

CONTRACT NO. C-128878-1

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

**FIRST AMENDMENT TO
PERSONAL SERVICES CONTRACT C-128878-1**

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-128878-1**

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.

**FIRST AMENDMENT TO
PERSONAL SERVICES CONTRACT C-128878-1**

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.

1st 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 2nd 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.

2nd Instance

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

**FIRST AMENDMENT TO
PERSONAL SERVICES CONTRACT C-128878-1**

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 3rd 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.

3rd 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

**FIRST AMENDMENT TO
PERSONAL SERVICES CONTRACT C-128878-1**

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 4th 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.

4th 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

**FIRST AMENDMENT TO
PERSONAL SERVICES CONTRACT C-128878-1**

- 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."

**FIRST AMENDMENT TO
PERSONAL SERVICES CONTRACT C-128878-1**

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>
February 2, 2019	Yes	No	No - \$0	
March 2, 2019	Yes	No	No - \$0	Not eligible
January 2, 2020	Yes	No	Yes - \$300	Repeated missed collection
March 3, 2020	Yes	No	No - \$0	Not eligible
January 1, 2021	Yes	No	Yes - \$300	3 rd instance after the 1 st 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>
February 2, 2019	No	Yes - \$100	No - \$0	
March 2, 2019	No	Yes - \$100	Yes - \$300	Did not meet the criteria for eligibility - Repeat
January 2, 2020	No	Yes - \$100	Yes - \$300	Repeated missed collection
March 3, 2020	No	Yes - \$100	Yes - \$300	Did not meet the criteria for eligibility - Repeat
March 4, 2021	No	Yes - \$100	No	1 st instance in 12 months

**FIRST AMENDMENT TO
PERSONAL SERVICES CONTRACT C-128878-1**

<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>
February 2, 2019	Yes	No - \$0	No - \$0	
March 2, 2019	No	Yes - \$100	Yes - \$300	Did not meet the criteria for eligibility - Repeat
January 2, 2020	Yes	No - \$0	Yes - \$300	Repeated missed collection
March 3, 2020	No	Yes - \$100	Yes - \$300	Did not meet the criteria for eligibility - Repeat
March 4, 2021	No	Yes - \$100	No	1st 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.

FIRST AMENDMENT TO PERSONAL SERVICES CONTRACT C-128878-1

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:

**FIRST AMENDMENT TO
PERSONAL SERVICES CONTRACT C-128878-1**

- 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

**FIRST AMENDMENT TO
PERSONAL SERVICES CONTRACT C-128878-1**

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

**FIRST AMENDMENT TO
PERSONAL SERVICES CONTRACT C-128878-1**

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: $\text{rate or fee} \times (1 + ((\text{weighted index at Section 7.3}) + 0.035))$.

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: $\text{rate} \times (1 + ((\text{weighted index at Section 7.3}) + 0.03))$. 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.

FIRST AMENDMENT TO PERSONAL SERVICES CONTRACT C-128878-1

Table 7-3: Extra Collection Services and Associated Fees

Extra Service	Condition Under Which Fee Applies	Total Fee (presented here as of CONTRACT EXECUTION)
Locks		
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
Distance/ Access		
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
Supplemental Cleaning		
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-128878-1

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
CONTAINER Replacement/Repair		
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
Overflow of Materials and Contamination		
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
Other Fees		
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-128878-1

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
Administrative Fees		
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			
Scenario	BLACK BIN	BLUE BIN*	GREEN BIN	BROWN BIN
1. Opening a locked or closed gate by use of a remote, dicker 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

**FIRST AMENDMENT TO
PERSONAL SERVICES CONTRACT C-128878-1**

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-128878-1**

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% $((9,000\text{CY}+1,000\text{CY})/30,000\text{CY})$. 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.

**FIRST AMENDMENT TO
PERSONAL SERVICES CONTRACT C-128878-1**

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	\$500 per verified occurrence
	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-128878-1

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-128878-1**

****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-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

**FIRST AMENDMENT TO
PERSONAL SERVICES CONTRACT C-128878-1**

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-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 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: _____

Title: Commissioner, Board of Public Works

Date: 3-1-19

By: _____

Title: Larry Metter
President, So California Area

Date: 2/22/19

By: Michael D. Davis

Title: Commissioner, Board of Public Works

Date: 3/1/19

APPROVED AS TO FORM

MICHAEL N. FEUER, City Attorney

By: Adena Hopenstand

Adena Hopenstand

Title: Deputy City Attorney

Date: 2/28/19

ATTEST:

HOLLY WOLCOTT, City Clerk

By: Carol Peters

Title: Deputy City Clerk

Date: 3-1-19



