

FIRST AMENDMENT OF SOLID WASTE SERVICES AGREEMENT

This First Amendment of Solid Waste Services Agreement (this “Amendment”) is entered into by and between the County of El Dorado (“County”) and Waste Connections of California, Inc., a California corporation dba El Dorado Disposal Service (“Grantee”), and is effective as of January 1, 2010. Capitalized terms not otherwise defined herein shall have the meanings ascribed to them in that certain Solid Waste Services Agreement, dated August 23, 2004 (the “Agreement”), between El Dorado County and USA Waste of California, Inc., d/b/a El Dorado Disposal Services (as the predecessor in interest to Grantee) (“USA Waste”).

This Amendment is made with reference to the following recitals:

Whereas, effective August 23, 2004, the County entered into the Agreement with USA Waste, which granted USA Waste the exclusive right and obligation, subject to certain limitations, until December 31, 2012, to, among other things, collect and dispose of municipal solid waste generated by residential, commercial and industrial customers in the Franchise Area which encompasses a portion of the unincorporated West Slope of El Dorado County, as specifically identified in Exhibit A of the Agreement; and

Whereas, effective June 6, 2006, Grantee acquired certain assets, including, without limitation, the Agreement, from USA Waste; and

Whereas, effective June 6, 2006, the County consented to the assignment of the Agreement from USA Waste to Grantee; and

Whereas, the County and Grantee wish to amend the Agreement in certain respects to, among other things, clarify how rates under the Agreement are adjusted to reflect changes in the cost of living index.

NOW THEREFORE, the parties agree as follows:

1. Section 11B of the Agreement is hereby amended in its entirety to read as follows:

Section 11 – Term

B. Renewal Options – The County shall have the right, in its sole discretion, to unilaterally extend the term of this Agreement for additional periods of one year each, up to a maximum of two such extensions. If the County elects to extend this Agreement for either one or both of these optional extension periods, the County shall give the Contractor notice of its election to exercise each such option a minimum of at least ninety (90) days before the current termination date of this Agreement. In the event the County exercises its options to extend the terms of the Franchise Agreement for one or both years, the rate setting procedures for the extension term will be in accordance with the December base period point to point CPI calculation as described in Section 22 herein or 0% whichever is greater.

2. Section 22C of the Agreement is hereby amended in its entirety to read as follows:

Section 22 - Compensation

C. Inflation/Deflation Adjustment – Subject to the limitations specified in the foregoing paragraphs regarding New Services, Contractor’s rates for services described in Exhibit C (but exclusive of Franchise Fees) shall be adjusted annually effective July 1st of each year during the Term of this Agreement based on the Consumer Price Index- All Items - All Urban Consumers - California as published by the State of California, Department of Industrial Relations, Division of Labor Statistics and Research (Attachment A). The month to be used for purpose of measuring the point to point base period for which the adjustment shall be determined is December. Each December following the commencement of this Amendment shall be used for comparison purposes of the annual rate setting adjustment. By way of illustration, if the index for December 2008 is 120 and the index for December 2009 is 125 the rate adjustment for this period shall be a proposed rate increase of 4.2%.

In the event the CPI index is no longer published, the parties shall confer in good faith to select an alternative index and shall confirm their agreement on a substitute index in writing. If the parties are unable to agree on a substitute index, either party may submit the selection of the substitute index to binding arbitration before a single arbitrator pursuant to the Commercial Arbitration Rules of the American Arbitration Association. All percentages shall be computed to the second decimal place and the change in Contractor’s rates shall be calculated to the nearest cent (\$.01).

For purposes of the 2010 rate adjustment, the rate will be adjusted in the amount equal to the December base period point to point CPI described herein or 1.5% whichever is greater.

3. The recitals set forth above are hereby incorporated into this Amendment.
4. This Amendment may be executed in one or more facsimile or original counterparts, each of which shall be deemed an original and both of which together shall constitute one and the same instrument.
5. All terms and provisions of the Agreement not amended hereby, either expressly or by necessary implication, shall remain in full force and effect. From and after the date of this Amendment, all references to the term “Agreement” in this Amendment and in the original Agreement shall include the terms contained in this Amendment.
6. In the event of any conflict between the original terms of the Agreement and this Amendment, the terms of this Amendment shall prevail.
7. Each party executing this Amendment represents and warrants that it is duly authorized to cause this Amendment to be executed and delivered.

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

**- - COUNTY OF EL DORADO - -
-Grantor-**

Dated: _____

By: _____
Chair, Supervisor Norma Santiago
Board of Supervisors

ATTEST:

Dated: _____

By: _____
Clerk of the
Board of Supervisors

**- - Waste Connections of California, Inc.
dba El Dorado Disposal Service - -
- Grantee-**

Dated: _____

By: _____
Ron Mittelstaedt
Chief Executive Officer