

### **THIRD AMENDMENT TO AGREEMENT FOR SOLID WASTE HANDLING SERVICES**

This Third Amendment (the "Third Amendment") to the Agreement for Solid Waste Handling Services between the City of Fullerton (hereinafter "City") and Republic Waste Services of Southern California, LLC *dba* Republic Services (hereinafter "Contractor" and/or "Republic") is made and entered so as to be effective as of \_\_\_\_\_ 1, 2019 ("Third Amendment Effective Date").

#### **1. RECITALS**

A. City and Contractor's predecessor in interest, MG Disposal, entered an agreement entitled Agreement for Solid Waste Handling Services effective as of March 1, 2009, which was amended twice, by a First Amendment effective as of February 5, 2013, and a Second Amendment effective as of May 1, 2019. The initial Agreement, the First Amendment and the Second Amendment are collectively referred to herein as the "Agreement".

B. Contractor and MG Disposal entered an assumption and assignment agreement effective July 16, 2019 whereby MG assigned its rights and obligations under the Agreement to Contractor, and Contractor agreed to assume such rights and obligations.

C. Contractor is a subsidiary of Republic Services, Inc., a Delaware corporation ("Guarantor"), and Guarantor has entered into a written Guarantee Agreement (the "Guarantee") with City related to Contractor's performance pursuant to the terms of the Agreement.

D. The Agreement requires Contractor to divert all green waste collected in a manner for which City receives landfill diversion credit as measured by CalRecycle. To date, this has been accomplished by collecting green waste, processing it, and then delivering it to the Orange County Landfill system for use as alternative daily cover (ADC). To date, the County has accepted processed green waste delivered as ADC free of charge.

E. In September 2014, Governor Brown signed Assembly Bill (AB) 1594 (Williams, Chapter 719, Statutes of 2014), mandating that effective January 1, 2020, the use of green waste material as alternative daily cover (ADC) will no longer constitute diversion through recycling and will instead be considered disposal in terms of measuring a jurisdiction's annual 50 percent per capita disposal rate pursuant to Public Resources Code (PRC) Section 41781.3.

F. As a result of AB 1594, the County will no longer accept green waste as ADC free of charge at its landfills, and thus Contractor will incur significant new costs as a result of its obligations under the Agreement related to handling green waste in a manner that constitutes diversion.

G. Contractor has requested a discretionary increase to the maximum rates it may charge for services it provides under the Agreement as permitted by Section 24.8 of the Agreement. In support of its request, Contractor provided data to City demonstrating its actual increased costs related to no longer being able to deliver green waste to the Orange County Landfill for diversion at no cost. After considering Contractor's request and in acknowledgment of the fact

AB 1594 has caused an unusual change in the cost of providing services the City Council has agreed to Contractor's request based on the terms and conditions set forth herein.

H. The parties now desire to enter this Third Amendment for the purpose of setting forth their agreements and understandings with respect to the discretionary increase to maximum rates requested, in order to offset the impacts of AB 1594, while leaving all other aspects of the Agreement unchanged.

I. Guarantor has reviewed this Third Amendment and remains willing to apply the Guarantee it provided in connection with Contractor's performance under the Agreement as amended by the Third Amendment, and accordingly has executed the Acknowledgment and Consent set forth below reflecting the application of the Guarantee it has provided to Contractor's performance hereof.

## **2. COVENANTS**

**Section 1. Reimbursement of Costs.** As a prerequisite to the effectiveness of this Third Amendment Contractor shall pay to City an amount equal to the actual legal and consulting costs incurred by City in connection with this Third Amendment pursuant to Section 11.2 of the Agreement. All such amounts are to be paid within 30 days of being presented with an invoice therefore by City.

**Section 2. Discretionary Adjustment to Maximum Rates Applicable to Customers at Single Family Dwellings and Dwelling Units at Multi-Family Dwellings.** The maximum rate reflected on Exhibit A to the Agreement is hereby amended to add an additional charge of \$1.51 per month, to be known as the "State Imposed Green Waste Recycling Fee." This fee may be charged by Contractor as part of the maximum rates it charges for services to Customers at Single Family Dwellings and Dwelling Units at Multi-Family Dwellings. Attached hereto as Exhibit 1 is a new Exhibit A to the Agreement, which shall replace and supersede the previous version of Exhibit A, that adds a column to the schedule of maximum rates which is labeled "State Imposed Green Waste Recycling Fee." The "State Imposed Green Waste Recycling Fee" shall be subject to the same adjustment formula each year set forth in Section 24.5. After such adjustment occurs, the adjusted total shall be added to the "Sub-total Maximum Rate to Customer" reflected on Exhibit A, to arrive at the Total Maximum Rate to Customer.

**Section 3. Warranty by Contractor Regarding Discretionary Rate Increase.** Contractor warrants that the total cost it has represented to City of \$82.41 per ton for delivery of green waste to the Agromin Compost Facility, is equal to or lower than the amount paid for the same residential organics transportation, pre-processing and composting services by any other cities served by Contractor's Anaheim Division. Contractor shall notify City in connection with the annual adjustment occurring per Section 2 above each year if a lower cost option becomes available, or if a lower cost is provided to another jurisdiction served by Contractor's Anaheim Division.

**Section 4. Discretionary Nature of Rate Increase.** The parties acknowledge that the increase to permissible maximum rates provided in this Amendment is discretionary. The City Council shall retain the right to modify the increase granted, or to eliminate it, should it deem to do so is appropriate for any reason. City expressly retains its flow control options as set forth in Section 26.1 of the Agreement, and should it exercise such option in a manner that results in lower costs being incurred for the diversion of green waste it expressly intends to adjust the increase set

forth in this Amendment accordingly.

**Section 5. Unaffected Provisions Remain in Full Force.** All provisions of the Agreement, excepting for those expressly amended by this Third Amendment, shall remain unchanged and in full force and effect.

IN WITNESS WHEREOF, the Parties hereto have executed this Second Amendment to be effective as of the date and year written above.

CITY OF FULLERTON

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

Attest:

By: \_\_\_\_\_  
City Clerk

Approved as to form:

By: \_\_\_\_\_  
Rutan & Tucker, LLP, Special Counsel

Republic Waste Services of Southern California, LLC

By: \_\_\_\_\_  
Daniel J. Capener

its: \_\_\_\_\_  
General Manager

## **ACKNOWLEDGEMENT AND CONSENT BY CORPORATE GUARANTOR**

**A.** Republic Waste Services of Southern California, LLC (“Contractor”) is an affiliate of Republic Services, Inc., a Delaware corporation (“Guarantor”).

**B.** Guarantor has entered a Corporate Guarantee (the “Guarantee”) related to Contractor’s obligations pursuant to the Agreement (including as amended by the First and Second Amendments to the Agreement).

**C.** Guarantor hereby acknowledges and consents to the provisions of the forgoing Third Amendment, and agrees that its obligations as set forth in the Guarantee shall apply equally not to the Third Amendment set forth above as if fully restated.

**GUARANTOR:**

Republic Services, Inc., a Delaware Corporation

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

**Exhibit 1**

(Amended Exhibit A)

**CITY OF FULLERTON**  
**EXHIBIT "A"**  
**Maximum Rates for Services**  
**[Applicable as of January 1, 2020]**

			Initial Maximum Rate Calculation				Organic Recycling Adjustments	Total	
			Maximum Rate For Service Component	Disposal Component Tonnage Basis	Maximum Rate For Disposal Component	State Imposed Green Waste Recycling Fee	Sub-Total: Maximum Rate To Customer [combining Service and Disposal Component]	Organic Waste Collection Adjustment	Total Maximum Rate to Customer
Customers at Single Family Dwellings and Dwelling Units at Multi-Family Dwellings (Monthly)			\$17.94	0.09	\$3.08	\$1.51	\$22.53	no	\$22.53
Extra Refuse Cart (per cart)			\$4.67	n/a	\$0.72		\$5.39	no	\$5.39
Non-scheduled Service			\$24.88	n/a	n/a		\$24.88	no	\$24.88
Cart Replacement due to Misuse			\$68.04	n/a	n/a		\$68.04	no	\$68.04
Cart Replacement: Unspecified Reason - In excess of 1x/yr [set of 3 Carts]			\$38.45	n/a	n/a		\$38.45	no	\$38.45
Multi-Family Dwelling Bin Rental (Monthly)									
Bin Rental	3yd		\$43.82	n/a	n/a		\$43.82	no	\$43.82
Bin Rental	1.5yd		\$31.83	n/a	n/a		\$31.83	no	\$31.83
Manure Bins (Monthly)									
1 x p/wk	1.5yd		\$170.53	0.71	\$25.55		\$196.08	no	\$196.08
2 x p/wk	1.5yd		\$249.24	1.41	\$51.09		\$300.33	no	\$300.33
3 x p/wk	1.5yd		\$327.95	2.12	\$76.64		\$404.59	no	\$404.59
4 x p/wk	1.5yd		\$406.68	2.83	\$102.19		\$508.87	no	\$508.87
5 x p/wk	1.5yd		\$485.42	3.54	\$127.74		\$613.16	no	\$613.16
6 x p/wk	1.5yd		\$564.17	4.24	\$153.30		\$717.47	no	\$717.47
Commercial Refuse Carts (Monthly) (AKA "Hand Stops")									
1 x p/wk			\$25.57	0.15	\$5.27		\$30.84	yes	\$30.84
2 x p/wk			\$51.18	0.29	\$10.50		\$61.68	yes	\$61.68
3 x p/wk			\$76.78	0.44	\$15.77		\$92.55	yes	\$92.55
4 x p/wk			\$102.40	0.58	\$21.02		\$123.42	yes	\$123.42
5 x p/wk			\$127.95	0.73	\$26.26		\$154.21	yes	\$154.21
6 x p/wk			\$153.63	0.87	\$31.52		\$185.15	yes	\$185.15
Commercial Bins (Monthly)									
1 x p/wk	3yd		\$167.64	0.71	\$25.55		\$193.19	yes	\$193.19
2 x p/wk	3yd		\$244.86	1.41	\$51.09		\$295.95	yes	\$295.95
3 x p/wk	3yd		\$322.08	2.12	\$76.63		\$398.71	yes	\$398.71
4 x p/wk	3yd		\$399.29	2.83	\$102.20		\$501.49	yes	\$501.49
5 x p/wk	3yd		\$476.56	3.54	\$127.73		\$604.29	yes	\$604.29
6 x p/wk	3yd		\$553.78	4.24	\$153.29		\$707.07	yes	\$707.07
7x p/wk	3yd		\$645.12	4.95	\$178.82		\$823.94	yes	\$823.94
Note: Any Commercial Customer with a service rate frequency less than 7x per week service may add Sunday service for which an additional monthly Service Component may be added at an additional \$40.20 per month service premium.									
1 x p/wk	1.5yd		\$134.11	1.77	\$12.77		\$146.88	yes	\$146.88
2 x p/wk	1.5yd		\$190.99	3.54	\$25.55		\$216.54	yes	\$216.54
Commercial Mini Packer (Monthly)									
1 x p/wk	3yd		\$349.72	2.12	\$76.61		\$426.33	yes	\$426.33
2 x p/wk	3yd		\$620.10	4.24	\$153.24		\$773.34	yes	\$773.34
3 x p/wk	3yd		\$890.54	6.64	\$229.86		\$1,120.40	yes	\$1,120.40
4 x p/wk	3yd		\$1,160.96	8.49	\$306.48		\$1,467.44	yes	\$1,467.44
5 x p/wk	3yd		\$1,431.37	10.61	\$383.10		\$1,814.47	yes	\$1,814.47
6 x p/wk	3yd		\$1,701.25	12.73	\$459.74		\$2,160.99	yes	\$2,160.99
Commercial Recycle Bin									
1 x p/wk	3yd		\$162.65		\$0.00		\$162.65	no	\$162.65
2 x p/wk	3yd		\$237.53		\$0.00		\$237.53	no	\$237.53

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**Maximum Rates for Services**  
**[Applicable as of January 1, 2020]**

		Initial Maximum Rate Calculation				Organic Recycling Adjustments	Total	
		Maximum Rate For Service Component	Disposal Component Tonnage Basis	Maximum Rate For Disposal Component	State Imposed Green Waste Recycling Fee	Sub-Total: Maximum Rate To Customer [combining Service and Disposal Component]	Organic Waste Collection Adjustment	Total Maximum Rate to Customer
Special or Irregular Bins (Monthly - max. rate is per cubic yard)		\$55.64	0.24	\$8.52		\$64.16	yes	\$64.16
Each Extra "Dump"								
Commercial Bin	1.5yd	\$38.75	0.09	\$3.18		\$41.93	yes	\$41.93
Commercial Bin	3yd	\$44.13	0.18	\$6.38		\$50.51	yes	\$50.51
Mini Packer	3yd	\$50.37	0.53	\$19.17		\$69.54	yes	\$69.54
Manure Bin	1.5yd	\$44.13	0.18	\$6.38		\$50.51	no	\$50.51
Temp Construction Bin	3yd	\$105.59	0.18	\$6.38		\$111.97	yes	\$111.97
Locking Bins								
Installation		\$84.93	n/a	n/a		\$84.93	no	\$84.93
Monthly		\$7.31	n/a	n/a		\$7.31	no	\$7.31
Commercial Rolloff Boxes (Monthly "Permanent Service")								
40 yd DOB		\$190.71	n/a	n/a		\$190.71	yes	\$190.71
15 YD DEMO		\$197.73	n/a	n/a		\$197.73	yes	\$197.73
20 yd Compactor		\$226.97	n/a	n/a		\$226.97	yes	\$226.97
30 yd Compactor		\$246.87	n/a	n/a		\$246.87	yes	\$246.87
40 yd Compactor		\$265.59	n/a	n/a		\$265.59	yes	\$265.59
Additional Rolloff Charges								
Per Ton Processing Charge Applicable to all Commercial Rolloff Boxes		n/a	n/a	n/a		n/a	n/a	
One-time Delivery Fee Applicable to all Commercial Rolloff Boxes		\$49.17	n/a	n/a		\$49.17	no	\$49.17
Relocation		\$59.46	n/a	n/a		\$59.46	no	\$59.46
Dead Run		\$59.46	n/a	n/a		\$59.46	no	\$59.46
Saturday Service - per pull		\$37.01	n/a	n/a		\$37.01	no	\$37.01
Standby Time (per hour or portion thereof following first 10 min)		\$86.62	n/a	n/a		\$86.62	yes	\$86.62
Turnaround service - per load		\$11.30	n/a	n/a		\$11.30	no	\$11.30
ORGANIC WASTE RECYCLING								
1.5 yard Organics Bin								
1 pickups per week		\$134.11	1.77	\$12.77		\$146.88	yes	\$146.88
2 pickups per week		\$190.99	3.54	\$25.55		\$216.54	yes	\$216.54
3 pickups per week		n/a	n/a	n/a		n/a	yes	
Contamination fee per occurrence		\$102.71	n/a	n/a		\$102.71	yes	\$102.71
64 Gallon Organics Cart								
1 pickups per week		\$46.22	n/a	n/a		\$46.22	yes	\$46.22
2 pickups per week		\$92.44	n/a	n/a		\$92.44	yes	\$92.44
3 pickups per week		\$138.66	n/a	n/a		\$138.66	yes	\$138.66
Contamination fee per occurrence		\$51.35	n/a	n/a		\$51.35	yes	\$51.35
35 Gallon Organics Cart								
1 pickups per week		n/a	n/a	n/a		n/a	yes	
2 pickups per week		n/a	n/a	n/a		n/a	yes	
3 pickups per week		n/a	n/a	n/a		n/a	yes	
Contamination fee		n/a	n/a	n/a			no	

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<b>Temporary Construction Bins</b>								
1 x p/wk	3yd	\$175.89	0.71	\$25.55		\$201.44	yes	\$201.44
2 x p/wk	3yd	\$261.30	1.41	\$51.09		\$312.39	yes	\$312.39
3 x p/wk	3yd	\$349.81	2.12	\$76.63		\$426.44	yes	\$426.44
4 x p/wk	3yd	\$430.55	2.83	\$102.19		\$532.74	yes	\$532.74
5 x p/wk	3yd	\$519.09	3.54	\$127.73		\$646.82	yes	\$646.82
6 x p/wk	3yd	\$607.57	4.24	\$153.29		\$760.86	yes	\$760.86
<b>Temporary Bins (applicable to a single drop off and Collection)</b>								
	3yd	\$81.79		\$6.38		\$88.17	yes	\$88.17
Extra Days of Service (Ea)		\$6.88		n/a		\$6.88	no	\$6.88
<b>Temporary Service - Rolloff Boxes</b>								
40 yd DOB per pull (overweight @ 6 tons)		\$432.75	3.69	\$133.40		\$566.15	yes	\$566.15
15 yd DEMO per pull (overweight @ 8 tons)		\$471.75	5.17	\$186.77		\$658.52	yes	\$658.52
40 yd Yard Waste per pull (overweight @ 8 tons)		\$290.73	3.69	\$129.45		\$420.18	yes	\$420.18
15 yd DEMO Clean Inserts per pull (overweight @ 8 tons)		\$160.12	3.69	\$181.24		\$341.36	yes	\$341.36
Overweight Rate (applicable on pro-rata basis to each ton over weight limit per pull)		\$43.84	1.00	\$36.12		\$79.96	yes	\$79.96
Overweight Rate Yard Waste (over max)		\$45.17	1.00	\$0.00		\$45.17	yes	\$45.17
Overweight Rate Clean Inert (over max)		\$35.54	1.00	\$0.00		\$35.54	yes	\$35.54
Extra Days of Service (Ea)		\$14.17		n/a		\$14.17	no	\$14.17
<b>Steam Cleaning (per cleaning in excess of 1x/yr free)</b>								
Bins		\$109.71	n/a	n/a		\$109.71	no	\$109.71
Rolloff Box		\$113.91	n/a	n/a		\$113.91	no	\$113.91
<b>Bulky Item Service</b>								
Commercial First two items		\$51.98	n/a	n/a		\$51.98	no	\$51.98
Each additional item		\$6.92	n/a	n/a		\$6.92	no	\$6.92
If required - Gas Removal Fee		\$48.50	n/a	n/a		\$48.50	no	\$48.50
Overloaded (aka Over-the Top) Bins		\$39.55	n/a	n/a		\$39.55	yes	\$39.55
Heavy Truck Charge		\$398.68	n/a	n/a		\$398.68	no	\$398.68
Bin Exchange > 1x p/year		\$85.43	n/a	n/a		\$85.43	no	\$85.43
Scout Service [aka Pull Out Service] (per month, multiplied by frequency of service)		\$61.20	n/a	n/a		\$61.20	no	\$61.20
Push out Service - in excess of 5 yards (per month, multiplied by frequency of sevice)		\$61.20	n/a	n/a		\$61.20	no	\$61.20
Limited Access - Key or Access Code Required		\$11.30	n/a	n/a		\$11.30	no	\$11.30
Restart Fee- Delinquent Accounts		\$86.62	n/a	n/a		\$86.62	no	\$86.62