

Fourth Amendment to the Franchise Agreement between the County of El Dorado and Waste Connections of California, Inc.

This Fourth Amendment (Amendment) to the Franchise Agreement (Agreement) for the collection, transportation, processing, and disposal of Solid Waste and Recyclable Materials between the County of El Dorado (County), and Waste Connections of California, Inc., doing business as El Dorado Disposal Service, (Contractor), dated October 21, 2014, is entered upon execution.

This Fourth Amendment is made with respect to the following Recitals:

WHEREAS, Contractor and County entered into a Franchise Agreement (Agreement) dated October 21, 2014; and

WHEREAS, on August 18, 2015, the Agreement was amended (First Amendment) to consolidate the services provided by Amador Disposal Service under the Amador Disposal Service Franchise Agreement into the Contractor's Agreement; and

WHEREAS, on August 18, 2015, the Agreement was amended (Second Amendment) to assign and consolidate the services provided by Sierra Disposal Service under the Sierra Disposal Service Franchise Agreement into Contractor's Agreement; and

WHEREAS, Contractor's Agreement consists of three (3) distinct service areas: Area A (original service area), Area B (former Amador Disposal Service), and Area C (former Sierra Disposal Service); and

WHEREAS, on December 12, 2017, the Agreement was amended (Third Amendment) such that the Contractor provides bi-weekly green waste cart collection service in Area B, solely to the community known as Grizzly Flats from May through October each year; and

WHEREAS, the Agreement provides for an automatic term extension for an additional period of ten (10) years contingent upon Contractor's completion of a new state-of-the-art transfer station/Material Recovery Facility (MRF) by October 20, 2019; and

WHEREAS, due to unforeseen significant environmental site conditions encountered on the MRF property, the Central Valley Regional Water Quality Control Board (RWQCB), acting as the lead agency for site remediation oversight, required the Contractor to engage in extensive subsurface soil and groundwater characterization as well as the development of a remedial action work plan; and

WHEREAS, construction of a new state-of-the-art transfer station/MRF has been delayed due to the unforeseen environmental site conditions and required remediation efforts that will prohibit the Contractor from completing the project by October 20, 2019; and

WHEREAS, the extensive site characterization and pending remediation required to protect public health, safety, and the environment have significantly increased the Contractor's original 2014 cost estimate of the project.

NOW THEREFORE, the parties agree as follows:

1. Section 11A, Initial Term, is hereby amended in its entirety to read as follows:

A. Term.

The Term of this Agreement shall be effective when fully-executed by all parties and shall expire eight (8) years following the effective date of this Fourth Amendment. Provided that Contractor provides the 120-day notice provided for in this section, this Agreement shall be automatically extended for an additional period of twenty (20) years, contingent upon Contractor completing the construction of a new state-of-the-art transfer station / MRF with a new state-of-the-art equipment C&D Debris sort line on the site of the existing transfer station located at 4100 Throwita Way by October 20, 2022. Except as provided below, the additional twenty (20) year extension shall not occur if Contractor fails to complete construction of the new state-of-the-art facility by October 20, 2022.

Over the Franchise Term, Contractor's Transfer Station / MRF rates will be adjusted using the calculation specified in the County's Solid Waste Rate Setting Policies and Procedures Manual for Unincorporated Areas (Page D-4, under Pass Through Costs, based on eighty-five percent [85%] of the prior change in the Consumer Price Index, All Urban Consumers, U.S. City Average - Garbage and Trash Collection). At no time over the Franchise term will Contractor be allowed to request, and the Board will not approve, an increase in refuse Collection rates or Transfer Station / MRF rates to compensate Contractor for any of the costs of the new Transfer Station / MRF improvements at 4100 Throwita Way based on Contractor's original 2014 maximum project estimate of twelve million dollars [\$12,000,000.00]. An increase in refuse Collection rates or Transfer Station / MRF rates to compensate Contractor for any estimated costs of the new Transfer Station / MRF improvements that are in excess of the 2014 maximum project estimate may only be requested and considered by the Board if the estimated costs significantly exceed Contractor's original 2014 maximum estimate. Contractor will provide the actual agreed upon cost when completed, and Contractor must furnish an itemized list of the final facility costs, by asset name, asset description, asset number, acquisition date, and acquisition cost. This asset listing shall be retained in County files and listed as an attachment to the Franchise Agreement.

In the event the new Transfer Station / MRF improvements are not completed by October 20, 2022, Contractor shall not be entitled to the additional twenty (20) year extension, except that County may exercise renewal options under Section 11.B if the County, in its sole discretion, determines that Contractor had made diligent efforts to complete the Transfer Station / MRF by October 20, 2022 and the delay is a result of unforeseen circumstances outside the control of Contractor. Contractor shall provide County with 120 days prior written notice before the termination of the eight (8) year term of its desire to automatically extend the term of this Agreement for the additional twenty (20) year extension. Said automatic renewal may occur only if Contractor is in material compliance with the terms and conditions of the Agreement.

2. Except as herein amended, all other terms and conditions of the Agreement shall remain in full force and effect.

COUNTY OF EL DORADO

Dated: _____

By:

Chair
Board of Supervisors
County of El Dorado

ATTEST:
James S. Mitrisin
Clerk of the Board of Supervisors

By _____

CONTRACTOR

By:

Dated: November 7, 2018



Its: President

By:

Dated: November 7, 2018



Its: Secretary