

SECOND AMENDMENT TO A SEMI-EXCLUSIVE AGREEMENT BETWEEN THE CITY OF COMMERCE AND (HAULER NAME) FOR COMMERCIAL REFUSE AND RECYCLING SERVICES

The Second Amendment to the Commercial Refuse and Recycling Services Agreement (hereinafter "Second Amendment") is made and entered into as the 28th day of October, 2025 ("Effective Date"), by and between the City of Commerce, a public body of the State of California ("City"), and HAULER NAME, a California (or OTHER) corporation in good standing ("Contractor").

WITNESSETH

This Second Amendment is made with reference to the following facts:

- A. As of the 1st day of November 2018, the parties hereto approved a certain semi-exclusive "Agreement for Commercial Refuse and Recycling Collection and Disposal Services" between the City of Commerce and HAULER NAME (hereinafter "Master Agreement" or "Agreement"), ending October 31, 2023.
- B. As of the 1st day of November 2023, the parties hereto approved a certain First Amendment to the Master Agreement, ending October 31, 2025.
- C. The parties hereto mutually desire to enter into a Second Amendment to the Master Agreement in the manner hereinafter set forth.

NOW, THEREFORE, in consideration of the mutual promises, conditions and covenants herein contained, the parties hereto agree as follows:

1. Term of Agreement:

Pursuant to **Section 3 ("Term")** of the Master Agreement, under **subsection 3.1**, the expiration date shall be amended as follows:

"The parties hereto agree to exercise the second of its two-year options to extend the term of the agreement from the current expiration date of October 31, 2025, to the new expiration date of October 31, 2027."

2. Senate Bill 1383 – "Short Lived Climate Pollutants" (hereinafter "SB 1383"):

Pursuant to **Section 23 ("Modifications to the Agreement")** of the Master Agreement, for the purposes of compliance with State law, citations to SB 1383 shall be incorporated into certain sections of the Master Agreement, as set forth below:

Section 4. "Compliance with Laws and Regulations" is amended, in its entirety, to read as follows:

"Contractor warrants that it will comply with all applicable laws and regulations, as they, from time to time, may be amended, specifically including, but not limited to, RCRA, CERCLA, AB 939, AB 341, AB 1594, AB 1826, [SB 1383], Article V, Ch. 1 of the Municipal Code, and all other applicable laws and regulations of the State of California, ordinances of the City, and requirements of Local Enforcement Agencies and all other agencies with jurisdiction."

Section 14. “Diversion Requirements and Guarantee”:

Subsection 14.1 “Minimum Diversion Requirements”, paragraph 1 is amended to read as follows:

“Beginning the effective date of Agreement and each fiscal year beginning July 1st thereafter throughout the term of this Agreement, Contractor shall implement California State-mandated Commercial Recyclable Materials and Organic Waste diversion programs that achieve the goals set forth by applicable laws including, without limitation, amounts of Solid Waste to be diverted, time frames for diversion, and any other requirements governing this Agreement (including AB 939, AB 341, AB 1594, AB 1826, [SB 1383], and all amendments and related subsequent legislation).”

Subsection 14.2 “Guarantee and Indemnification”, paragraph 1 is amended to read as follows:

“Contractor warrants and guarantees that it will carry out its obligations under this Agreement in a manner consistent with applicable laws, including specifically, AB 939, AB 341, AB 1594, AB 1826, and [SB 1383], and Contractor’s actions will provide for the City to meet the State-mandatory requirements (including, without limitation, amounts of Solid Waste to be diverted, time frames for diversion, and any other requirements) set forth in applicable laws, including AB 939, AB 341, AB 1594, AB 1826, and [SB 1383], and all amendments thereto. In this regard, Contractor agrees that, in addition to any other requirement contained herein, at its sole cost and expense, it will do the following:”...

Subsection 14.2 “Guarantee and Indemnification”, subparagraphs a. and f., respectively, are amended to read as follows:

“a. To the extent legally permitted, defend, with counsel approved by City, indemnify, and hold harmless City and City’s officials, employees, and agents from and against all fines and/or penalties and other liabilities which may be imposed by CalRecycle or any other regulatory or enforcement agency, if: (1) Contractor fails or refuses to timely provide information relating to its operations which is required pursuant to this Agreement or the applicable laws and such failure or refusal prevents or delays City from submitting reports required by the applicable laws, including AB 939, AB 341, AB 1594, AB 1826, and [SB 1383], in a timely manner.”

“f. Be responsible for and pay any fees, penalties or other costs imposed against the City by CalRecycle or any other regulatory or enforcement agency, and indemnify and hold harmless City from and against any fines, penalties, or other liabilities, levied against it for violation of the diversion requirements set forth in the applicable laws for services provided by Contractor under the terms of this Agreement, including AB 939, AB 341, AB 1594, AB 1826, and [SB 1383], or for violation of any other provision of the applicable laws, including AB 939, AB 341, AB 1594, AB 1826, and [SB 1383], arising from or in any way related to Contractor’s performance of its obligations under this Agreement.”

3. Franchise Fee:

Pursuant to **Section 23 (“Modifications to the Agreement”)** of the Master Agreement, the Franchise Fee payable to the City as consideration for the grant of the Semi-Exclusive Franchise shall be amended as follows:

Section 13. (“Rates and Billing”), subsection 13.2 (“Semi-Exclusive Franchise Fee”), paragraph 1 is hereby deleted in its entirety and replaced with the following:

“Effective January 1, 2026, Contractor shall pay City an amount equal to twenty percent (20%) of Contractor’s Gross Revenues on a quarterly basis as a Semi-Exclusive Franchise Fee.”

4. Reporting:

Pursuant to **Section 23 (“Modifications to the Agreement”)** of the Master Agreement, the reporting standards essential to the City’s compliance under California Code of Regulations, Title 14, Division 7, Chapter 12, Articles 13 and 14 (“Reporting and Enforcement Requirements”), respectively, are amended as follows:

Section 16. (“Reports and Information”) is hereby deleted in its entirety and replaced with the following:

“Section 16. Reports and Information

Contractor shall record, preserve, and report all information pertaining to the services provided hereunder, including detailed waste diversion and disposal data, in a manner approved by the City, to ensure its compliance with the reporting and record keeping obligations enumerated under 14 CCR § 18994.1 et seq., and 14 CCR § 18995.2, respectively, and to satisfy all other reporting requirements imposed by CalRecycle or State law. Such information shall be formatted in accordance with the City’s specifications.

Contractor, at no additional expense, shall submit to City, on a quarterly and/or annual basis, all data and information specified in Exhibit A, incorporated herein by reference, which may be modified by the City from time to time to maintain parity with applicable law, pursuant to the following terms and conditions:

16.1 Costs. All reports and records required under this Agreement shall be furnished at the sole expense of the Contractor.

16.2 Submission of Reports. Reports shall be submitted in accordance with Exhibit A.

16.3 City’s Right to Request Additional Information. City reserves the right to request, and Contractor agrees to provide, additional information reasonably and directly pertaining to the Master Agreement, on an “as-needed” basis; or, City may request that the information and data contained in the quarterly reports be submitted monthly.

16.4 CERCLA Defense Records. City views the ability to defend against CERCLA and related litigation as a matter of great importance. For this reason, the City regards the ability to prove where Commercial Solid Waste collected in the City of Commerce was taken for disposal, as well as where it was not taken, to be matters of concern. Contractor shall maintain data retention and preservation systems which can establish where such waste collected in the City was landfilled and a copy or summary of the reports required herein for five (5) years after the term of the Agreement or to provide copies of such records to City. Contractor agrees to notify the City Clerk and City Attorney before destroying such records. This provision shall survive the expiration of the period during which Collection Services are to be provided under this Agreement.

16.5 Legal Notices from Regulatory Agencies. Contractor shall provide City an electronic copy to the City Manager and the City Attorney of all reports, pleadings, applications, notifications, Notices of Violation, communications or other material relating specifically to Contractor's performance of services pursuant to this Agreement, submitted by Contractor to, or received by Contractor from, the United States or California Environmental Protection Agency, CalRecycle, the Securities and Exchange Commission or any other federal, State or local agency, including any federal or State court. Copies shall be submitted to City simultaneously with Contractor's filing or submission of such matters with said agencies; non-binding correspondence to or from said agencies need not be submitted to City, but shall be made available promptly upon City's written request.

16.6 Right to Inspect Records. City reserves the right to inspect or review the specific documents or records required expressly or by inference pursuant to this Agreement, or any other similar records or reports of Contractor or its related party entities that City shall deem, in its sole discretion, necessary to evaluate quarterly and/or annual reports, financial and payment filings, and Contractor's performance, as provided for in this Agreement. Contractor shall make all records and documents to be reviewed and inspected by the City as a part of any audit or other record review conducted by the City, available for the City's review, inspection and copying, as required under Section 22 ("Financial Audits") of this Agreement.

16.7 Failure to Report. Refusal or failure of Contractor to file any required reports, or to provide required information to City, or the inclusion of any materially false or misleading statement or representation by Contractor in such report, shall be deemed a material breach of this Agreement, as set forth in Section 20 ("Administrative Remedies; Termination") of this Agreement, and shall subject Contractor to all remedies which are available to the City under said section.

16.8 California Public Records Act. All reports made to the City pursuant to this Agreement shall be deemed public records for purposes of the City's use, any litigation, and public records requests made pursuant to the California Public Records Act, currently codified as Government Code Section 7920 et seq."

5. Incorporation of Agreement

Except as expressly amended herein, all terms and conditions of the Master Agreement shall remain in full force and effect and are ratified by each party. The Second Amendment, the First Amendment, and the Master Agreement contain the entire contract of the parties with respect to the subject matter hereof, and supersedes all prior negotiations, understandings or agreements. The parties agree that if any provisions of this Second Amendment conflict with the First Amendment or the Master Agreement, then the provisions of this Second Amendment shall prevail. If any portion of this Second Amendment is declared invalid, illegal, or otherwise unenforceable by a court of competent jurisdiction, the remaining provisions shall continue in full force and effect.

IN WITNESS WHEREOF, the parties enter into this Second Amendment.

City of Commerce, a Municipal Corporation

HAULER NAME, Contractor

Ivan Altamirano, Mayor

By: **NAME and TITLE**

Dated: _____

Dated: _____

ATTEST:

APPROVED AS TO FORM:

Melanie Park
Deputy City Clerk

Noel Tapia
City Attorney

EXHIBIT A

MINIMUM SOLID WASTE SERVICES REPORTING STANDARDS

Based on a standardized format approved by the City, the “Quarterly Reports” shall be submitted electronically within thirty (30) days following the end of each three (3) month reporting period (i.e., calendar quarters); whereas, the “Annual Report” (i.e., the fourth and final quarterly report of the calendar year) is afforded an additional fifteen (15) days, thereby requiring that it be submitted no later than forty-five (45) days following the end of each annual reporting cycle, or December 31st. All reports due hereunder shall be furnished at the sole expense of the Contractor.

The City reserves the right to request, and Contractor agrees to provide, additional information reasonably and directly pertaining to the Master Agreement; and/or City may require that information and data be submitted monthly. If warranted, City may also redirect and/restructure any aspect of the reporting methodology described herein to render its content to be more specific, relevant, or comprehensible.

QUARTERLY AND ANNUAL REPORTS

Quarterly Reports shall coincide with the calendar year, i.e., January 1st to December 31st, and shall report inclusively on business sales/activities that occur within each successive three (3) month period; i.e., January 1 – March 31; April 1 – June 30; July 1 – September 30; and October 1 – December 31.

Quarterly Reports shall contain cumulative data and information, thereby allowing the final report of the calendar year reflecting fourth quarter activities to effectively constitute the “*Annual Report*”.

At a minimum, the Quarterly Reports must contain the data and information specified within this Exhibit A., and be formatted to reflect the sequence and subject matter enumerated below.

1. Gross Revenues, Semi-Exclusive Franchise Fees, and Vehicle Impact Fees

Contractor shall provide a monthly summary of the reporting period’s gross revenues (as defined in the Master Agreement), franchise fees owed, and vehicle impact fees due, if any (said fees must be remitted timely, pursuant to Section 13 of the Agreement).

2. Tonnage Report

Contractor shall report the total quantities in tons of discarded materials collected, transferred, processed, and disposed by the contractor, all of which shall be based on certified scale weights for each load, if available.

Contractor shall report service and disposal data under the following categories:

- a. Monthly tonnages and related data for the three (3) month reporting period shall be organized as follows:
 - i. Material type, which shall include, at a minimum, separate reporting of source separated *Recyclable Materials*, source separated *Organic Waste*, *Gray/Black Container Waste (Residue)*, and any other type of Discarded Material separately collected by Contractor (including, but not limited to: Bulky Items, used oil, mixed C&D, dirt, rock, metals, cardboard, wood waste, reusable items, salvageable materials, etc.);
 - ii. Customer account type by sector (i.e., multi-family residential, commercial, temporary (C&D), other;

- iii. Approved disposal or processing facility, by name and location, including *CalRecycle's Solid Waste Information System ("SWIS") facility number* (if applicable), and quantity of discarded material reported hereunder that was received at the facility;
- iv. Construction and Demolition (C&D) debris collected from each project site that is subject to Section 5.408.1 of California's Green Building Standards Code (aka CALGreen), requiring at least 65% (sixty-five percent) of the nonhazardous construction and demolition (C&D) waste generated during "new construction" projects be recycled and/or salvaged for reuse; Contractor shall include proof of compliance;
- v. Bulky Items/Reusable Materials collected by customer type and/or point of origin (e.g., illegally dumped item);
- vi. Universal waste collected;
- vii. E-waste collected;
- viii. Household Hazardous Waste (HHW) collected;
- ix. A list of multi-family residential and commercial customers, by name and address, contracting with *third-party recyclers* for the sale or donation of recyclables, pursuant to the limitations of PRC § 41952; said list shall include the name of the third-party entity and a brief description of the recycling services provided (e.g., baled OCC).

3. Contamination Monitoring

- a. The number of Hauler Route reviews conducted during reporting period;
- b. Description of the Contractor's process for determining the level of contamination;
- c. Summary report of *Non-Collection Notices* and/or *Contamination Processing Fee Assessment Notices* issued, including the date of issuance, customer name, and service address;
- d. A record of each inspection and contamination incident, which shall include, at a minimum:
 - i. Date of incident;
 - ii. Violator's name and address (include customer identification);
 - iii. Nature or type of contaminants and estimated overall percentage;
 - iv. The total number of violations found within reporting period, and a description of what action was taken for each;
 - v. Copies of all notices, and enforcement orders issued or taken against the violator;
 - vi. Any photographic documentation or supporting evidence;
 - vii. Contractor's agent who conducted the inspection;
 - viii. Current status and/or final disposition.

4. Collection Service Data

- a. Contractor shall provide a detailed list of all multi-family and commercial customers receiving weekly and/or temporary collection services during the reporting period, including account status at the time of submission of the Quarterly Report. Said list shall include the customer name and account number (as applicable), service address or addresses, and subscribed service levels (i.e., container material types [e.g., recyclables, organics, residue], sizes and quantities, as well as collection days and frequencies).
- b. Customer call logs recording complaints or inquiries (where inquiries include requests for service information, rates, etc.), with assigned levels of severity and time sensitivity, ranging from routine, up to and including emergency circumstances.

For complaints, Contractor shall organize the calls by class (e.g., missed pick-ups, scheduled clean-ups, billing, property damage claims, etc.). These complaints and inquiries shall be documented and reported separately from SB 1383 noncompliance complaints or other regulatory noncompliance complaints, and must include the time and action required to achieve resolution or declare that the inquiry or complaint remains outstanding at the time of submission of the Quarterly Report;

- c. Number of missed or incomplete pick-ups, the party responsible (i.e., customer or Contractor) the potential cause (e.g., access constraints), and corrective course of action;
- d. New service requests, changes in service, and/or service cancellations that occurred during the reporting period. Contractor shall list the total number of active accounts at the beginning and at the end of the reporting period, indicating the net change in customer account totals.

5. AB 341/SB 1383 Recycling/Organic Waste Collection Program Implementation and Compliance

- a. Waste Generator Non-compliance Reports. Contractor shall document all SB 1383 non-compliance complaints and responses reported by third-party observations, including current disposition, if known at time of submission of Quarterly Report;
- b. Non-compliant Waste Generators. Contractor shall list all multi-family residential and/or commercial waste generators that do not participate in the onsite, organic waste recovery service provided by Contractor;
- c. Waste Generator Waivers. Contractor shall document all waiver requests by customer name, address, and business group listing per NAICS code classification (as applied by CalRecycle), identifying the basis of each respective waiver request as either de minimis, physical space, or collection frequency, as defined under 14 CCR § 18984.11; Contractor shall include the number of approved waivers, as well as those pending;
- d. Tier 1 and Tier 2 Commercial Edible Food Generators. Contractor shall identify all Tier 1 and Tier 2 Commercial Edible Food Generators (as defined under 14 CCR § 18991.3) existing within Contractor's citywide customer list, their respective levels of participation, and the estimated aggregate tonnage captured (i.e., diverted) under the program;
- e. Food Recovery Organizations/Services. Contractor shall list all known Food Recovery Organizations/Services operating in the city, and their level of engagement with the Tier 1 and Tier 2 Commercial Edible Food Waste Generators serviced by Contractor; indicate if these entities operate under a contract or written agreement with their edible food donors.

- f. AB 341 – Mandatory Commercial Recycling (“MCR”). Contractor shall list all customers currently participating or not participating in its commercial recycling program, pursuant to the requirements of PRC § 42649-42649.7;
- g. Site Visits and Inspections. Contractor shall document all site visits and/or inspections conducted during the reporting period; information shall include the date of the visit, the name and position of Contractor’s representative who conducted the visit, the reason for the visit (e.g., request of customer, or repeat violator, etc.), customer name and account number (as applicable), service address, a contact name and phone number (if available), and a summary of findings, including photographic evidence, if available; follow-up actions shall be documented as well, along with any relevant notes and/or observations formed by Contractor’s representative during the site visit/inspection process.

6. Public Education and Outreach

- a. A copy of all public education and outreach materials provided to Generators, or otherwise used for education and outreach efforts in accordance with Section 11 (“Contractor Provided Public Education and Public Awareness”) of this Agreement, amended to include information on SB 1383 program requirements, as well as AB 827 (known as “Front of House Recycling”), which supersede and/or supplement, in part, information with respect to AB 341 (“Mandatory Commercial Recycling” aka “MCR”) and AB 1826 (“Mandatory Commercial Organics Recycling” aka “MORe”); materials and methods of dissemination shall include, but not be limited to: flyers, brochures, newsletters, invoice messaging/billing inserts, and website and/or social media postings;
- b. A record of the date and recipient name and address for the information that was disseminated, the method of transmission, including direct contact with the waste generator, formatted as a list that delineates the following: the Waste Generator’s name and account type, by sector (i.e., multi-family residential, commercial business, etc.); the type of education or outreach material(s) provided; the distribution date; and the method of distribution;
- c. A record of the Organic Waste Generators and Commercial Edible Food Generators that received information, and the type of education and outreach material(s) provided;
- d. For mass distribution via direct mailings or bill inserts, Contractor shall maintain a record of the date, a sample copy of the information used, and the type and number of accounts that received the information; such information shall be listed in the Quarterly Report;
- e. A copy of all electronic media messages, social media posts, email communications (individual or mass), and/or messaging via all other modes of electronic transmission (e.g., online advertising), including the respecting posting date(s) for all of the above;
- f. An accounting of all *technical assistance* activities for solid waste generators performed under the auspices of Section 11 (“Contractor Provided Public Education and Public Awareness”) of this Agreement, including, but not limited to, the following:
 - i. Customer name and address of the Solid Waste Generator receiving technical assistance, including account number(s), if applicable;
 - ii. Date(s) of any technical assistance activities conducted and the nature of the technical assistance provided (e.g., contamination avoidance, “front of house” container placement and labeling, etc.), including, but not limited to, site visits, waste assessments, compliance assessments, direct outreach, workshops, meetings, events, and follow-up communications;

- iii. A copy of any printed or electronic educational materials distributed in conjunction with the technical assistance process;
- g. Documentation of all special events and/or other forms of interactive public outreach activities (e.g., community workshops), performed under the auspices of Section 11 (“Contractor Provided Public Education and Public Awareness”) of this Agreement; Contractor shall include captioned photographs from the event to provide a background narrative and assist the City in gauging enthusiasm and/or overall program success.

ANNUAL REPORTS

To reiterate, Quarterly Reports shall contain cumulative data and information, thereby allowing the final report of the calendar year reflecting fourth quarter activities to effectively constitute the “*Annual Report*”.
