated by the collection of SOLID RESOURCES including, but not limited to collection service, CONTAINER rental, EXTRA SERVICES, disposal, and processing charges. Fees and charges for services credited or not billed by CONTRACTORS shall not be considered GROSS RECEIPTS for purposes of FRANCHISE FEES.

MISSED COLLECTION: Collection Services that do not occur as detailed in the CUSTOMER'S service agreement with the CONTRACTOR (including on the day and/or frequency) that are not due to the fault of the RECYCLA CUSTOMER, regardless of whether the CONTRACTOR later performs the collection. A CUSTOMER'S complaint that the CUSTOMER did not receive timely service will be presumed legitimate, or presumed as a MISSED COLLECTION absent sufficient documentation to the contrary that rebuts the presumption.

OPTIMIZATION PERIOD: The period from February 1, 2018 through December 31, 2020 shall be considered the Optimization Period of the RECYCLA program in which concerted and specific efforts will be made to engage RECYCLA CUSTOMERS and for the CONTRACTOR to perform education and outreach to encourage diversion and recycling and to provide information and/or instruction regarding proper recycling at CUSTOMER sites.

RECYCLA: The statutory framework and program, including the FRANCHISE AGREEMENTS, in which the CITY oversees, regulates, and administers municipal waste diversion and management policies, practices, and has awarded contracts for exclusive franchises to provide collection, transfer, processing, and disposal services for solid resources as well as extra services to each commercial establishment and applicable multifamily establishment in the awarded franchise zones as authorized by contract and by Los Angeles Municipal Code section 66.33 *et seq.* and California Public Resources Code section 40059, *et seq.*

RECYCLA FRANCHISE AGREEMENT: The awarded contracts to the CONTRACTORS for an "Exclusive Franchise to Provide Collection, Transfer, Processing, and Disposal Services for Solid Resources to Commercial Establishments and Applicable Multifamily Establishments" in designated zones within the CITY (Contract Nos. C-128875, C-128876, C-128877, C-128878, C-128879, C-128880, C-128881), effective February 1, 2017, the date of CONTRACT EXECUTION.

ZWR: Trained CONTRACTOR and/or SUBCONTRACTOR staff responsible for outreach, education, CUSTOMER training and waste assessments.

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**SECTION 3.5 IS HEREBY AMENDED TO MODIFY THE SECTION AND ADD THE FOLLOWING:**

3.5.1 Contaminated Containers Collected During OPTIMIZATION PERIOD

The CONTRACTOR is responsible for visually inspecting each CUSTOMER'S BLUE BINS to determine whether they contain contaminated COMMINGLED RECYCLABLES. While BLUE BIN CONTAINERS ordinarily shall be considered contaminated if they contain more than 10% SOLID WASTE or 10% ORGANICS, individually or combined, in each BLUE BIN during the OPTIMIZATION PERIOD, the BLUE BIN shall be considered contaminated if it contains more than 20% SOLID WASTE or 20% ORGANICS, individually or combined.

The CONTRACTOR shall not charge the CUSTOMER for contaminated BLUE BINS collected during the OPTIMIZATION PERIOD. The object and goal of this OPTIMIZATION PERIOD is for the CONTRACTOR to provide additional outreach and education to CUSTOMERS on proper recycling in order to avoid contamination fees. During the OPTIMIZATION PERIOD, the CONTRACTOR shall continue to perform outreach and CUSTOMER education as specified in Section 5.13 in addition to outreach and education described in this Section 3.5.1.1.

For use during the OPTIMIZATION PERIOD, the CONTRACTOR shall develop, and submit to LASAN for approval, a specific contamination notice. This notice shall contain a list, pictorial or written, of recyclable items, policy for contamination during the OPTIMIZATION PERIOD and from where and how CUSTOMERS can obtain additional information as well as the CUSTOMER'S right to CONTRACTOR performing on-site outreach and education training.

Following the expiration of the OPTIMIZATION PERIOD commencing January 1, 2021, the Contamination Fee process set forth in Section 3.5 of the AGREEMENT shall be reinstated in full force and effect.

3.5.1.1 Chronic Contamination

During the CUSTOMER OPTIMIZATION PERIOD, the contamination percentage will be increased from 10% to 20% to allow CUSTOMERS more latitude to improve their internal processes and controls on BLUE BIN use, but if the container is contaminated more than 20%, the following remedial steps will apply. The remedial steps shall occur in conjunction with the OPTIMIZATION PERIOD outreach and education noted in Section 5.13.

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At no time during the OPTIMIZATION PERIOD will the CUSTOMER be assessed a BLUE BIN contamination fee per Section 3.5 of the FRANCHISE AGREEMENTS. During the OPTIMIZATION PERIOD, these provisions in Section 3.5.1.1 are an interim replacement for the process set forth at Section 3.5 of the AGREEMENT.

**1<sup>st</sup> Instance**

- CONTRACTOR shall leave a written notice, as approved to form by the CITY, which explains why the material was contaminated and not collected. The written notice shall also explain the policy for contamination and identify how the CUSTOMER can find more information on the subject.
- Photographic evidence demonstrating 20% contamination of the BLUE BIN will be uploaded by CONTRACTOR to CITY's CRM in REAL TIME.
- CONTRACTOR will notify the CUSTOMER by phone and/or by email, and offer an in-person or on-site visit with the CUSTOMER. In the CONTRACTOR's phone and/or email notification, the CONTRACTOR will also explain that the CUSTOMER'S BLUE BIN has been tagged for contamination, the contaminants found in the bin, and the CONTRACTOR shall offer a site visit by a CONTRACTOR representative for outreach and education. The CONTRACTOR shall document all communications with the CUSTOMER, and provide to the CITY upon request. Documentation shall include type of communication, date and time of communication, and resulting action, such as the date and time of scheduled on-site training and education, or the CUSTOMER'S refusal of training and education. Unless refusing an on-site visit, which shall include the failure to respond to an offer of same by CONTRACTOR, the CUSTOMER shall not have a 2<sup>nd</sup> Instance of contamination until the agreed upon outreach site-visit has occurred.
- Container is not collected.
- After making contact with the CUSTOMER by phone, email and/or by in-person, or within 24 hours of attempting such contact by phone and email, the CONTRACTOR's customer service will schedule for the container to be collected as trash at no additional cost to the CUSTOMER.
- If the CUSTOMER does not have any more contamination episodes for a period of 90 days, this instance of contamination will not be deemed a prior instance for purposes of this Section 3.5.1.1.

**2<sup>nd</sup> Instance**

- CONTRACTOR shall leave a written notice, as approved to form by the CITY, which explains why the material was contaminated and not

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collected. The written notice shall also explain the policy for contamination and identify how the CUSTOMER can find more information on the subject.

- Photographic evidence of contamination of the BLUE BIN will be uploaded by CONTRACTOR to CITY's CRM in REAL TIME.
- CONTRACTOR will notify the CUSTOMER by phone and/or by email, and offer an in-person or on-site visit with the CUSTOMER. In the CONTRACTOR's phone and/or email notification, the CONTRACTOR will also explain that the CUSTOMER'S BLUE BIN has been tagged for contamination, the contaminants found in the bin, and the CONTRACTOR shall offer a site visit by a CONTRACTOR representative for outreach and education. The CONTRACTOR shall document all communications with the CUSTOMER, and provide to the CITY upon request. Documentation shall include type of communication, date and time of communication, and resulting action, such as the date and time of scheduled on-site training and education, or the CUSTOMER'S refusal of training and education. Unless refusing an on-site visit, which shall include the failure to respond to an offer of same by CONTRACTOR, the CUSTOMER shall not have a 3<sup>rd</sup> Instance of contamination until the agreed upon outreach site-visit has occurred.
- Container is not collected.
- After making contact with the CUSTOMER by phone, email and/or by in-person, or within 24 hours of attempting such contact by phone and email, the CONTRACTOR's customer service will schedule for the container to be collected as trash at no additional cost to the CUSTOMER.
- If the CUSTOMER does not have any more contamination for a period of 90 days, this instance of contamination will not be deemed a prior instance for purposes of this Section 3.5.1.1.

**3<sup>rd</sup> Instance**

- CONTRACTOR shall leave a written notice, as approved to form by the CITY, which explains why the material was contaminated and not collected. The written notice shall also explain the policy for contamination and identify how the CUSTOMER can find more information on the subject.
- Photographic evidence of contamination of the BLUE BIN will be uploaded by CONTRACTOR to CITY's CRM in REAL TIME and CONTRACTOR will notify the CUSTOMER by phone and/or by email, and by an in-person (or on-site) visit. In all of these notifications, the CONTRACTOR will explain that the CUSTOMER'S BLUE BIN has been tagged for contamination, the

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contaminants found in the bin, and the CONTRACTOR shall offer a site visit by a CONTRACTOR representative for outreach and education.

- Container is not collected.
- CUSTOMER will be required to meet with a ZWR for retraining/education prior to the container being scheduled for collection. If the CUSTOMER refuses to meet with a ZWR by failing to return any communication within 7 calendar days after attempting to make contact by both by phone and email, or affirmatively stating its refusal to meet with a ZWR, then the CONTRACTOR may continue with this protocol. The CONTRACTOR shall document all communications with the CUSTOMER, and provide to the CITY upon request. Documentation shall include type of communication, date and time of communication, and resulting action, such as the date and time of scheduled on-site training and education, or the CUSTOMER'S refusal of training and education. The CUSTOMER shall not have a 4<sup>th</sup> Instance of contamination until the agreed upon outreach site-visit has occurred or been refused as set forth above.
- After making contact with the CUSTOMER by phone, email and/or by in-person, or within 24 hours of attempting such contact by phone and email, the CONTRACTOR's customer service will schedule for the container to be collected as trash at no additional cost to the CUSTOMER.
- If the CUSTOMER does not have any more contamination for a period of 90 days this offense will not be deemed a prior instance for purposes of this Section 3.5.1.1.

**4<sup>th</sup> Instance**

- CONTRACTOR shall leave a written notice, as approved to form by the CITY, which explains why the material collected was contaminated and not collected. The written notice shall also explain the policy for contamination and identify how the CUSTOMER can find more information on the subject.
- Photographic evidence of contamination of the BLUE BIN will be uploaded by CONTRACTOR to CITY's CRM in REAL TIME and CONTRACTOR will notify the CUSTOMER by phone, by email, and by in-person (or on-site) visit. In all of these notifications, the CONTRACTOR will explain that the CUSTOMER'S BLUE BIN has been tagged for contamination.
- The CONTRACTOR will have the sole option to:
  - Require the CUSTOMER to remove the contaminated waste from the container prior to container collection; or

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- Require the CUSTOMER to pay to have the container with contaminated waste collected as trash and pay a one-time service fee of \$50 to have the bin collected as SOLID WASTE, and remove the BLUE BIN for a minimum of 90 days, but cannot replace it with a BLACK BIN unless the CUSTOMER requests an additional BLACK BIN. The CONTRACTOR shall notify the CUSTOMER that the BLUE BIN has been removed.

**SECTION 3.7.1 IS HEREBY ADDED TO THE AGREEMENT AS FOLLOWS:**

**3.7.1 REPEATED MISSED COLLECTIONS**

All MISSED COLLECTION requests that occur more than once at the same CUSTOMER location within a 12 month period are subject to LIQUIDATED DAMAGES for repeated MISSED COLLECTION shown in Table 11-1, except as provided in this Section. MISSED COLLECTION occurring prior to the AMENDMENT EFFECTIVE DATE is (i) not considered a MISSED COLLECTION for the purposes of assessing LIQUIDATED DAMAGES (at \$300 per occurrence), and (ii) not considered a MISSED COLLECTION for which a subsequent MISSED COLLECTION after the AMENDMENT EFFECTIVE DATE might be characterized as a "Repeat MISSED COLLECTION at same CUSTOMER within twelve (12) months of previous missed collection."

The CITY shall not assess LIQUIDATED DAMAGES for "Repeat MISSED COLLECTIONS at same CUSTOMER within twelve (12) months of previous MISSED COLLECTION," as referenced in Table 11-1, on the second occurrence of a MISSED COLLECTION in a 12 month period if both the first and second instances of missed collection are collected within the required timeframe noted in Section 3.7. Only the third or subsequent instance of a missed collection within a 12 month period from the first missed collection in that same 12 month period would be deemed an assessable "repeat MISSED COLLECTION." However, if the first and second instances are not collected within the time noted in Section 3.7, then the second or subsequent instance of a MISSED COLLECTION within a 12 month period from the first MISSED COLLECTION in that same 12 month period would be deemed an assessable "repeat missed collection."

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Examples assuming Contract Amendment Effective Date of February 1, 2019

<b><u>Scenario 1 - Missed Collection Date</u></b>	<b><u>Collected Consistent with Section 3.7</u></b>	<b><u>LD for failure to collect in accordance with Section 3.7</u></b>	<b><u>LD for repeated missed within 12 months</u></b>	<b><u>Comments for 12 month look back</u></b>
<b>February 2, 2019</b>	Yes	No	No - \$0	
<b>March 2, 2019</b>	Yes	No	No - \$0	Not eligible
<b>January 2, 2020</b>	Yes	No	Yes - \$300	Repeated missed collection
<b>March 3, 2020</b>	Yes	No	No - \$0	Not eligible
<b>January 1, 2021</b>	Yes	No	Yes - 300	3 <sup>rd</sup> instance after the 1 <sup>st</sup> missed on January 2, 2020

<b><u>Scenario 2 - Missed Collection Date</u></b>	<b><u>Collected Consistent with Section 3.7</u></b>	<b><u>LD for failure to collect in accordance with Section 3.7</u></b>	<b><u>LD for repeated missed within 12 months</u></b>	<b><u>Comments for 12 month look back</u></b>
<b>February 2, 2019</b>	No	Yes - \$100	No - \$0	
<b>March 2, 2019</b>	No	Yes - \$100	Yes - \$300	Did not meet the criteria for eligibility - Repeat
<b>January 2, 2020</b>	No	Yes - \$100	Yes - \$300	Repeated missed collection
<b>March 3, 2020</b>	No	Yes - \$100	Yes - \$300	Did not meet the criteria for eligibility - Repeat
<b>March 4, 2021</b>	No	Yes - \$100	No	1 <sup>st</sup> instance in 12 months

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<b><u>Scenario 3 - Missed Collection Date</u></b>	<b><u>Collected Consistent with Section 3.7</u></b>	<b><u>LD for failure to collect in accordance with Section 3.7</u></b>	<b><u>LD for repeated missed within 12 months</u></b>	<b><u>Comments for 12 month look back</u></b>
<b>February 2, 2019</b>	Yes	No - \$0	No - \$0	
<b>March 2, 2019</b>	No	Yes - \$100	Yes - \$300	Did not meet the criteria for eligibility - Repeat
<b>January 2, 2020</b>	Yes	No - \$0	Yes - \$300	Repeated missed collection
<b>March 3, 2020</b>	No	Yes - \$100	Yes - \$300	Did not meet the criteria for eligibility - Repeat
<b>March 4, 2021</b>	No	Yes - \$100	No	1 <sup>st</sup> instance in 12 months

**SECTION 5.10.4 IS HEREBY DELETED IN ENTIRETY AND REPLACED BY THE FOLLOWING:**

**5.10.4 CONTRACTOR RESPONSIBLE FOR DISPOSAL**

The CONTRACTOR shall track all materials that are collected, processed, and disposed throughout the term of the AGREEMENT including but not limited to enable measurement of diversion performance. The CONTRACTOR shall be responsible for monitoring the success of their Diversion Programs and the reduction of disposal tonnage throughout the term of the AGREEMENT.

Table 5-1 defines the timeline of monitoring, measuring, and adjustments to the Disposal Reduction Targets, necessary to determine the success of the Diversion Plan and the progress toward Diversion Targets.

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Table 5-1: Disposal Targets and Adjustment Schedule

<b>Months From the Start Of Service Date or Date as indicated</b>	<b>Diversion Period</b>	<b>Plan</b>	<b>Action Taken</b>
(January 1, 2019 – December 31, 2019)	Baseline Period		Determine Baseline Disposal to reflect the actual amount of material collected over January 1, 2019 – December 31, 2019.
48-60 (February 1, 2022 – January 31, 2023)	First Measure Disposal Disposal Targets	Actual against	Measure Disposal starting 48 months after the START OF SERVICE DATE and ending 60 months after the START OF SERVICE DATE. CONTRACTOR may submit additional information to adjust Baseline.
61 (February 1, 2023)	Liquidated Assessable	Damages	Liquidated Damages assessable for measurement period
72-84 (February 1, 2024 – January 31, 2025)	Second Measure Disposal Disposal Targets	Actual against	Measure disposal starting 72 months after the START OF SERVICE DATE and ending 84 months after the START OF SERVICE DATE. CONTRACTOR may submit additional information to adjust Baseline.
85 (February 1, 2025)	LIQUIDATED DAMAGES Assessable		LIQUIDATED DAMAGES assessable for measurement period
97 (February 1, 2026)	Determine Targets for Contract Renewal	Disposal Potential	Determine Disposal Targets for each Zone in the case of renewal of the AGREEMENT.

**SECTION 5.13 IS HEREBY ADDED TO THE AGREEMENT AS FOLLOWS:**

**5.13 OUTREACH AND EDUCATION DURING THE OPTIMIZATION PERIOD**

The CONTRACTOR shall conduct a commercial and multifamily, outreach and education campaign as specified in this Section 5.13. During the OPTIMIZATION PERIOD, the CONTRACTOR shall offer education to all CUSTOMERS on proper recycling to encourage the recycling or reuse of SOLID RESOURCES and to reduce contamination in the BLUE BINS. The CONTRACTOR shall:

- Contact by telephone, by email, and by site visit, and coordinate with CUSTOMERS who have more than 20% contamination in the BLUE BINS and are receiving notifications and warnings from CONTRACTOR regarding contamination levels in the CUSTOMER'S BLUE BINS as described in Section 3.5.1, to work with the CUSTOMER to promote recycling and reduce contamination levels and for CONTRACTOR to determine the optimal onsite delivery of education and training material.
- Provide education determined suitable by CONTRACTOR and CUSTOMER for the CUSTOMER, that may include:

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- Onsite training to any resident, tenant or employee at CUSTOMER'S election following at least five repeated, documented offers by the CONTRACTOR of onsite training;
- Recycling education materials provided to the CUSTOMER for distribution to any resident, tenant or employee at CUSTOMER'S election and following at least five repeated, documented offers by the CONTRACTOR for recycling education materials;
- Recycling signage;
- Any other educational training, program, or signage deemed acceptable upon the mutual agreement of CONTRACTOR and CUSTOMER.
- Document all contacts with the CUSTOMER. The documentation shall include all attempted communications, agreed upon outreach and education approach, onsite training (with date, time and number of attendees), and the type and number of outreach material distributed.
- CONTRACTOR shall maintain such documentation and make it available to the CITY PROJECT MANAGER upon request.

The CONTRACTOR shall remain responsible for the outreach and education as detailed in this AGREEMENT.

**SECTION 5.10.5 IS HEREBY DELETED IN ENTIRETY AND REPLACED BY THE FOLLOWING:**

**5.10.5 DISPOSAL TARGET LIQUIDATED DAMAGES**

Prior to the proposed assessment of LIQUIDATED DAMAGES, CONTRACTOR shall have the option to request in writing, and the CITY shall reasonably consider an adjustment in disposal baseline as described in Section 5.10.3. LIQUIDATED DAMAGES associated with actual disposal tonnage exceeding the adjusted Disposal Targets shall be assessed in 100 ton increments, beginning at 1,000 tons disposed above the disposal targets. For the first disposal reduction assessment period ending at 60 months following the START OF SERVICE only (January 31, 2023), the DISPOSAL TARGET percentage (as a percentage of annual disposal compared to adjusted baseline tonnage) for 2022 (as set forth in APPENDIX A) increased by ten percentage points or 65 percent, whichever is greater, shall be used to determine whether LIQUIDATED DAMAGES shall be assessed. Failure to meet the aforementioned Disposal Targets shall result in LIQUIDATED DAMAGES of \$50,000 for the first 1,000 tons, and \$5,000 for every 100 tons thereafter. For the second disposal reduction assessment period ending at 84 months following the START OF SERVICE (January 31, 2025), the DISPOSAL TARGET percentage (as a

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percentage of annual disposal compared to adjusted baseline tonnage) of 45 percent shall be used to determine whether LIQUIDATED DAMAGES shall be assessed. Failure to meet the aforementioned DISPOSAL TARGETS shall result in LIQUIDATED DAMAGES of \$25,000 for the first 1,000 tons, and \$2,500 for every 100 tons thereafter.

Each additional 100 tons shall be considered, with amounts less than 100 tons rounded down, i.e., 4,103 tons counted for 4,100 tons, 1,395 tons considered 1,300 tons, 2,255 tons considered 2,200 tons, etc. CONTRACTOR shall have the right to appeal per Section 11.2 of the AGREEMENT.

**SECTION 7.3.2 IS HEREBY DELETED IN ENTIRETY AND REPLACED BY THE FOLLOWING:**

**7.3.2 ADJUSTMENTS FOR BLUE BIN COSTS**

CONTRACTOR shall receive a BLUE BIN cost rate adjustment effective January 1, 2020, and January 1, 2021 in which the rates and fees shall increase by 0.25 percent, above the annual weighted price index adjustment.

The CITY maintains contracts to process BLUE BIN material it collects through its curbside collection operations. In the event the CITY's overall contract revenue averages less than \$0 per delivered ton for BLUE BIN material collected through its curbside collection operations, as measured in a CITY fiscal year, CONTRACTOR may request a rate increase during the next adjustment period following the end of CITY's fiscal year, effective January 1. The CITY shall provide CONTRACTOR with documentation of the aforementioned average contract revenue by no later than 90 days after CITY's fiscal year end.

- Notwithstanding the foregoing, the assessment of any further adjustment beyond the .25 percent rate increases referenced above may be requested by the CONTRACTOR after June 30, 2022. The effective date of any such applicable BLUE BIN cost adjustment shall not occur prior to January 1, 2023. The City Project Manager will evaluate the request for Blue Bin Cost adjustment.

**SECTION 7.3.3 IS HEREBY DELETED IN ENTIRETY AND REPLACED BY THE FOLLOWING:**

**7.3.3 ADJUSTMENTS FOR IMPLEMENTING ORGANICS COLLECTION**

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The CITY recognizes that developing and implementing an ORGANICS collection program presents unique challenges and increased cost to the CONTRACTOR. To compensate for the challenges and cost of preparing for and implementing the ORGANICS program, the CONTRACTOR shall be entitled to two (2) extra rate compensation adjustments in addition to the annual weighted price index adjustment in Section 7.3. Effective January 1, 2020, and January 1, 2021 the rates and fees shall increase by 3.5 percent, above the annual weighted price index: rate or fee  $\times$  (1 + ((weighted index at Section 7.3) + 0.035)).

**SECTION 7.3.4 IS HEREBY DELETED IN ENTIRETY AND REPLACED BY THE FOLLOWING:**

**7.3.4 RATES LOOK BACK**

Effective January 1, 2022, the CONTRACTOR shall receive rate adjustment of 3%, above the annual weighted price index: rate  $\times$  (1 + ((weighted index at Section 7.3) + 0.03)). This shall be in addition to any other applicable rate and fee adjustment allowed under this AGREEMENT. Every sixty (60) months thereafter, CONTRACTOR may request that the LASAN DIRECTOR review the basis for the existing rate structure and determine the need for a rate adjustment due to CONTRACTOR's overall cost of service under this AGREEMENT, not to exceed three (3) percent. This analysis will take into consideration any cost of service increase beyond those items and indices in Section 7.3. The CITY's approval will be subject to negotiation with all FRANCHISEES and the CONTRACTOR to ensure the continuation of a fair and reasonable maximum allowable rate.

**SECTION 7.4 IS HEREBY DELETED IN ENTIRETY AND REPLACED BY THE FOLLOWING:**

**7.4 EXTRA SERVICES**

The CITY has established the following list of EXTRA SERVICES, which the CONTRACTOR shall offer their CUSTOMERS at the accompanying rate. Any services not listed in Table 7-3 shall be provided at no extra cost to the CUSTOMER, unless there is prior written approval from the CITY PROJECT MANAGER. EXTRA SERVICES fees shall be increased annually in accordance with the formulas and adjustments specified in Section 7.3.

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Table 7-3: Extra Collection Services and Associated Fees

<b>Extra Service</b>	<b>Condition Under Which Fee Applies</b>	<b>Total Fee (presented here as of CONTRACT EXECUTION)</b>
<b>Locks</b>		
Gravity lock installation – per CONTAINER	CUSTOMER request – one-time fee per CONTAINER	\$100 for purchase and installation
Lock bar installation – per CONTAINER	CUSTOMER request – one-time fee per CONTAINER	\$100 for purchase and installation
Locks for CONTAINERS – per lock	CUSTOMER request – one-time fee per lock	\$10
Unlocking and locking CONTAINERS – per CONTAINER	CUSTOMER request – per CONTAINER per collection event	No charge
<b>Distance/ Access</b>		
Entering Secured Building, unlocking and locking gates (see Extra Collection Services and Associated Fees Clarifications Table 7-4 for applicability)	Per collection event	\$10
Distance / Access (see Extra Collection Services and Associated Fees Clarifications Table 7-5 for applicability)		See Table 7-5
Distance Charge, between 100-200 ft, as measured from the CUSTOMER'S property line to the BINS' permanent location	Site requirement per CONTAINER per collection event	\$25
Distance Charge, over 200 ft, as measured from the CUSTOMER'S property line to the BINS' permanent location	Site requirement per CONTAINER per collection event	\$35
Blocked Access – Requiring Return or Delay	Driver observation, document with picture and note uploaded to CONTRACTOR's and the CITY's CRM in REAL TIME and notify the CUSTOMER within two (2) hours	\$50
Blocked Access (Accessing Via Intercom or Security Office) – Requiring a Return.	If driver has to wait due to a CUSTOMER created delay in excess of 5 minutes (documented using GPS technology) and with a note uploaded into the CITY's CRM in REAL TIME	\$50
<b>Supplemental Cleaning</b>		
Cart Cleaning (after one free cleaning/year)	CUSTOMER request – Fixed Fee Per CONTAINER	\$15
CONTAINER Pressure Wash/Steam Cleaning (after one free cleaning/year)	CUSTOMER request – Fixed Fee Per CONTAINER	\$30
Graffiti Removal from CUSTOMER-owned CONTAINERS	Driver observation or by request for removing graffiti from the CUSTOMER-owned CONTAINERS	\$25
Graffiti Removal from CONTRACTOR-owned CONTAINERS	CUSTOMER request to removing graffiti from the CONTRACTOR-owned CONTAINERS in excess of three times per every 12 months, in accordance with Section 3.20.5.1.	\$25

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Extra Service	Condition Under Which Fee Applies	Total Fee (presented here as of CONTRACT EXECUTION)
COMPACTOR CONTAINER Pressure Washing/Steam Cleaning (after one free cleaning/year)	CUSTOMER request – Fixed Fee Per CONTAINER	\$150
ROLL OFF CONTAINER Pressure Washing/Steam Cleaning (after one free cleaning/year)	CUSTOMER request – Fixed Fee Per CONTAINER	\$150
<b>CONTAINER Replacement/Repair</b>		
Repair or Replacement of CUSTOMER Owned CONTAINER(S)	CUSTOMER request; Time and Materials Fee; CONTRACTOR may direct replacement for safety and/or operational reasons; CONTRACTOR shall submit a list of replacements and deliver it with the monthly written report. The list shall include a description of why the CONTAINER was replaced, including pictures detailing the necessity of replacement	\$60 per repair hour plus materials, no charge for pick-up and delivery
Repair or Replacement of CONTRACTOR Owned CONTAINER(S) – CUSTOMER Error	CUSTOMER request or CONTRACTOR decision, with documentation supporting that the CUSTOMER is responsible for the damage to the CONTAINER	\$60 per repair hour plus materials, no charge for pick-up and delivery
Repair or Replacement of CONTRACTOR Owned CONTAINER(S) – Normal Wear and Tear or CUSTOMER Error	CUSTOMER request or CONTRACTOR decision	No charge
Changing CONTAINERS for an Increase or Decrease in Level of Service	CONTRACTOR shall submit a written list of replacements and deliver it with the monthly report. The list shall include a description of the service level change.	No charge
<b>Overflow of Materials and Contamination</b>		
Overfill Charge	Driver observation, document with picture and note uploaded to the CITY's CRM in REAL TIME, notify CUSTOMER within 2 hours, and otherwise follow the conditions and procedures described in Section 3.5	\$25 per occurrence
Overweight Charge	Driver observation, document with picture and note uploaded to the CITY's CRM in REAL TIME, notify CUSTOMER within 2 hours, and otherwise follow the conditions and procedures described in Section 3.5	\$100 per occurrence
Contamination Fee	Observation and Documentation, following the procedures described in Section 3.5	\$50 per occurrence
Hazardous, Radioactive, or Biomedical Waste Contamination Charge	Driver observation, document with picture and note uploaded to the CITY's CRM in REAL TIME, and notify CUSTOMER within 2 hours	\$100 per occurrence
<b>Other Fees</b>		
Collection of Bulky Waste from COMMERCIAL ESTABLISHMENT not subject to CITY Multifamily Bulky Item Fee – Per Item	CUSTOMER request – Fixed Fee Per Item	\$30
Idle Time Charge	If driver has to wait due to a CUSTOMER created delay in excess of 15 minutes (documented using GPS technology) and with a note uploaded into the CITY's CRM in REAL TIME	\$15 per every 15 minutes

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Extra Service	Condition Under Which Fee Applies	Total Fee (presented here as of CONTRACT EXECUTION)
Idle Time Charge – Accessing Via Intercom or Security Office	If driver has to wait due to a CUSTOMER created delay in excess of 5 minutes (documented using GPS technology) and with a note uploaded into the CITY's CRM in REAL TIME	\$15 per every 5 minutes
Sunday Service	CUSTOMER Request	50% over Monday-Saturday Service
<b>Administrative Fees</b>		
Return Payment Fee	CUSTOMER remits payment using check rejected due to insufficient funds or remits payment using a credit card or electronic payment that is declined	\$25
Late Payment Fee (>30 days overdue)	CUSTOMER inaction	\$5 or 1.5% of the debt/month, whichever is greater
CONTAINER Removal Fee	CONTAINER is removed from service location due to CUSTOMER non-payment	\$5 per CONTAINER
Re-instatement of Account Fee	CUSTOMER request – Fixed Fee	\$70 per account
CONTAINER Delivery	Delivery fee for each CONTAINER brought to the CUSTOMER as part of the reinstatement	\$25 per CONTAINER
Compactors Less than 8 cubic yards	Additional compensation, above the Base Rate, for the collection of compactors less than 8 cubic yards in size.	\$8.00 per cubic yard of collection

Table 7-4: Extra Collection Services and Associated Fees Clarifications.

Scenario	Chargeable to CUSTOMER			
	BLACK BIN	BLUE BIN*	GREEN BIN	BROWN BIN
1. Opening a locked or closed gate by use of a remote, clicker or other electronic device.	Yes	No	Yes	Yes
2a. Accessing locked or secured premises that have been unlocked by the CUSTOMER regardless of whether a gate is present so long as the CONTRACTOR'S vehicle has unimpeded access to the premises.	No	No	No	No
2b. Accessing an unlocked gate that is partially closed and the CONTRACTOR'S collection vehicle cannot enter the property without having to exit the vehicle to address the gate or secured premises to provide for vehicle access	Yes	No	Yes	Yes
3. Accessing a locked gate when manual push out (no scout service) is required.	Yes	No	Yes	Yes
4. Accessing via intercom a security office that does not require the driver to leave his or her vehicle.	No	No	No	No

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Table 7-5: Extra Collection Services and Associated Fees Clarifications.

Distance/Access	Chargeable to CUSTOMER			
	BLACK BIN	BLUE BIN*	GREEN BIN	BROWN BIN
1. Distance charges on BLUE BINS/blue CONTAINERS.	N/A	No	N/A	N/A
2. Properties at which the collection vehicle does drive within 100 feet of the container.	Yes	No	Yes	Yes

\* The charges for Blue Bin Distance/Access as set forth in Tables 7-4 and Tables 7-5 will not be chargeable to CUSTOMERS, unless the CITY discontinues the Removing Barriers to Recycling Program, in which case these Access and Distance Extra Service Charges on Blue Bin collection will be reinstated to CUSTOMERS.

**SECTION 7.5 IS HEREBY DELETED IN ENTIRETY AND REPLACED BY THE FOLLOWING:**

**7.5 RECYCLING NOT PROVIDED (RNP)**

The intent of the source separated BLUE and GREEN BIN program is to ensure the CITY's and state's goals of landfill diversion are met. The minimum service level (weekly service volume and collection frequency) ratio is that the BLUE BIN and GREEN BIN service shall be at least fifty percent (50%) by volume of BLACK BIN service measured by cubic yards on a per FRANCHISE ZONE basis. Failure to provide the minimum level of BLUE and GREEN BIN service will result in monthly RNP LIQUIDATED DAMAGES in accordance with Section 11.1.

Service level ratios shall be calculated on the last day of the month on a FRANCHISE ZONE basis. Monthly service levels shall be calculated based on the level of service in a FRANCHISE ZONE for all CUSTOMERS based on bin size, number and frequency. The basis for determining monthly service shall be the CUSTOMER service level data provided to the CITY. If the CONTRACTOR'S monthly combined service level zone-wide of the BLUE BIN and GREEN BIN, falls below the minimum ratio of 50% compared to BLACK BIN service, measured monthly, the CONTRACTOR shall remit quarterly to the CITY LIQUIDATED DAMAGES in accordance with Section 11.1. The CONTRACTOR will not accrue, owe, or remit and the CITY shall not assess, charge, or calculate RNP LIQUIDATED DAMAGES prior to January 31, 2021. CONTRACTOR may present evidence for exceptions and the CITY PROJECT MANAGER may consider exceptions to the

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volume requirements for specific CUSTOMERS, but BLUE BIN service must be provided. CONTRACTOR has the right to appeal the LIQUIDATED DAMAGES per Section 11.2 of this AGREEMENT.

Example of application of RNP:

For example, if for a month there were 9,000 monthly cubic yards of BLUE BINS collected, 1,000 cubic yards of GREEN BINS and 30,000 cubic yards of BLACK BINS collected, RNP LIQUIDATED DAMAGES would apply. The minimum monthly collection of BLUE BINS and GREEN BINS is 15,000 cubic yards (50% of 30,000). The CONTRACTOR achieved a ratio of 33.33%  $((9,000CY+1,000CY)/30,000CY)$ . In accordance with Table 11-1 the associated liquidated damage is \$14,000 for this month.

The CONTRACTOR shall remit quarterly the monthly LIQUIDATED DAMAGES associated with the RNP, and payment shall be paid to the CITY and is due on or before thirty (30) days following the end of each calendar quarter in which the combined BLUE BIN and GREEN BIN services were not provided as set forth in this Section, with the quarterly fee payment schedule. This remittance shall be accompanied by a RNP form as designated by the CITY. Failure to pay any fees in accordance with this AGREEMENT shall be subject to LIQUIDATED DAMAGES as listed in Table 11-1.

**SECTION 7.8 IS HEREBY ADDED TO THE AGREEMENT AS FOLLOWS:**

**7.8 REMOVING BARRIERS TO RECYCLING PROGRAM**

The CITY and CONTRACTOR agree to jointly fund a program designed to encourage recycling by CUSTOMERS as more specifically set forth in the Settlement Agreement between the CITY and CONTRACTOR. In order to further encourage recycling, the CONTRACTOR shall not bill ACCESS AND DISTANCE EXTRA SERVICE CHARGES to all CUSTOMERS related to BLUE BINS (recycling), effective February 1, 2018. The CONTRACTOR thus agrees to waive ACCESS AND DISTANCE EXTRA SERVICE CHARGES associated with BLUE BIN collection, as specified so long as the CITY continues this Removing Barriers to Recycling Program. The baseline CITY contribution, for calendar year 2018, to fund this program is \$395,234. If CITY terminates the Removing Barriers to Recycling Program prior to the end of the CONTRACT term, CONTRACTOR shall bill CUSTOMERS for Extra Services for the ACCESS AND DISTANCE EXTRA SERVICE CHARGES as set forth in Tables 7-3, 7-4, and 7-5, and pursuant to the asterisk thereto.

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**TABLE 11-1 IS HEREBY DELETED IN ENTIRETY AND REPLACED BY THE FOLLOWING:**

Table 11-1: Performance Standards and LIQUIDATED DAMAGES

Category	Performance Standard and Conditions When LIQUIDATED DAMAGES Will Apply	Administrative Assessment
Implementation of FRANCHISE SYSTEM	Failure to use reasonable business efforts to service an Abandoned Account, as stipulated in Section 5	\$100 per day (including during the TRANSITION PERIOD)
	CONTRACTOR abandoning an account, or implementing FRANCHISE service rates prior to CONTRACTOR NOTIFICATION	\$5,000 per verified occurrence (including during the TRANSITION PERIOD)
Provision of Services to CUSTOMERS	Failure to remove graffiti in accordance with Section 3.20.5.1 (Graffiti)	\$100 per occurrence**
	Failure to deliver CONTAINER(S) to a CUSTOMER within five (5) business days of the CUSTOMER'S request for service	\$200 per occurrence**
	Failure to repair or replace any bin, cart, CONTAINER, ROLL OFF, or COMPACTOR (any CONTAINER), in accordance with Section 3.20.5(Container maintenance) within two (2) business days of CUSTOMER report, considering availability of parts or equipment	\$100 per occurrence**
Provision of Services to CUSTOMERS (continued)	Failure to collect a MISSED COLLECTION in accordance with Section 3.7 , where not arising from or caused by a labor dispute.	\$100 per occurrence; \$200 for each day thereafter
	Repeat MISSED COLLECTIONS at same CUSTOMER within twelve (12) months of previous missed collection as set forth in Section 3.7.1	\$300 per occurrence**
	Failure to notify a CUSTOMER of improper CONTAINER set out, obstruction, or other causes for inability to provide a scheduled collection service within 2 hours	\$100 per occurrence**
	Use of profanity or hate speech by CONTRACTOR staff to CUSTOMERS	\$300 per occurrence, subject to Section 11.3 below.**
	Failure to answer 95 percent of all CUSTOMER calls received each month during normal business hours in less than 60 seconds (computed as a monthly average)	\$5,000 per month occurred
	Failure to provide service under this AGREEMENT due to Labor Disputes	The pro rata percentage of CITY estimated daily GROSS RECEIPTS under this AGREEMENT per day of service interruption, based on the number of CUSTOMERS not serviced, by either the CONTRACTOR, its contingency team or the CITY, compared with the total number of CUSTOMERS normally serviced.
	CONTRACTOR Operations	Collect, remove or transport SOLID RESOURCES from any CITY serviced CUSTOMERS
Collect, remove or transport SOLID RESOURCES from any other FRANCHISE hauler serviced CUSTOMERS		\$500 per verified occurrence, subject to Section 11.3 below.
Undertake collection operations outside of allowable hours of collection		\$300 per verified complaint

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Category	Performance Standard and Conditions When LIQUIDATED DAMAGES Will Apply	Administrative Assessment
	Make changes to routes or route days affecting 5 percent or more of the CONTRACTOR'S CUSTOMERS without at least 7 business days' notice to CUSTOMERS	\$100 per CUSTOMER per day, subject to Section 11.3 below.
	Failure to properly cover material in collection or hauling vehicles	\$300 per occurrence
	Failure to correct, upon notification by the CITY, leakage of fluids from a collection or hauling vehicle prior to resuming use of the vehicle in the CITY	\$100 per occurrence
	Failure to clean up spillage or litter occurring during collection at time of collection	\$100 per occurrence
	Failure to have a vehicle properly licensed, registered and inspected	\$100 per vehicle
	Exceeding vehicle weight limits as set forth in the State of California Vehicle Code	\$1,000 per vehicle per occurrence, subject to Section 11.3 below.
	Failure to clean collection and hauling vehicles once per week, or within 1 business day of request from the CITY	\$100 per occurrence
	Failure to report known vehicle accidents to the CITY, in accordance with 3.17.2.	\$100 per day not notified
	Failure to maintain property, facilities and equipment in a clean, safe and sanitary manner, as determined by the CITY	\$100 per day, subject to Section 11.3 below.
	Failure to provide a minimum ratio of 50% of BLUE and GREEN Bin Service to BLACK BIN Service in accordance with 7.5	\$875 per every 1% below 50% but greater than 30%, per month; or \$70,000 for ratio of less than 30%, per month, as applicable
Segregation and Delivery of Collection Materials	Commingling of SOLID WASTE, COMMINGLED RECYCLABLES and/or ORGANICS material segregated by the CUSTOMER in the same truck	\$1,000 per occurrence
	Failure to deliver collected SOLID RESOURCES to a CITY CERTIFIED FACILITY	\$1,000 per occurrence
CONTRACTOR Personnel and Property	Failure to have a properly licensed vehicle driver operating a vehicle	\$300 per occurrence per day
	Failure to provide any required training for vehicle operators, including safety training and training related to the operation of equipment, as required by Federal and State laws	\$1,000 per occurrence
	Failure to repair damage to a CUSTOMER'S property or other private property, caused by or resulting from the actions of the CONTRACTOR'S personnel in accordance with 3.10	\$500 per occurrence, subject to Section 11.3 below.
Diversion Requirements	Failure to meet Disposal Reduction requirements per Article 5	See Section 5.10.5
Payment and Reporting Requirements	Failure to remit fees to the CITY in accordance with Section 7 (Rates and Fees)	\$5,000 per occurrence in addition to delinquent Franchise Fees subject to Section 7.6.
	Failure to submit reports to the CITY on time	\$50 per day per report.
	Willful submission to the CITY of inaccurate reports or data, including but not limited to diversion reports and data, service level information and financial information	\$10,000 per occurrence

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\*\*Assessable only after AMENDMENT EFFECTIVE DATE; the CITY shall not assess CONTRACTOR for occurrences that occurred prior to the AMENDMENT EFFECTIVE DATE.

**ARTICLE 37 IS HEREBY DELETED IN ITS ENTIRETY AND REPLACED BY THE FOLLOWING:**

**ARTICLE 37: MANDATORY PROVISIONS PERTAINING TO NON-DISCRIMINATION IN EMPLOYMENT**

Unless otherwise exempt, this CONTRACT is subject to the applicable non-discrimination, equal benefits, equal employment practices, and affirmative action program provisions in LAAC Section 10.8 et seq., as amended from time to time.

- A. CONTRACTOR shall comply with the applicable non-discrimination and affirmative action provisions of the laws of the United States of America, the State of California, and CITY. In performing this CONTRACT, CONTRACTOR shall not discriminate in any of its hiring or employment practices against any employee or applicant for employment because of such person's race, color, religion, national origin, ancestry, sex, sexual orientation, gender, gender identity, age, disability, domestic partner status, marital status or medical condition.
- B. The requirements of Section 10.8.2.1 of the LAAC, the Equal Benefits Ordinance, and the provisions of Section 10.8.2.1(f) are incorporated and made a part of this CONTRACT by reference.
- C. The provisions of Section 10.8.3 of the LAAC are incorporated and made a part of this CONTRACT by reference and will be known as the "Equal Employment Practices" provisions of this CONTRACT.
- D. The provisions of Section 10.8.4 of the LAAC are incorporated and made a part of this CONTRACT by reference and will be known as the "Affirmative Action Program" provisions of this CONTRACT.

Any subcontract entered into by CONTRACTOR for work to be performed under this CONTRACT must include an identical provision.

**FIRST AMENDMENT TO  
PERSONAL SERVICES CONTRACT C-128876-1**

**ARTICLE 38 IS HEREBY DELETED IN ITS ENTIRETY**

**ARTICLE 39 IS HEREBY DELETED IN ITS ENTIRETY**

**ARTICLE 45 IS HEREBY DELETED IN ITS ENTIRETY**

**ARTICLE 41 IS HEREBY DELETED IN ITS ENTIRETY AND REPLACED BY THE FOLLOWING:**

**ARTICLE 41: WORKER RETENTION ORDINANCE**

CONTRACTOR shall comply with the Worker Retention Ordinance, LAAC Section 10.36 *et seq.*, as amended from time to time. Any subcontract entered into by CONTRACTOR for work to be performed under this CONTRACT must include an identical provision.

**ARTICLE 42 IS HEREBY DELETED IN ITS ENTIRETY AND REPLACED BY THE FOLLOWING:**

**ARTICLE 42: AMERICANS WITH DISABILITIES ACT**

CONTRACTOR represents and certifies that:

- A. CONTRACTOR shall comply with the Americans with Disabilities Act, as amended, 42 U.S.C. Section 12101 *et seq.*, the Rehabilitation Act of 1973, as amended, 29 U.S.C. Section 701 *et seq.*, the Fair Housing Act, and its implementing regulations and any subsequent amendments, and California Government Code Section 11135;
- B. CONTRACTOR shall not discriminate on the basis of disability or on the basis of a person's relationship to, or association with, a person who has a disability;
- C. CONTRACTOR shall provide reasonable accommodation upon request to ensure equal access to CITY-funded programs, services and activities;
- D. Construction will be performed in accordance with the Uniform Federal Accessibility Standards (UFAS), 24 C.F.R. Part 40; and
- E. The buildings and facilities used to provide services under this Contract are in compliance with the federal and state standards for accessibility as set forth in

**FIRST AMENDMENT TO  
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the 2010 ADA Standards, California Title 24, Chapter 11, or other applicable federal and state law.

CONTRACTOR understands that the CITY is relying upon these certifications and representations as a condition to funding this Contract. Any subcontract entered into by CONTRACTOR for work to be performed under this Contract must include an identical provision.

**ARTICLE 50 IS HEREBY DELETED IN ITS ENTIRETY AND REPLACED BY THE FOLLOWING:**

**ARTICLE 50: RESTRICTIONS ON CAMPAIGN CONTRIBUTIONS AND FUNDRAISING IN CITY ELECTIONS**

Unless otherwise exempt, if this CONTRACT is valued at \$100,000 or more and requires approval by an elected CITY office, CONTRACTOR, CONTRACTOR'S principals, and CONTRACTOR'S SUBCONTRACTORS expected to receive at least \$100,000 for performance under the CONTRACT, and the principals of those SUBCONTRACTORS (the "Restricted Persons") shall comply with Charter Section 470(c)(12) and LAMC Section 49.7.35. Failure to comply entitles CITY to terminate this CONTRACT and to pursue all available legal remedies. Charter Section 470(c)(12) and LAMC Section 49.7.35 limit the ability of the Restricted Persons to make campaign contributions to and engage in fundraising for certain elected CITY officials or candidates for elected CITY office for twelve months after this CONTRACT is signed. Additionally, a CONTRACTOR subject to Charter Section 470(c)(12) is required to comply with disclosure requirements by submitting a completed and signed Ethics Commission Form 55 and to amend the information in that form as specified by law. Any Contractor subject to Charter Section 470(c)(12) shall include the following notice in any contract with any Subcontractor expected to receive at least \$100,000 for performance under this CONTRACT:

"Notice Regarding Restrictions on Campaign Contributions and Fundraising in City Elections

You are a subcontractor on City of Los Angeles Contract C-128876. Pursuant to the City of Los Angeles Charter Section 470(c) (12) and related ordinances, you and your principals are prohibited from making campaign contributions to and fundraising for certain elected City of Los Angeles ("CITY") officials and candidates for elected CITY office for twelve months after the CITY contract is signed. You are required to provide the names and contact information of your principals to the CONTRACTOR and to amend that information within ten business days if it changes during the twelve month

**FIRST AMENDMENT TO  
PERSONAL SERVICES CONTRACT C-128876-1**

time period. Failure to comply may result in termination of this Contract and any other available legal remedies. Information about the restrictions may be found online at [ethics.lacity.org](http://ethics.lacity.org) or by calling the Los Angeles City Ethics Commission at (213) 978-1960."

**ARTICLE 52 IS HEREBY ADDED TO THE AGREEMENT AS FOLLOWS:**

**ARTICLE 52: LIMITATION OF CITY'S OBLIGATION TO MAKE PAYMENT TO CONTRACTOR**

Notwithstanding any other provision of this CONTRACT, including any exhibits or attachments incorporated therein, and in order for CITY to comply with its governing legal requirements, CITY shall have no obligation to make any payments to CONTRACTOR unless CITY shall have first made an appropriation of funds equal to or in excess of its obligation to make any payments as provided in this CONTRACT. CONTRACTOR agrees that any services provided by CONTRACTOR, purchases made by CONTRACTOR or expenses incurred by CONTRACTOR in excess of the appropriation(s) shall be free and without charge to CITY and CITY shall have no obligation to pay for the services, purchases or expenses. CONTRACTOR shall have no obligation to provide any services, provide any equipment or incur any expenses in excess of the appropriated amount(s) until CITY appropriates additional funds for this CONTRACT.

**ARTICLE 53 IS HEREBY ADDED TO THE AGREEMENT AS FOLLOWS:**

**ARTICLE 53: CONTRACTORS' USE OF CRIMINAL HISTORY FOR CONSIDERATION OF EMPLOYMENT APPLICATIONS**

CONTRACTOR shall comply with the City Contractors' Use of Criminal History for Consideration of Employment Applications Ordinance, LAAC Section 10.48 *et seq.*, as amended from time to time. Any subcontract entered into by CONTRACTOR for work to be performed under this CONTRACT must include an identical provision.

**ARTICLE 54 IS HEREBY ADDED TO THE AGREEMENT AS FOLLOWS:**

**ARTICLE 54: DISCLOSURE OF BORDER WALL CONTRACTING ORDINANCE**

CONTRACTOR shall comply with Los Angeles Administrative Code Section 10.50 *et seq.*, 'Disclosure of Border Wall Contracting.' The CITY may terminate this CONTRACT at any time if the CITY determines that the CONTRACTOR failed to fully and accurately complete the required affidavit and disclose all Border Wall Bids and Border Wall Contracts, as defined in LAAC Section 10.50.1.

**FIRST AMENDMENT TO  
PERSONAL SERVICES CONTRACT C-128876-1**

**FIRST AMENDMENT TO  
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IN WITNESS WHEREOF, the parties hereto have executed this AGREEMENT on the day and year written below.

**CITY OF LOS ANGELES**

**NASA SERVICES, INC.**

By: \_\_\_\_\_

By: \_\_\_\_\_

Title: Commissioner, Board of Public Works

Title: \_\_\_\_\_

Date: \_\_\_\_\_

Date: \_\_\_\_\_

By: \_\_\_\_\_

Title: Commissioner, Board of Public Works

Date: \_\_\_\_\_

**APPROVED AS TO FORM**

**MICHAEL N. FEUER, City Attorney**

By: \_\_\_\_\_

Adena Hopenstand

Title: Deputy City Attorney

Date: \_\_\_\_\_

**ATTEST:**

**HOLLY WOLCOTT, City Clerk**

By: \_\_\_\_\_

Title: Deputy City Clerk

Date: \_\_\_\_\_



FIRST AMENDMENT TO  
PERSONAL SERVICES CONTRACT  
BETWEEN  
THE CITY OF LOS ANGELES  
AND  
CALMET SERVICES, INC  
FOR  
EXCLUSIVE FRANCHISE TO PROVIDE COLLECTION, TRANSFER, PROCESSING, AND  
DISPOSAL SERVICES FOR SOLID RESOURCES TO COMMERCIAL ESTABLISHMENTS  
AND APPLICABLE MULTIFAMILY ESTABLISHMENTS  
IN THE EAST DOWNTOWN ZONE

City of Los Angeles  
Department of Public Works  
LA Sanitation and Environment  
Solid Resources Commercial Franchise Division

**FIRST AMENDMENT TO  
PERSONAL SERVICES CONTRACT C-128875-1**

BETWEEN THE CITY OF LOS ANGELES AND CALMET SERVICES, INC FOR EXCLUSIVE FRANCHISE TO PROVIDE COLLECTION, TRANSFER, PROCESSING, AND DISPOSAL SERVICES FOR SOLID RESOURCES TO COMMERCIAL ESTABLISHMENTS AND APPLICABLE MULTIFAMILY ESTABLISHMENTS IN THE EAST DOWNTOWN ZONE.

THIS FIRST AMENDMENT TO CONTRACT C-128875 is made and entered into by and between the CITY OF LOS ANGELES, a municipal corporation, acting by and through its Board of Public Works, (hereinafter called the "CITY"), and CALMET SERVICES, INC. (hereinafter called "CONTRACTOR") with reference to the following facts:

WITNESSETH

WHEREAS, the CITY has complied with the State Public Resources Code, Section 49520, in notification of current permitted private waste haulers of a change to an exclusive franchise system for solid resources collection and handling, called RECYCLA; and

WHEREAS, there are approximately 65,000 commercial and industrial CUSTOMERS, including over 700,000 residential multifamily units receiving solid resources services from permitted private waste haulers; and

WHEREAS, it is in the CITY's interest to provide all residents and businesses with access to recycling programs, cleaner air, and better customer service; and

WHEREAS, private waste haulers were estimated to dispose over 1.5 million tons in landfills each year from these properties; and

WHEREAS, the CITY's goal is to reach 90 percent landfill diversion by year 2025; and

WHEREAS, the RECYCLA program as effectuated through the RECYCLA AGREEMENTS is intended to meet the CITY's Zero Waste goals by, among other things, establishing maximum disposal for each franchise zone and implementing waste diversion programs that are consistent with the Solid Waste Integrated Resource Plan Guiding Principles; and

WHEREAS, pursuant to the provisions of Mandatory Commercial Recycling (AB341) and Mandatory Organics Recycling (AB1826), businesses and multifamily residences are required to subscribe to recycling programs under certain conditions; and

WHEREAS, a goal of the RECYCLA program as effectuated through the RECYCLA AGREEMENTS is to meet and exceed California requirements for waste diversion and mandatory commercial and multifamily recycling; and

**FIRST AMENDMENT TO  
PERSONAL SERVICES CONTRACT C-128875-1**

WHEREAS, the Mayor and the City Council certified the Final Environmental Impact Report and adopted the ordinance (Ordinance #182986) authorizing the RECYCLA program; and

WHEREAS, this project will help Create a More Livable and Sustainable CITY, and the implementation of this project is critical and must be retained; and

WHEREAS, the CITY desired to retain the CONTRACTOR to provide the required solid resources collection and handling services in connection with the Scope of Services as outlined in the AGREEMENT; and

WHEREAS, a Request for Proposals (RFP) was prepared to create an exclusive franchise system that provides efficient handling of solid resources with clean fuel vehicles, real time customer service, and oversight of CONTRACTOR with accountability for lapses in service as well as other failures; and

WHEREAS, the RECYCLA Franchise Agreements set forth service criteria and expectations of the recycLA Service Providers (RSPs) within these AGREEMENTS, including but not limited to regulating the rates RSPs charge their CUSTOMERS; and

WHEREAS, on June 12, 2014, the CITY released a RFP to qualified and interested parties; and

WHEREAS, on September 26, 2016, the BOARD approved the AGREEMENT with CALMET SERVICES, INC., Contract Number C-128875; and

WHEREAS, on December 9, 2016 the City Council approved the AGREEMENT with CALMET SERVICES, INC., Contract Number C-128875; and

WHEREAS, on February 1, 2017 the Office of the City Clerk attested the AGREEMENT with CALMET SERVICES, INC., Contract Number C-128875; and

WHEREAS, the CITY determined it was necessary to amend the AGREEMENT to meet the CITY goals;

**FIRST AMENDMENT TO  
PERSONAL SERVICES CONTRACT C-128875-1**

NOW THEREFORE, for good and valuable consideration, including the mutual promises set forth below, the CITY and the CONTRACTOR agree that the AGREEMENT be amended as follows:

**ARTICLE 1 IS HEREBY DELETED IN ENTIRETY AND REPLACED BY THE FOLLOWING:**

**ARTICLE 1: SECTION HEADINGS AND CONSTRUCTION OF PROVISIONS AND TITLES HEREIN**

All titles, subtitles, and/or section headings appearing herein have been inserted for convenience and shall not be deemed to govern, limit, modify or in any manner affect the scope, meaning, intent or construction of any of the terms or provisions hereof. The language of this CONTRACT shall be construed according to its fair meaning and not strictly for or against the CITY or the CONTRACTOR. The singular shall include the plural; use of the feminine, masculine, or neuter genders shall be deemed to include the genders not used. The terms "include" and "including" do not exclude items not enumerated that are in the same general class. Any rule or law that would require interpretation of any term or ambiguity in this CONTRACT against the party that drafted the applicable provision is waived. The Recitals to this CONTRACT are material terms hereof.

**ARTICLE 2: IS HEREBY AMENDED TO ADD/AMEND THE FOLLOWING:**

ACCESS AND DISTANCE EXTRA SERVICE CHARGES: The Distance/Access fees for Extra Services identified in Table 7-3 and referenced in Tables 7-4 and 7-5.

AMENDMENT EFFECTIVE DATE: The date when all the following events have occurred:

- The Amendment has been signed on behalf of CONTRACTOR by the person or persons authorized to bind CONTRACTOR hereto;
- The Amendment has been approved by the CITY COUNCIL or by the BOARD, officer or employee authorized to give such approval;
- The Office of the City Attorney has indicated in writing its approval of this Amendment as to form; and
- The Amendment has been signed on behalf of the CITY by the person designated by the CITY COUNCIL, or by the BOARD, officer or employee authorized to enter into this Amendment

**FIRST AMENDMENT TO  
PERSONAL SERVICES CONTRACT C-128875-1**

GROSS RECEIPTS: Those receipts defined under Gross Receipts in L.A.M.C. Section 21.00(a) as generated by the collection of SOLID RESOURCES including, but not limited to collection service, CONTAINER rental, EXTRA SERVICES, disposal, and processing charges. Fees and charges for services credited or not billed by CONTRACTORS shall not be considered GROSS RECEIPTS for purposes of FRANCHISE FEES.

MISSED COLLECTION: Collection Services that do not occur as detailed in the CUSTOMER'S service agreement with the CONTRACTOR (including on the day and/or frequency) that are not due to the fault of the RECYCLA CUSTOMER, regardless of whether the CONTRACTOR later performs the collection. A CUSTOMER'S complaint that the CUSTOMER did not receive timely service will be presumed legitimate, or presumed as a MISSED COLLECTION absent sufficient documentation to the contrary that rebuts the presumption.

OPTIMIZATION PERIOD: The period from February 1, 2018 through December 31, 2020 shall be considered the Optimization Period of the RECYCLA program in which concerted and specific efforts will be made to engage RECYCLA CUSTOMERS and for the CONTRACTOR to perform education and outreach to encourage diversion and recycling and to provide information and/or instruction regarding proper recycling at CUSTOMER sites.

RECYCLA: The statutory framework and program, including the FRANCHISE AGREEMENTS, in which the CITY oversees, regulates, and administers municipal waste diversion and management policies, practices, and has awarded contracts for exclusive franchises to provide collection, transfer, processing, and disposal services for solid resources as well as extra services to each commercial establishment and applicable multifamily establishment in the awarded franchise zones as authorized by contract and by Los Angeles Municipal Code section 66.33 *et seq.* and California Public Resources Code section 40059, *et seq.*

RECYCLA FRANCHISE AGREEMENT: The awarded contracts to the CONTRACTORS for an "Exclusive Franchise to Provide Collection, Transfer, Processing, and Disposal Services for Solid Resources to Commercial Establishments and Applicable Multifamily Establishments" in designated zones within the CITY (Contract Nos. C-128875, C-128876, C-128877, C-128878, C-128879, C-128880, C-128881), effective February 1, 2017, the date of CONTRACT EXECUTION.

ZWR: Trained CONTRACTOR and/or SUBCONTRACTOR staff responsible for outreach, education, CUSTOMER training and waste assessments.

**FIRST AMENDMENT TO  
PERSONAL SERVICES CONTRACT C-128875-1**

**SECTION 3.5 IS HEREBY AMENDED TO MODIFY THE SECTION AND ADD THE FOLLOWING:**

3.5.1 Contaminated Containers Collected During OPTIMIZATION PERIOD

The CONTRACTOR is responsible for visually inspecting each CUSTOMER'S BLUE BINS to determine whether they contain contaminated COMMINGLED RECYCLABLES. While BLUE BIN CONTAINERS ordinarily shall be considered contaminated if they contain more than 10% SOLID WASTE or 10% ORGANICS, individually or combined, in each BLUE BIN during the OPTIMIZATION PERIOD, the BLUE BIN shall be considered contaminated if it contains more than 20% SOLID WASTE or 20% ORGANICS, individually or combined.

The CONTRACTOR shall not charge the CUSTOMER for contaminated BLUE BINS collected during the OPTIMIZATION PERIOD. The object and goal of this OPTIMIZATION PERIOD is for the CONTRACTOR to provide additional outreach and education to CUSTOMERS on proper recycling in order to avoid contamination fees. During the OPTIMIZATION PERIOD, the CONTRACTOR shall continue to perform outreach and CUSTOMER education as specified in Section 5.13 in addition to outreach and education described in this Section 3.5.1.1.

For use during the OPTIMIZATION PERIOD, the CONTRACTOR shall develop, and submit to LASAN for approval, a specific contamination notice. This notice shall contain a list, pictorial or written, of recyclable items, policy for contamination during the OPTIMIZATION PERIOD and from where and how CUSTOMERS can obtain additional information as well as the CUSTOMER'S right to CONTRACTOR performing on-site outreach and education training.

Following the expiration of the OPTIMIZATION PERIOD commencing January 1, 2021, the Contamination Fee process set forth in Section 3.5 of the AGREEMENT shall be reinstated in full force and effect.

3.5.1.1 Chronic Contamination

During the CUSTOMER OPTIMIZATION PERIOD, the contamination percentage will be increased from 10% to 20% to allow CUSTOMERS more latitude to improve their internal processes and controls on BLUE BIN use, but if the container is contaminated more than 20%, the following remedial steps will apply. The remedial steps shall occur in conjunction with the OPTIMIZATION PERIOD outreach and education noted in Section 5.13.

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At no time during the OPTIMIZATION PERIOD will the CUSTOMER be assessed a BLUE BIN contamination fee per Section 3.5 of the FRANCHISE AGREEMENTS. During the OPTIMIZATION PERIOD, these provisions in Section 3.5.1.1 are an interim replacement for the process set forth at Section 3.5 of the AGREEMENT.

**1<sup>st</sup> Instance**

- CONTRACTOR shall leave a written notice, as approved to form by the CITY, which explains why the material was contaminated and not collected. The written notice shall also explain the policy for contamination and identify how the CUSTOMER can find more information on the subject.
- Photographic evidence demonstrating 20% contamination of the BLUE BIN will be uploaded by CONTRACTOR to CITY's CRM in REAL TIME.
- CONTRACTOR will notify the CUSTOMER by phone and/or by email, and offer an in-person or on-site visit with the CUSTOMER. In the CONTRACTOR's phone and/or email notification, the CONTRACTOR will also explain that the CUSTOMER'S BLUE BIN has been tagged for contamination, the contaminants found in the bin, and the CONTRACTOR shall offer a site visit by a CONTRACTOR representative for outreach and education. The CONTRACTOR shall document all communications with the CUSTOMER, and provide to the CITY upon request. Documentation shall include type of communication, date and time of communication, and resulting action, such as the date and time of scheduled on-site training and education, or the CUSTOMER'S refusal of training and education. Unless refusing an on-site visit, which shall include the failure to respond to an offer of same by CONTRACTOR, the CUSTOMER shall not have a 2<sup>nd</sup> Instance of contamination until the agreed upon outreach site-visit has occurred.
- Container is not collected.
- After making contact with the CUSTOMER by phone, email and/or by in-person, or within 24 hours of attempting such contact by phone and email, the CONTRACTOR's customer service will schedule for the container to be collected as trash at no additional cost to the CUSTOMER.
- If the CUSTOMER does not have any more contamination episodes for a period of 90 days, this instance of contamination will not be deemed a prior instance for purposes of this Section 3.5.1.1.

**2<sup>nd</sup> Instance**

- CONTRACTOR shall leave a written notice, as approved to form by the CITY, which explains why the material was contaminated and not

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collected. The written notice shall also explain the policy for contamination and identify how the CUSTOMER can find more information on the subject.

- Photographic evidence of contamination of the BLUE BIN will be uploaded by CONTRACTOR to CITY's CRM in REAL TIME.
- CONTRACTOR will notify the CUSTOMER by phone and/or by email, and offer an in-person or on-site visit with the CUSTOMER. In the CONTRACTOR's phone and/or email notification, the CONTRACTOR will also explain that the CUSTOMER'S BLUE BIN has been tagged for contamination, the contaminants found in the bin, and the CONTRACTOR shall offer a site visit by a CONTRACTOR representative for outreach and education. The CONTRACTOR shall document all communications with the CUSTOMER, and provide to the CITY upon request. Documentation shall include type of communication, date and time of communication, and resulting action, such as the date and time of scheduled on-site training and education, or the CUSTOMER'S refusal of training and education. Unless refusing an on-site visit, which shall include the failure to respond to an offer of same by CONTRACTOR, the CUSTOMER shall not have a 3<sup>rd</sup> Instance of contamination until the agreed upon outreach site-visit has occurred.
- Container is not collected.
- After making contact with the CUSTOMER by phone, email and/or by in-person, or within 24 hours of attempting such contact by phone and email, the CONTRACTOR's customer service will schedule for the container to be collected as trash at no additional cost to the CUSTOMER.
- If the CUSTOMER does not have any more contamination for a period of 90 days, this instance of contamination will not be deemed a prior instance for purposes of this Section 3.5.1.1.

**3<sup>rd</sup> Instance**

- CONTRACTOR shall leave a written notice, as approved to form by the CITY, which explains why the material was contaminated and not collected. The written notice shall also explain the policy for contamination and identify how the CUSTOMER can find more information on the subject.
- Photographic evidence of contamination of the BLUE BIN will be uploaded by CONTRACTOR to CITY's CRM in REAL TIME and CONTRACTOR will notify the CUSTOMER by phone and/or by email, and by an in-person (or on-site) visit. In all of these notifications, the CONTRACTOR will explain that the CUSTOMER'S BLUE BIN has been tagged for contamination, the

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contaminants found in the bin, and the CONTRACTOR shall offer a site visit by a CONTRACTOR representative for outreach and education.

- Container is not collected.
- CUSTOMER will be required to meet with a ZWR for retraining/education prior to the container being scheduled for collection. If the CUSTOMER refuses to meet with a ZWR by failing to return any communication within 7 calendar days after attempting to make contact by both by phone and email, or affirmatively stating its refusal to meet with a ZWR, then the CONTRACTOR may continue with this protocol. The CONTRACTOR shall document all communications with the CUSTOMER, and provide to the CITY upon request. Documentation shall include type of communication, date and time of communication, and resulting action, such as the date and time of scheduled on-site training and education, or the CUSTOMER'S refusal of training and education. The CUSTOMER shall not have a 4<sup>th</sup> Instance of contamination until the agreed upon outreach site-visit has occurred or been refused as set forth above.
- After making contact with the CUSTOMER by phone, email and/or by in-person, or within 24 hours of attempting such contact by phone and email, the CONTRACTOR's customer service will schedule for the container to be collected as trash at no additional cost to the CUSTOMER.
- If the CUSTOMER does not have any more contamination for a period of 90 days this offense will not be deemed a prior instance for purposes of this Section 3.5.1.1.

**4<sup>th</sup> Instance**

- CONTRACTOR shall leave a written notice, as approved to form by the CITY, which explains why the material collected was contaminated and not collected. The written notice shall also explain the policy for contamination and identify how the CUSTOMER can find more information on the subject.
- Photographic evidence of contamination of the BLUE BIN will be uploaded by CONTRACTOR to CITY's CRM in REAL TIME and CONTRACTOR will notify the CUSTOMER by phone, by email, and by in-person (or on-site) visit. In all of these notifications, the CONTRACTOR will explain that the CUSTOMER'S BLUE BIN has been tagged for contamination.
- The CONTRACTOR will have the sole option to:
  - Require the CUSTOMER to remove the contaminated waste from the container prior to container collection; or

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- o Require the CUSTOMER to pay to have the container with contaminated waste collected as trash and pay a one-time service fee of \$50 to have the bin collected as SOLID WASTE, and remove the BLUE BIN for a minimum of 90 days, but cannot replace it with a BLACK BIN unless the CUSTOMER requests an additional BLACK BIN. The CONTRACTOR shall notify the CUSTOMER that the BLUE BIN has been removed.

**SECTION 3.7.1 IS HEREBY ADDED TO THE AGREEMENT AS FOLLOWS:**

**3.7.1 REPEATED MISSED COLLECTIONS**

All MISSED COLLECTION requests that occur more than once at the same CUSTOMER location within a 12 month period are subject to LIQUIDATED DAMAGES for repeated MISSED COLLECTION shown in Table 11-1, except as provided in this Section. MISSED COLLECTION occurring prior to the AMENDMENT EFFECTIVE DATE is (i) not considered a MISSED COLLECTION for the purposes of assessing LIQUIDATED DAMAGES (at \$300 per occurrence), and (ii) not considered a MISSED COLLECTION for which a subsequent MISSED COLLECTION after the AMENDMENT EFFECTIVE DATE might be characterized as a "Repeat MISSED COLLECTION at same CUSTOMER within twelve (12) months of previous missed collection."

The CITY shall not assess LIQUIDATED DAMAGES for "Repeat MISSED COLLECTIONS at same CUSTOMER within twelve (12) months of previous MISSED COLLECTION," as referenced in Table 11-1, on the second occurrence of a MISSED COLLECTION in a 12 month period if both the first and second instances of missed collection are collected within the required timeframe noted in Section 3.7. Only the third or subsequent instance of a missed collection within a 12 month period from the first missed collection in that same 12 month period would be deemed an assessable "repeat MISSED COLLECTION." However, if the first and second instances are not collected within the time noted in Section 3.7, then the second or subsequent instance of a MISSED COLLECTION within a 12 month period from the first MISSED COLLECTION in that same 12 month period would be deemed an assessable "repeat missed collection."

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Examples assuming Contract Amendment Effective Date of February 1, 2019

<b><u>Scenario 1 - Missed Collection Date</u></b>	<b><u>Collected Consistent with Section 3.7</u></b>	<b><u>LD for failure to collect in accordance with Section 3.7</u></b>	<b><u>LD for repeated missed within 12 months</u></b>	<b><u>Comments for 12 month look back</u></b>
<b>February 2, 2019</b>	Yes	No	No - \$0	
<b>March 2, 2019</b>	Yes	No	No - \$0	Not eligible
<b>January 2, 2020</b>	Yes	No	Yes - \$300	Repeated missed collection
<b>March 3, 2020</b>	Yes	No	No - \$0	Not eligible
<b>January 1, 2021</b>	Yes	No	Yes - 300	3 <sup>rd</sup> instance after the 1 <sup>st</sup> missed on January 2, 2020

<b><u>Scenario 2 - Missed Collection Date</u></b>	<b><u>Collected Consistent with Section 3.7</u></b>	<b><u>LD for failure to collect in accordance with Section 3.7</u></b>	<b><u>LD for repeated missed within 12 months</u></b>	<b><u>Comments for 12 month look back</u></b>
<b>February 2, 2019</b>	No	Yes - \$100	No - \$0	
<b>March 2, 2019</b>	No	Yes - \$100	Yes - \$300	Did not meet the criteria for eligibility - Repeat
<b>January 2, 2020</b>	No	Yes - \$100	Yes - \$300	Repeated missed collection
<b>March 3, 2020</b>	No	Yes - \$100	Yes - \$300	Did not meet the criteria for eligibility - Repeat
<b>March 4, 2021</b>	No	Yes - \$100	No	1 <sup>st</sup> instance in 12 months

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<b><u>Scenario 3 - Missed Collection Date</u></b>	<b><u>Collected Consistent with Section 3.7</u></b>	<b><u>LD for failure to collect in accordance with Section 3.7</u></b>	<b><u>LD for repeated missed within 12 months</u></b>	<b><u>Comments for 12 month look back</u></b>
<b>February 2, 2019</b>	Yes	No - \$0	No - \$0	
<b>March 2, 2019</b>	No	Yes - \$100	Yes - \$300	Did not meet the criteria for eligibility - Repeat
<b>January 2, 2020</b>	Yes	No - \$0	Yes - \$300	Repeated missed collection
<b>March 3, 2020</b>	No	Yes - \$100	Yes - \$300	Did not meet the criteria for eligibility - Repeat
<b>March 4, 2021</b>	No	Yes - \$100	No	1 <sup>st</sup> instance in 12 months

**SECTION 5.10.4 IS HEREBY DELETED IN ENTIRETY AND REPLACED BY THE FOLLOWING:**

**5.10.4 CONTRACTOR RESPONSIBLE FOR DISPOSAL**

The CONTRACTOR shall track all materials that are collected, processed, and disposed throughout the term of the AGREEMENT including but not limited to enable measurement of diversion performance. The CONTRACTOR shall be responsible for monitoring the success of their Diversion Programs and the reduction of disposal tonnage throughout the term of the AGREEMENT.

Table 5-1 defines the timeline of monitoring, measuring, and adjustments to the Disposal Reduction Targets, necessary to determine the success of the Diversion Plan and the progress toward Diversion Targets.

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Table 5-1: Disposal Targets and Adjustment Schedule

Months From the Start Of Service Date or Date as indicated	Diversion Period	Plan	Action Taken
(January 1, 2019 – December 31, 2019)	Baseline Period		Determine Baseline Disposal to reflect the actual amount of material collected over January 1, 2019 – December 31, 2019.
48-60 (February 1, 2022 – January 31, 2023)	First Measure Disposal Disposal Targets	Actual against	Measure Disposal starting 48 months after the START OF SERVICE DATE and ending 60 months after the START OF SERVICE DATE. CONTRACTOR may submit additional information to adjust Baseline.
61 (February 1, 2023)	Liquidated Assessable	Damages	Liquidated Damages assessable for measurement period
72-84 (February 1, 2024 – January 31, 2025)	Second Measure Disposal Disposal Targets	Actual against	Measure disposal starting 72 months after the START OF SERVICE DATE and ending 84 months after the START OF SERVICE DATE. CONTRACTOR may submit additional information to adjust Baseline.
85 (February 1, 2025)	LIQUIDATED DAMAGES Assessable		LIQUIDATED DAMAGES assessable for measurement period
97 (February 1, 2026)	Determine Targets for Contract Renewal	Disposal Potential	Determine Disposal Targets for each Zone in the case of renewal of the AGREEMENT.

**SECTION 5.13 IS HEREBY ADDED TO THE AGREEMENT AS FOLLOWS:**

**5.13 OUTREACH AND EDUCATION DURING THE OPTIMIZATION PERIOD**

The CONTRACTOR shall conduct a commercial and multifamily, outreach and education campaign as specified in this Section 5.13. During the OPTIMIZATION PERIOD, the CONTRACTOR shall offer education to all CUSTOMERS on proper recycling to encourage the recycling or reuse of SOLID RESOURCES and to reduce contamination in the BLUE BINS. The CONTRACTOR shall:

- Contact by telephone, by email, and by site visit, and coordinate with CUSTOMERS who have more than 20% contamination in the BLUE BINS and are receiving notifications and warnings from CONTRACTOR regarding contamination levels in the CUSTOMER’S BLUE BINS as described in Section 3.5.1, to work with the CUSTOMER to promote recycling and reduce contamination levels and for CONTRACTOR to determine the optimal onsite delivery of education and training material.
- Provide education determined suitable by CONTRACTOR and CUSTOMER for the CUSTOMER, that may include:

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- Onsite training to any resident, tenant or employee at CUSTOMER'S election following at least five repeated, documented offers by the CONTRACTOR of onsite training;
- Recycling education materials provided to the CUSTOMER for distribution to any resident, tenant or employee at CUSTOMER'S election and following at least five repeated, documented offers by the CONTRACTOR for recycling education materials;
- Recycling signage;
- Any other educational training, program, or signage deemed acceptable upon the mutual agreement of CONTRACTOR and CUSTOMER.
- Document all contacts with the CUSTOMER. The documentation shall include all attempted communications, agreed upon outreach and education approach, onsite training (with date, time and number of attendees), and the type and number of outreach material distributed.
- CONTRACTOR shall maintain such documentation and make it available to the CITY PROJECT MANAGER upon request.

The CONTRACTOR shall remain responsible for the outreach and education as detailed in this AGREEMENT.

**SECTION 5.10.5 IS HEREBY DELETED IN ENTIRETY AND REPLACED BY THE FOLLOWING:**

**5.10.5 DISPOSAL TARGET LIQUIDATED DAMAGES**

Prior to the proposed assessment of LIQUIDATED DAMAGES, CONTRACTOR shall have the option to request in writing, and the CITY shall reasonably consider an adjustment in disposal baseline as described in Section 5.10.3. LIQUIDATED DAMAGES associated with actual disposal tonnage exceeding the adjusted Disposal Targets shall be assessed in 100 ton increments, beginning at 1,000 tons disposed above the disposal targets. For the first disposal reduction assessment period ending at 60 months following the START OF SERVICE only (January 31, 2023), the DISPOSAL TARGET percentage (as a percentage of annual disposal compared to adjusted baseline tonnage) for 2022 (as set forth in APPENDIX A) increased by ten percentage points or 65 percent, whichever is greater, shall be used to determine whether LIQUIDATED DAMAGES shall be assessed. Failure to meet the aforementioned Disposal Targets shall result in LIQUIDATED DAMAGES of \$50,000 for the first 1,000 tons, and \$5,000 for every 100 tons thereafter. For the second disposal reduction assessment period ending at 84 months following the START OF SERVICE (January 31, 2025), the DISPOSAL TARGET percentage (as a

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percentage of annual disposal compared to adjusted baseline tonnage) of 45 percent shall be used to determine whether LIQUIDATED DAMAGES shall be assessed. Failure to meet the aforementioned DISPOSAL TARGETS shall result in LIQUIDATED DAMAGES of \$25,000 for the first 1,000 tons, and \$2,500 for every 100 tons thereafter.

Each additional 100 tons shall be considered, with amounts less than 100 tons rounded down, i.e., 4,103 tons counted for 4,100 tons, 1,395 tons considered 1,300 tons, 2,255 tons considered 2,200 tons, etc. CONTRACTOR shall have the right to appeal per Section 11.2 of the AGREEMENT.

**SECTION 7.3.2 IS HEREBY DELETED IN ENTIRETY AND REPLACED BY THE FOLLOWING:**

**7.3.2 ADJUSTMENTS FOR BLUE BIN COSTS**

CONTRACTOR shall receive a BLUE BIN cost rate adjustment effective January 1, 2020, and January 1, 2021 in which the rates and fees shall increase by 0.25 percent, above the annual weighted price index adjustment.

The CITY maintains contracts to process BLUE BIN material it collects through its curbside collection operations. In the event the CITY's overall contract revenue averages less than \$0 per delivered ton for BLUE BIN material collected through its curbside collection operations, as measured in a CITY fiscal year, CONTRACTOR may request a rate increase during the next adjustment period following the end of CITY's fiscal year, effective January 1. The CITY shall provide CONTRACTOR with documentation of the aforementioned average contract revenue by no later than 90 days after CITY's fiscal year end.

- Notwithstanding the foregoing, the assessment of any further adjustment beyond the .25 percent rate increases referenced above may be requested by the CONTRACTOR after June 30, 2022. The effective date of any such applicable BLUE BIN cost adjustment shall not occur prior to January 1, 2023. The City Project Manager will evaluate the request for Blue Bin Cost adjustment.

**SECTION 7.3.3 IS HEREBY DELETED IN ENTIRETY AND REPLACED BY THE FOLLOWING:**

**7.3.3 ADJUSTMENTS FOR IMPLEMENTING ORGANICS COLLECTION**

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The CITY recognizes that developing and implementing an ORGANICS collection program presents unique challenges and increased cost to the CONTRACTOR. To compensate for the challenges and cost of preparing for and implementing the ORGANICS program, the CONTRACTOR shall be entitled to two (2) extra rate compensation adjustments in addition to the annual weighted price index adjustment in Section 7.3. Effective January 1, 2020, and January 1, 2021 the rates and fees shall increase by 3.5 percent, above the annual weighted price index: rate or fee  $\times (1 + ((\text{weighted index at Section 7.3}) + 0.035))$ .

**SECTION 7.3.4 IS HEREBY DELETED IN ENTIRETY AND REPLACED BY THE FOLLOWING:**

**7.3.4 RATES LOOK BACK**

Effective January 1, 2022, the CONTRACTOR shall receive rate adjustment of 3%, above the annual weighted price index: rate  $\times (1 + ((\text{weighted index at Section 7.3}) + 0.03))$ . This shall be in addition to any other applicable rate and fee adjustment allowed under this AGREEMENT. Every sixty (60) months thereafter, CONTRACTOR may request that the LASAN DIRECTOR review the basis for the existing rate structure and determine the need for a rate adjustment due to CONTRACTOR's overall cost of service under this AGREEMENT, not to exceed three (3) percent. This analysis will take into consideration any cost of service increase beyond those items and indices in Section 7.3. The CITY's approval will be subject to negotiation with all FRANCHISEES and the CONTRACTOR to ensure the continuation of a fair and reasonable maximum allowable rate.

**SECTION 7.4 IS HEREBY DELETED IN ENTIRETY AND REPLACED BY THE FOLLOWING:**

**7.4 EXTRA SERVICES**

The CITY has established the following list of EXTRA SERVICES, which the CONTRACTOR shall offer their CUSTOMERS at the accompanying rate. Any services not listed in Table 7-3 shall be provided at no extra cost to the CUSTOMER, unless there is prior written approval from the CITY PROJECT MANAGER. EXTRA SERVICES fees shall be increased annually in accordance with the formulas and adjustments specified in Section 7.3.

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Table 7-3: Extra Collection Services and Associated Fees

Extra Service	Condition Under Which Fee Applies	Total Fee (presented here as of CONTRACT EXECUTION)
<b>Locks</b>		
Gravity lock installation – per CONTAINER	CUSTOMER request – one-time fee per CONTAINER	\$100 for purchase and installation
Lock bar installation – per CONTAINER	CUSTOMER request – one-time fee per CONTAINER	\$100 for purchase and installation
Locks for CONTAINERS – per lock	CUSTOMER request – one-time fee per lock	\$10
Unlocking and locking CONTAINERS – per CONTAINER	CUSTOMER request – per CONTAINER per collection event	No charge
<b>Distance/ Access</b>		
Entering Secured Building, unlocking and locking gates (see Extra Collection Services and Associated Fees Clarifications Table 7-4 for applicability)	Per collection event	\$10
Distance / Access (see Extra Collection Services and Associated Fees Clarifications Table 7-5 for applicability)		See Table 7-5
Distance Charge, between 100-200 ft, as measured from the CUSTOMER'S property line to the BINS' permanent location	Site requirement per CONTAINER per collection event	\$25
Distance Charge, over 200 ft, as measured from the CUSTOMER'S property line to the BINS' permanent location	Site requirement per CONTAINER per collection event	\$35
Blocked Access – Requiring Return or Delay	Driver observation, document with picture and note uploaded to CONTRACTOR's and the CITY's CRM in REAL TIME and notify the CUSTOMER within two (2) hours	\$50
Blocked Access (Accessing Via Intercom or Security Office) – Requiring a Return.	If driver has to wait due to a CUSTOMER created delay in excess of 5 minutes (documented using GPS technology) and with a note uploaded into the CITY's CRM in REAL TIME	\$50
<b>Supplemental Cleaning</b>		
Cart Cleaning (after one free cleaning/year)	CUSTOMER request – Fixed Fee Per CONTAINER	\$15
CONTAINER Pressure Wash/Steam Cleaning (after one free cleaning/year)	CUSTOMER request – Fixed Fee Per CONTAINER	\$30
Graffiti Removal from CUSTOMER-owned CONTAINERS	Driver observation or by request for removing graffiti from the CUSTOMER-owned CONTAINERS	\$25
Graffiti Removal from CONTRACTOR-owned CONTAINERS	CUSTOMER request to removing graffiti from the CONTRACTOR-owned CONTAINERS in excess of three times per every 12 months, in accordance with Section 3.20.5.1.	\$25

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Extra Service	Condition Under Which Fee Applies	Total Fee (presented here as of CONTRACT EXECUTION)
COMPACTOR CONTAINER Pressure Washing/Steam Cleaning (after one free cleaning/year)	CUSTOMER request – Fixed Fee Per CONTAINER	\$150
ROLL OFF CONTAINER Pressure Washing/Steam Cleaning (after one free cleaning/year)	CUSTOMER request – Fixed Fee Per CONTAINER	\$150
<b>CONTAINER Replacement/Repair</b>		
Repair or Replacement of CUSTOMER Owned CONTAINER(S)	CUSTOMER request; Time and Materials Fee; CONTRACTOR may direct replacement for safety and/or operational reasons; CONTRACTOR shall submit a list of replacements and deliver it with the monthly written report. The list shall include a description of why the CONTAINER was replaced, including pictures detailing the necessity of replacement	\$60 per repair hour plus materials, no charge for pick-up and delivery
Repair or Replacement of CONTRACTOR Owned CONTAINER(S) – CUSTOMER Error	CUSTOMER request or CONTRACTOR decision, with documentation supporting that the CUSTOMER is responsible for the damage to the CONTAINER	\$60 per repair hour plus materials, no charge for pick-up and delivery
Repair or Replacement of CONTRACTOR Owned CONTAINER(S) – Normal Wear and Tear or CUSTOMER Error	CUSTOMER request or CONTRACTOR decision	No charge
Changing CONTAINERS for an Increase or Decrease in Level of Service	CONTRACTOR shall submit a written list of replacements and deliver it with the monthly report. The list shall include a description of the service level change.	No charge
<b>Overflow of Materials and Contamination</b>		
Overfill Charge	Driver observation, document with picture and note uploaded to the CITY's CRM in REAL TIME, notify CUSTOMER within 2 hours, and otherwise follow the conditions and procedures described in Section 3.5	\$25 per occurrence
Overweight Charge	Driver observation, document with picture and note uploaded to the CITY's CRM in REAL TIME, notify CUSTOMER within 2 hours, and otherwise follow the conditions and procedures described in Section 3.5	\$100 per occurrence
Contamination Fee	Observation and Documentation, following the procedures described in Section 3.5	\$50 per occurrence
Hazardous, Radioactive, or Biomedical Waste Contamination Charge	Driver observation, document with picture and note uploaded to the CITY's CRM in REAL TIME, and notify CUSTOMER within 2 hours	\$100 per occurrence
<b>Other Fees</b>		
Collection of Bulky Waste from COMMERCIAL ESTABLISHMENT not subject to CITY Multifamily Bulky Item Fee – Per Item	CUSTOMER request – Fixed Fee Per Item	\$30
Idle Time Charge	If driver has to wait due to a CUSTOMER created delay in excess of 15 minutes (documented using GPS technology) and with a note uploaded into the CITY's CRM in REAL TIME	\$15 per every 15 minutes

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Extra Service	Condition Under Which Fee Applies	Total Fee (presented here as of CONTRACT EXECUTION)
Idle Time Charge – Accessing Via Intercom or Security Office	If driver has to wait due to a CUSTOMER created delay in excess of 5 minutes (documented using GPS technology) and with a note uploaded into the CITY's CRM in REAL TIME	\$15 per every 5 minutes
Sunday Service	CUSTOMER Request	50% over Monday-Saturday Service
<b>Administrative Fees</b>		
Return Payment Fee	CUSTOMER remits payment using check rejected due to insufficient funds or remits payment using a credit card or electronic payment that is declined	\$25
Late Payment Fee (>30 days overdue)	CUSTOMER inaction	\$5 or 1.5% of the debt/month, whichever is greater
CONTAINER Removal Fee	CONTAINER is removed from service location due to CUSTOMER non-payment	\$5 per CONTAINER
Re-instatement of Account Fee	CUSTOMER request – Fixed Fee	\$70 per account
CONTAINER Delivery	Delivery fee for each CONTAINER brought to the CUSTOMER as part of the reinstatement	\$25 per CONTAINER
Compactors Less than 8 cubic yards	Additional compensation, above the Base Rate, for the collection of compactors less than 8 cubic yards in size.	\$8.00 per cubic yard of collection

Table 7-4: Extra Collection Services and Associated Fees Clarifications.

Entering Secured Building, unlocking and locking gates	Chargeable to CUSTOMER			
	BLACK BIN	BLUE BIN*	GREEN BIN	BROWN BIN
1. Opening a locked or closed gate by use of a remote, clicker or other electronic device.	Yes	No	Yes	Yes
2a. Accessing locked or secured premises that have been unlocked by the CUSTOMER regardless of whether a gate is present so long as the CONTRACTOR'S vehicle has unimpeded access to the premises.	No	No	No	No
2b. Accessing an unlocked gate that is partially closed and the CONTRACTOR'S collection vehicle cannot enter the property without having to exit the vehicle to address the gate or secured premises to provide for vehicle access	Yes	No	Yes	Yes
3. Accessing a locked gate when manual push out (no scout service) is required.	Yes	No	Yes	Yes
4. Accessing via intercom a security office that does not require the driver to leave his or her vehicle.	No	No	No	No

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Table 7-5: Extra Collection Services and Associated Fees Clarifications.

Distance/Access	Chargeable to CUSTOMER			
	BLACK BIN	BLUE BIN*	GREEN BIN	BROWN BIN
1. Distance charges on BLUE BINS/blue CONTAINERS.	N/A	No	N/A	N/A
2. Properties at which the collection vehicle does drive within 100 feet of the container.	Yes	No	Yes	Yes

\* The charges for Blue Bin Distance/Access as set forth in Tables 7-4 and Tables 7-5 will not be chargeable to CUSTOMERS, unless the CITY discontinues the Removing Barriers to Recycling Program, in which case these Access and Distance Extra Service Charges on Blue Bin collection will be reinstated to CUSTOMERS.

**SECTION 7.5 IS HEREBY DELETED IN ENTIRETY AND REPLACED BY THE FOLLOWING:**

**7.5 RECYCLING NOT PROVIDED (RNP)**

The intent of the source separated BLUE and GREEN BIN program is to ensure the CITY's and state's goals of landfill diversion are met. The minimum service level (weekly service volume and collection frequency) ratio is that the BLUE BIN and GREEN BIN service shall be at least fifty percent (50%) by volume of BLACK BIN service measured by cubic yards on a per FRANCHISE ZONE basis. Failure to provide the minimum level of BLUE and GREEN BIN service will result in monthly RNP LIQUIDATED DAMAGES in accordance with Section 11.1.

Service level ratios shall be calculated on the last day of the month on a FRANCHISE ZONE basis. Monthly service levels shall be calculated based on the level of service in a FRANCHISE ZONE for all CUSTOMERS based on bin size, number and frequency. The basis for determining monthly service shall be the CUSTOMER service level data provided to the CITY. If the CONTRACTOR'S monthly combined service level zone-wide of the BLUE BIN and GREEN BIN, falls below the minimum ratio of 50% compared to BLACK BIN service, measured monthly, the CONTRACTOR shall remit quarterly to the CITY LIQUIDATED DAMAGES in accordance with Section 11.1. The CONTRACTOR will not accrue, owe, or remit and the CITY shall not assess, charge, or calculate RNP LIQUIDATED DAMAGES prior to January 31, 2021. CONTRACTOR may present evidence for exceptions and the CITY PROJECT MANAGER may consider exceptions to the

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volume requirements for specific CUSTOMERS, but BLUE BIN service must be provided. CONTRACTOR has the right to appeal the LIQUIDATED DAMAGES per Section 11.2 of this AGREEMENT.

Example of application of RNP:

For example, if for a month there were 9,000 monthly cubic yards of BLUE BINS collected, 1,000 cubic yards of GREEN BINS and 30,000 cubic yards of BLACK BINS collected, RNP LIQUIDATED DAMAGES would apply. The minimum monthly collection of BLUE BINS and GREEN BINS is 15,000 cubic yards (50% of 30,000). The CONTRACTOR achieved a ratio of 33.33%  $((9,000CY+1,000CY)/30,000CY)$ . In accordance with Table 11-1 the associated liquidated damage is \$14,000 for this month.

The CONTRACTOR shall remit quarterly the monthly LIQUIDATED DAMAGES associated with the RNP, and payment shall be paid to the CITY and is due on or before thirty (30) days following the end of each calendar quarter in which the combined BLUE BIN and GREEN BIN services were not provided as set forth in this Section, with the quarterly fee payment schedule. This remittance shall be accompanied by a RNP form as designated by the CITY. Failure to pay any fees in accordance with this AGREEMENT shall be subject to LIQUIDATED DAMAGES as listed in Table 11-1.

**SECTION 7.8 IS HEREBY ADDED TO THE AGREEMENT AS FOLLOWS:**

**7.8 REMOVING BARRIERS TO RECYCLING PROGRAM**

The CITY and CONTRACTOR agree to jointly fund a program designed to encourage recycling by CUSTOMERS as more specifically set forth in the Settlement Agreement between the CITY and CONTRACTOR. In order to further encourage recycling, the CONTRACTOR shall not bill ACCESS AND DISTANCE EXTRA SERVICE CHARGES to all CUSTOMERS related to BLUE BINS (recycling), effective February 1, 2018. The CONTRACTOR thus agrees to waive ACCESS AND DISTANCE EXTRA SERVICE CHARGES associated with BLUE BIN collection, as specified so long as the CITY continues this Removing Barriers to Recycling Program. The baseline CITY contribution, for calendar year 2018, to fund this program is \$75,206. If CITY terminates the Removing Barriers to Recycling Program prior to the end of the CONTRACT term, CONTRACTOR shall bill CUSTOMERS for Extra Services for the ACCESS AND DISTANCE EXTRA SERVICE CHARGES as set forth in Tables 7-3, 7-4, and 7-5, and pursuant to the asterisk thereto.

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**TABLE 11-1 IS HEREBY DELETED IN ENTIRETY AND REPLACED BY THE FOLLOWING:**

Table 11-1: Performance Standards and LIQUIDATED DAMAGES

<b>Category</b>	<b>Performance Standard and Conditions When LIQUIDATED DAMAGES Will Apply</b>	<b>Administrative Assessment</b>
Implementation of FRANCHISE SYSTEM	Failure to use reasonable business efforts to service an Abandoned Account, as stipulated in Section 5	\$100 per day (including during the TRANSITION PERIOD)
	CONTRACTOR abandoning an account, or implementing FRANCHISE service rates prior to CONTRACTOR NOTIFICATION	\$5,000 per verified occurrence (including during the TRANSITION PERIOD)
Provision of Services to CUSTOMERS	Failure to remove graffiti in accordance with Section 3.20.5.1 (Graffiti)	\$100 per occurrence**
	Failure to deliver CONTAINER(S) to a CUSTOMER within five (5) business days of the CUSTOMER'S request for service	\$200 per occurrence**
	Failure to repair or replace any bin, cart, CONTAINER, ROLL OFF, or COMPACTOR (any CONTAINER), in accordance with Section 3.20.5(Container maintenance) within two (2) business days of CUSTOMER report, considering availability of parts or equipment	\$100 per occurrence**
Provision of Services to CUSTOMERS (continued)	Failure to collect a MISSED COLLECTION in accordance with Section 3.7 , where not arising from or caused by a labor dispute.	\$100 per occurrence; \$200 for each day thereafter
	Repeat MISSED COLLECTIONS at same CUSTOMER within twelve (12) months of previous missed collection as set forth in Section 3.7.1	\$300 per occurrence**
	Failure to notify a CUSTOMER of improper CONTAINER set out, obstruction, or other causes for inability to provide a scheduled collection service within 2 hours	\$100 per occurrence**
	Use of profanity or hate speech by CONTRACTOR staff to CUSTOMERS	\$300 per occurrence, subject to Section 11.3 below.**
	Failure to answer 95 percent of all CUSTOMER calls received each month during normal business hours in less than 60 seconds (computed as a monthly average)	\$5,000 per month occurred
	Failure to provide service under this AGREEMENT due to Labor Disputes	The pro rata percentage of CITY estimated daily GROSS RECEIPTS under this AGREEMENT per day of service interruption, based on the number of CUSTOMERS not serviced, by either the CONTRACTOR, its contingency team or the CITY, compared with the total number of CUSTOMERS normally serviced.
	CONTRACTOR Operations	Collect, remove or transport SOLID RESOURCES from any CITY serviced CUSTOMERS
Collect, remove or transport SOLID RESOURCES from any other FRANCHISE hauler serviced CUSTOMERS		\$500 per verified occurrence, subject to Section 11.3 below.
Undertake collection operations outside of allowable hours of collection		\$300 per verified complaint

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Category	Performance Standard and Conditions When LIQUIDATED DAMAGES Will Apply	Administrative Assessment
	Make changes to routes or route days affecting 5 percent or more of the CONTRACTOR'S CUSTOMERS without at least 7 business days' notice to CUSTOMERS	\$100 per CUSTOMER per day, subject to Section 11.3 below.
	Failure to properly cover material in collection or hauling vehicles	\$300 per occurrence
	Failure to correct, upon notification by the CITY, leakage of fluids from a collection or hauling vehicle prior to resuming use of the vehicle in the CITY	\$100 per occurrence
	Failure to clean up spillage or litter occurring during collection at time of collection	\$100 per occurrence
	Failure to have a vehicle properly licensed, registered and inspected	\$100 per vehicle
	Exceeding vehicle weight limits as set forth in the State of California Vehicle Code	\$1,000 per vehicle per occurrence, subject to Section 11.3 below.
	Failure to clean collection and hauling vehicles once per week, or within 1 business day of request from the CITY	\$100 per occurrence
	Failure to report known vehicle accidents to the CITY, in accordance with 3.17.2.	\$100 per day not notified
	Failure to maintain property, facilities and equipment in a clean, safe and sanitary manner, as determined by the CITY	\$100 per day, subject to Section 11.3 below.
	Failure to provide a minimum ratio of 50% of BLUE and GREEN Bin Service to BLACK BIN Service in accordance with 7.5	\$875 per every 1% below 50% but greater than 30%, per month; or \$70,000 for ratio of less than 30%, per month, as applicable
Segregation and Delivery of Collection Materials	Commingling of SOLID WASTE, COMMINGLED RECYCLABLES and/or ORGANICS material segregated by the CUSTOMER in the same truck	\$1,000 per occurrence
	Failure to deliver collected SOLID RESOURCES to a CITY CERTIFIED FACILITY	\$1,000 per occurrence
CONTRACTOR Personnel and Property	Failure to have a properly licensed vehicle driver operating a vehicle	\$300 per occurrence per day
	Failure to provide any required training for vehicle operators, including safety training and training related to the operation of equipment, as required by Federal and State laws	\$1,000 per occurrence
	Failure to repair damage to a CUSTOMER'S property or other private property, caused by or resulting from the actions of the CONTRACTOR'S personnel in accordance with 3.10	\$500 per occurrence, subject to Section 11.3 below.
Diversion Requirements	Failure to meet Disposal Reduction requirements per Article 5	See Section 5.10.5
Payment and Reporting Requirements	Failure to remit fees to the CITY in accordance with Section 7 (Rates and Fees)	\$5,000 per occurrence in addition to delinquent Franchise Fees subject to Section 7.6.
	Failure to submit reports to the CITY on time	\$50 per day per report.
	Willful submission to the CITY of inaccurate reports or data, including but not limited to diversion reports and data, service level information and financial information	\$10,000 per occurrence

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\*\*Assessable only after AMENDMENT EFFECTIVE DATE; the CITY shall not assess CONTRACTOR for occurrences that occurred prior to the AMENDMENT EFFECTIVE DATE.

**ARTICLE 37 IS HEREBY DELETED IN ITS ENTIRETY AND REPLACED BY THE FOLLOWING:**

**ARTICLE 37: MANDATORY PROVISIONS PERTAINING TO NON-DISCRIMINATION IN EMPLOYMENT**

Unless otherwise exempt, this CONTRACT is subject to the applicable non-discrimination, equal benefits, equal employment practices, and affirmative action program provisions in LAAC Section 10.8 et seq., as amended from time to time.

- A. CONTRACTOR shall comply with the applicable non-discrimination and affirmative action provisions of the laws of the United States of America, the State of California, and CITY. In performing this CONTRACT, CONTRACTOR shall not discriminate in any of its hiring or employment practices against any employee or applicant for employment because of such person's race, color, religion, national origin, ancestry, sex, sexual orientation, gender, gender identity, age, disability, domestic partner status, marital status or medical condition.
- B. The requirements of Section 10.8.2.1 of the LAAC, the Equal Benefits Ordinance, and the provisions of Section 10.8.2.1(f) are incorporated and made a part of this CONTRACT by reference.
- C. The provisions of Section 10.8.3 of the LAAC are incorporated and made a part of this CONTRACT by reference and will be known as the "Equal Employment Practices" provisions of this CONTRACT.
- D. The provisions of Section 10.8.4 of the LAAC are incorporated and made a part of this CONTRACT by reference and will be known as the "Affirmative Action Program" provisions of this CONTRACT.

Any subcontract entered into by CONTRACTOR for work to be performed under this CONTRACT must include an identical provision.

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**ARTICLE 38 IS HEREBY DELETED IN ITS ENTIRETY**

**ARTICLE 39 IS HEREBY DELETED IN ITS ENTIRETY**

**ARTICLE 45 IS HEREBY DELETED IN ITS ENTIRETY**

**ARTICLE 41 IS HEREBY DELETED IN ITS ENTIRETY AND REPLACED BY THE FOLLOWING:**

**ARTICLE 41: WORKER RETENTION ORDINANCE**

CONTRACTOR shall comply with the Worker Retention Ordinance, LAAC Section 10.36 *et seq.*, as amended from time to time. Any subcontract entered into by CONTRACTOR for work to be performed under this CONTRACT must include an identical provision.

**ARTICLE 42 IS HEREBY DELETED IN ITS ENTIRETY AND REPLACED BY THE FOLLOWING:**

**ARTICLE 42: AMERICANS WITH DISABILITIES ACT**

CONTRACTOR represents and certifies that:

- A. CONTRACTOR shall comply with the Americans with Disabilities Act, as amended, 42 U.S.C. Section 12101 *et seq.*, the Rehabilitation Act of 1973, as amended, 29 U.S.C. Section 701 *et seq.*, the Fair Housing Act, and its implementing regulations and any subsequent amendments, and California Government Code Section 11135;
- B. CONTRACTOR shall not discriminate on the basis of disability or on the basis of a person's relationship to, or association with, a person who has a disability;
- C. CONTRACTOR shall provide reasonable accommodation upon request to ensure equal access to CITY-funded programs, services and activities;
- D. Construction will be performed in accordance with the Uniform Federal Accessibility Standards (UFAS), 24 C.F.R. Part 40; and
- E. The buildings and facilities used to provide services under this Contract are in compliance with the federal and state standards for accessibility as set forth in

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the 2010 ADA Standards, California Title 24, Chapter 11, or other applicable federal and state law.

CONTRACTOR understands that the CITY is relying upon these certifications and representations as a condition to funding this Contract. Any subcontract entered into by CONTRACTOR for work to be performed under this Contract must include an identical provision.

**ARTICLE 50 IS HEREBY DELETED IN ITS ENTIRETY AND REPLACED BY THE FOLLOWING:**

**ARTICLE 50: RESTRICTIONS ON CAMPAIGN CONTRIBUTIONS AND FUNDRAISING IN CITY ELECTIONS**

Unless otherwise exempt, if this CONTRACT is valued at \$100,000 or more and requires approval by an elected CITY office, CONTRACTOR, CONTRACTOR'S principals, and CONTRACTOR'S SUBCONTRACTORS expected to receive at least \$100,000 for performance under the CONTRACT, and the principals of those SUBCONTRACTORS (the "Restricted Persons") shall comply with Charter Section 470(c)(12) and LAMC Section 49.7.35. Failure to comply entitles CITY to terminate this CONTRACT and to pursue all available legal remedies. Charter Section 470(c)(12) and LAMC Section 49.7.35 limit the ability of the Restricted Persons to make campaign contributions to and engage in fundraising for certain elected CITY officials or candidates for elected CITY office for twelve months after this CONTRACT is signed. Additionally, a CONTRACTOR subject to Charter Section 470(c)(12) is required to comply with disclosure requirements by submitting a completed and signed Ethics Commission Form 55 and to amend the information in that form as specified by law. Any Contractor subject to Charter Section 470(c)(12) shall include the following notice in any contract with any Subcontractor expected to receive at least \$100,000 for performance under this CONTRACT:

"Notice Regarding Restrictions on Campaign Contributions and Fundraising in City Elections

You are a subcontractor on City of Los Angeles Contract C-128875. Pursuant to the City of Los Angeles Charter Section 470(c) (12) and related ordinances, you and your principals are prohibited from making campaign contributions to and fundraising for certain elected City of Los Angeles ("CITY") officials and candidates for elected CITY office for twelve months after the CITY contract is signed. You are required to provide the names and contact information of your principals to the CONTRACTOR and to amend that information within ten business days if it changes during the twelve month

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time period. Failure to comply may result in termination of this Contract and any other available legal remedies. Information about the restrictions may be found online at [ethics.lacity.org](http://ethics.lacity.org) or by calling the Los Angeles City Ethics Commission at (213) 978-1960.”

**ARTICLE 52 IS HEREBY ADDED TO THE AGREEMENT AS FOLLOWS:**

**ARTICLE 52: LIMITATION OF CITY’S OBLIGATION TO MAKE PAYMENT TO CONTRACTOR**

Notwithstanding any other provision of this CONTRACT, including any exhibits or attachments incorporated therein, and in order for CITY to comply with its governing legal requirements, CITY shall have no obligation to make any payments to CONTRACTOR unless CITY shall have first made an appropriation of funds equal to or in excess of its obligation to make any payments as provided in this CONTRACT. CONTRACTOR agrees that any services provided by CONTRACTOR, purchases made by CONTRACTOR or expenses incurred by CONTRACTOR in excess of the appropriation(s) shall be free and without charge to CITY and CITY shall have no obligation to pay for the services, purchases or expenses. CONTRACTOR shall have no obligation to provide any services, provide any equipment or incur any expenses in excess of the appropriated amount(s) until CITY appropriates additional funds for this CONTRACT.

**ARTICLE 53 IS HEREBY ADDED TO THE AGREEMENT AS FOLLOWS:**

**ARTICLE 53: CONTRACTORS’ USE OF CRIMINAL HISTORY FOR CONSIDERATION OF EMPLOYMENT APPLICATIONS**

CONTRACTOR shall comply with the City Contractors’ Use of Criminal History for Consideration of Employment Applications Ordinance, LAAC Section 10.48 *et seq.*, as amended from time to time. Any subcontract entered into by CONTRACTOR for work to be performed under this CONTRACT must include an identical provision.

**ARTICLE 54 IS HEREBY ADDED TO THE AGREEMENT AS FOLLOWS:**

**ARTICLE 54: DISCLOSURE OF BORDER WALL CONTRACTING ORDINANCE**

CONTRACTOR shall comply with Los Angeles Administrative Code Section 10.50 *et seq.*, ‘Disclosure of Border Wall Contracting.’ The CITY may terminate this CONTRACT at any time if the CITY determines that the CONTRACTOR failed to fully and accurately complete the required affidavit and disclose all Border Wall Bids and Border Wall Contracts, as defined in LAAC Section 10.50.1.

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IN WITNESS WHEREOF, the parties hereto have executed this AGREEMENT on the day and year written below.

**CITY OF LOS ANGELES**

**CALMET SERVICES, INC.**

By: \_\_\_\_\_

By: \_\_\_\_\_

Title: Commissioner, Board of Public Works

Title: \_\_\_\_\_

Date: \_\_\_\_\_

Date: \_\_\_\_\_

By: \_\_\_\_\_

Title: Commissioner, Board of Public Works

Date: \_\_\_\_\_

**APPROVED AS TO FORM**

**MICHAEL N. FEUER, City Attorney**

By: \_\_\_\_\_

Adena Hopenstand

Title: Deputy City Attorney

Date: \_\_\_\_\_

**ATTEST:**

**HOLLY WOLCOTT, City Clerk**

By: \_\_\_\_\_

Title: Deputy City Clerk

Date: \_\_\_\_\_

