

*Amendment No. 1
to FRANCHISE AGREEMENT BETWEEN
SAN BERNARDINO COUNTY AND BURRTEC
WASTE & RECYCLING SERVICES, LLC
FOR THE COLLECTION AND TRANSPORTATION OF SOLID WASTE AND OTHER SERVICES DATED December 13,
2022
IN COUNTY FRANCHISE AREA 25*

WHEREAS, on December 13, 2022 (Item No. 91), the Board of Supervisors (“Board”) approved County Contract No. 22-1212 with Burrtec Waste & Recycling Services, LLC (“Grantee”) to provide for the collection and transportation of solid waste and other services (“Franchise Agreement”); and

WHEREAS, the County and the Grantee desire to redefine the franchise area boundaries to include parcels required to comply with California Senate Bill 1383, amend specific sections of the Franchise Agreement in the better interests of the parties and the residents and businesses of the unincorporated areas of San Bernardino County located within County Franchise Area 25, and revise, replace, or add the following exhibits:

1. Revise Exhibit “A” – Provided Services
2. Replace Exhibit “A-1” – Services to be Provided
3. Replace Exhibit “B” – Map of Franchise Area
4. Replace Exhibit “B-1” – Legal Description of Franchise Area
5. Replace Exhibit “E” – Rates
6. Replace Exhibit “G” – Example Rate Adjustment Formulas
7. Replace Exhibit “H” – Rate Adjustment Indices and Initial Cost Component Weightings
8. Revise Exhibit “J” – Processing, Transfer, and Disposal Services and Facility Standards
9. Revise Exhibit “L” – Reporting Requirements
10. Add Exhibit “N” – Campaign Contribution Disclosure Senate Bill 1439

NOW THEREFORE, the Franchise Agreement is amended as follows:

1. Section 13.2(a) is deleted in its entirety and replaced with the following:

Section 13.2 Adjustments to Total Rate – Residential, Commercial, and Roll-Off Service

(a) Cost of Living Adjustment.

- (1) **General.** Beginning July 1, 2025, Grantee may request an adjustment to all rate categories included in the approved rate schedule according to the method described below and the formulas shown in Exhibit “G-1” through “G-5” (Example Rate Adjustment Formula), subject to County review and approval. All future adjustments are to be effective July 1 of the year the adjustment is made.

- (2) **Cost Components for Rate Adjustment Indices.** The approved rates consist of the following cost component categories: Designated Landfill Disposal Facility Fee, Designated Organic Waste Processing Facility Fee, Designated SSR Processing Facility Fee, Fuel, and Service. Initial component weightings to be used for the first rate adjustment are shown in the tables attached as Exhibit “H” - (Rate Adjustment Indices and Initial Cost Component Weightings). Each cost component may be adjusted by the change in the corresponding index shown in the exhibit. See subsection (3) through (7) below for detailed rate adjustment procedures.
- (3) **Residential All-Inclusive Standard Service Cart or Barrel Rate Adjustment Steps** (Where rates have been approved by the County). All-Inclusive standard service Residential Cart or Barrel service rates will be adjusted using the cost component weightings identified in the tables attached in Exhibit “H” - (Rate Adjustment Indices and Initial Cost Component Weightings) and as described below. See Exhibit “G-1” – (Example Residential Rate Adjustment Formula) for an example of rate adjustment calculations. Using Exhibit “G-1” as an example, the adjustment is calculated as follows:
- (A) Step One – Calculate the percentage increase or decrease in each index listed in the table attached in Exhibit “H” – (Rate Adjustment Indices and Initial Cost Component Weightings). The increase or decrease in the Designated Landfill Disposal Facility Fee, Designated Organic Waste Processing Facility Fee, and Designated SSR Processing Facility Fee cost components will be the change in the applicable Designated Landfill Disposal Facility Fee, Designated Organic Waste Processing Facility Fee, and Designated SSR Processing Facility Fee between the July 1 effective date for the rate adjustment and the preceding July 1, except in those instances when the County and/or Processing Facility(ies) do not fix a new Designated Landfill Disposal Facility Fee, Designated Organic Waste Processing Facility Fee, and/or Designated SSR Processing Facility Fee as of July 1 of any year, the actual effective date of the Designated Landfill Disposal Facility Fee, Designated Organic Waste Processing Facility Fee, and/or Designated SSR Processing Facility Fee changes will control. The increase or decrease in the published indices for Fuel and Service will be the change in the average annual published index between the calendar year ended the December prior to the July 1 effective date for the rate adjustment and the prior calendar year. See Exhibit “G-6” (Example Rate Adjustment Formula - Calculation for Average Annual Change in Published Price Indices) for an example calculation of the average annual change in an index.
- (B) Step Two – Multiply the percentage changes for each rate adjustment component by that component’s weighting and add these resulting percentages together to get the total weighted change to the rates.
- The July 1, 2024 rate adjustment cost components as a percentage of total costs are provided in the table attached in Exhibit “H” (Rate Adjustment Indices and Initial Cost Component Weightings), with component weightings for use in subsequent years calculated in Step Four of the rate adjustment. For Step Two of each subsequent rate adjustment, use the “Cost Components Reweighted to Equal 100%” in Column “O” of Exhibit “G-1” – (Example Residential Rate Adjustment Formula) in Step Four during the previous rate adjustment.
- (C) Step Three – Multiply the total weighted percent change from Step Two by the existing Subscriber rates to calculate the increase or decrease to the maximum rates. Add the rate increase or decrease to the existing rates to derive the newly adjusted rates.
- (D) Step Four – Recalculate weightings for the following year based upon these changes.

(4) **Residential, Commercial Business, and Multi-Family Stand-Alone Landfill Disposal Bin and Cart or Barrel Rate Adjustment Steps.** All Residential, Commercial Business, and Multi-Family Bin and Cart or Barrel Landfill Disposal rates will be adjusted using the cost component weightings identified in the table attached in Exhibit “H” - (Rate Adjustment Indices and Initial Cost Component Weightings) and as described below. See Exhibit “G-2” – (Example Stand-Alone Landfill Disposal Bin and Cart or Barrel Rate Adjustment Formula) for an example of rate adjustment calculations. Using Exhibit “G-2” as an example, the adjustment is calculated as follows:

(A) Step One – Calculate the percentage increase or decrease in each index listed in the table attached in Exhibit “H” – (Rate Adjustment Indices and Initial Cost Component Weightings). The increase or decrease in the Designated Landfill Disposal Facility Fee cost components will be the change in the Designated Landfill Disposal Facility Fee between the July 1 effective date for the rate adjustment and the preceding July 1, except in those instances when the County does not fix a new Designated Landfill Disposal Facility Fee as of July 1 of any year, the actual effective date of the Designated Landfill Disposal Facility Fee change will control. The increase or decrease in the published indices for Fuel and Service will be the change in the average annual published index between the calendar year ended the December prior to the July 1 effective date for the rate adjustment and the prior calendar year. See Exhibit “G-6” (Example Rate Adjustment Formula - Calculation for Average Annual Change in Published Price Indices) for an example calculation of the average annual change in an index.

(B) Step Two – Multiply the percentage changes for each rate adjustment component by that component’s weighting and add these resulting percentages together to get the total weighted change to the rates.

The July 1, 2024 rate adjustment cost components as a percentage of total costs are provided in the table attached in Exhibit “H” (Rate Adjustment Indices and Initial Cost Component Weightings), with component weightings for use in subsequent years calculated in Step Four of the rate adjustment. For Step Two of each subsequent rate adjustment, use the “Cost Components Reweighted to Equal 100%” in Column “O” of Exhibit “G-2” – (Example Stand-Alone Landfill Disposal Bin and Cart or Barrel Rate Adjustment Formula) in Step Four during the previous rate adjustment.

(C) Step Three – Multiply the total weighted percent change from Step Two by the existing Subscriber rates to calculate the increase or decrease to the maximum rates. Add the rate increase or decrease to the existing rates to derive the newly adjusted rates.

(D) Step Four – Recalculate weightings for the following year based upon these changes.

(5) **Residential, Commercial Business, and Multi-Family Mixed Organics Bin and Cart or Barrel Rate Adjustment Steps** (where Mixed Organics rates have been approved by the County). All Residential, Commercial Business, and Multi-Family Bin, and Cart or Barrel, Mixed Organics rates will be adjusted using the cost component weightings identified in the table attached in Exhibit “H” (Mixed Organics Rate Adjustment Indices and Initial Cost Component Weightings) and as described below. See Exhibit “G-3” – (Example Residential and Multi-Family Stand-Alone Mixed Organics Bin and Cart or Barrel Rate Adjustment Formula) for an example of rate adjustment calculations. Using Exhibit “G-3” as an example, the adjustment is calculated as follows:

(A) Step One – Calculate the percentage increase or decrease in each index listed in the table attached in Exhibit “H” (Mixed Organics Rate Adjustment Indices and Initial Cost Component Weightings). The increase or decrease in Mixed Organics Processing costs will be the change in the identified Designated Organic Waste Processing Facility Fee

between the July 1 effective date for the rate adjustment and the preceding July 1, except in those instances when the Designated Organic Waste Processing Facility does not fix a new Organic Waste Processing Facility Fee as of July 1 of any year, the actual effective date of the Designated Organic Waste Processing Facility Fee change will control. Grantee guarantees that the per ton Designated Organic Waste Processing Facility Fee shall be the lowest rate available to any other customers in jurisdictions using the Designated Organic Waste Processing Facility for "similar services." Accordingly, in the event that similar services for other customers are charged at a per ton gate rate lower than those actually charged by Grantee to County of San Bernardino Residential Bin, Multi-Family, and Commercial Business Subscribers during the Term of this Franchise Agreement, Grantee shall reduce the per ton Designated Organic Waste Processing Facility Fee it charges to Residential Bin, Multi-Family, and Commercial Business Subscribers. "Similar services" as used in this Section refers to Processing Mixed Organics including, but not limited to, sorting, Composting, and anaerobic digestion.

The increase or decrease in the published indices for Fuel and Service will be the change in the average annual published index between the calendar year ended the December prior to the July 1 effective date for the rate adjustment and the prior calendar year. See Exhibit "G-6" (Example Rate Adjustment Formula - Calculation for Average Annual Change in Published Price Indices) for an example calculation of the average annual change in an index.

- (B) Step Two – Multiply the percentage changes for each rate adjustment component by that component's weighting and add these resulting percentages together to get the total weighted change to the rates.

The July 1, 2024 rate adjustment cost components as a percentage of total costs are provided in the table attached in Exhibit "H" (Mixed Organics Rate Adjustment Indices and Initial Cost Component Weightings), with component weightings for use in subsequent years calculated in Step Four of the rate adjustment. For Step Two of each subsequent rate adjustment, use the "Cost Components Reweighted to Equal 100%" in Column "O" of Exhibit "G-3" – (Example Residential and Multi-Family Stand-Alone Mixed Organics Bin and Cart or Barrel Rate Adjustment Formula) in Step Four during the previous rate adjustment.

- (C) Step Three – Multiply the total weighted percent change from Step Two by the existing Subscriber rates to calculate the increase or decrease to the maximum rates. Add the rate increase or decrease to the existing rates to derive the newly adjusted rates.

- (D) Step Four – Recalculate weightings for the following year based upon these changes.

- (6) **Residential, Commercial Business, and Multi-Family Source Separated Recyclables Bin and Cart or Barrel Rate Adjustment Steps** (where Source Separated Recyclables Processing rates have been approved by the County). All Residential, Commercial Business, and Multi-Family Bin and Cart or Barrel Source Separated Recyclables Processing rates will be adjusted using the cost component weightings identified in the table attached in Exhibit "H" (Source Separated Recyclables Processing Rate Adjustment Indices and Initial Cost Component Weightings) and as described below. See Exhibit "G-4" – (Example Residential, Commercial, and Multi-Family SSR Bin and Cart or Barrel Rate Adjustment Formula) for an example of rate adjustment calculations. Using Exhibit "G-4" as an example, the adjustment is calculated as follows:

- (A) Step One – Calculate the percentage increase or decrease in each index listed in the table attached in Exhibit "H" (Source Separated Recyclables Processing Rate Adjustment Indices and Initial Cost Component Weightings). The increase or decrease in Source Separated Recyclables Processing costs will be the change in the identified Designated

Source Separated Recyclables Processing Facility Fee between the July 1 effective date for the rate adjustment and the preceding July 1, except in those instances when the Designated Source Separated Recyclables Processing Facility does not fix a new Source Separated Recyclables Processing Facility Fee as of July 1 of any year, the actual effective date of the Designated Source Separated Recyclables Processing Facility Fee change will control.

The increase or decrease in the published indices for Fuel and Service will be the change in the average annual published index between the calendar year ended the December prior to the July 1 effective date for the rate adjustment and the prior calendar year. See Exhibit "G-6" (Example Rate Adjustment Formula - Calculation for Average Annual Change in Published Price Indices) for an example calculation of the average annual change in an index.

- (B) Step Two – Multiply the percentage changes for each rate adjustment component by that component's weighting and add these resulting percentages together to get the total weighted change to the rates.

The July 1, 2024 rate adjustment cost components as a percentage of total costs are provided in the table attached in Exhibit "H" (Source Separated Recyclables Rate Adjustment Indices and Initial Cost Component Weightings,) with component weightings for use in subsequent years calculated in Step Four of the rate adjustment. For Step Two of each subsequent rate adjustment, use the "Cost Components Reweighted to Equal 100%" in Column "O" of Exhibit "G-4" – (Example Residential, Commercial, and Multi-Family SSR Bin and Cart or Barrel Rate Adjustment Formula) in Step Four during the previous rate adjustment.

- (C) Step Three – Multiply the total weighted percent change from Step Two by the existing Subscriber rates to calculate the increase or decrease to the maximum rates. Add the rate increase or decrease to the existing rates to derive the newly adjusted rates.

- (D) Step Four – Recalculate weightings for the following year based upon these changes.

- (7) **Roll-Off Box Rate Adjustment Steps.** All Roll-Off box rates will be adjusted using the cost component weightings identified above as described below. See Exhibit "G-5" - (Example Roll Off Adjustment Formula) for an example rate adjustment for Roll-Off box rates.

- (A) Step One – Calculate the percentage increase or decrease in the Fuel and Service indices listed in the table attached in Exhibit "H" (Rate Adjustment Indices and Initial Cost Component Weightings). The increase or decrease in the indices for Fuel and Service will be the change in the average annual published index between the calendar year ended the December prior to the July 1 effective date for the rate adjustment and the prior calendar year. See Exhibit "G-6" (Example Rate Adjustment Formula – Calculation for Average Annual Change in Published Price Indices) for an example calculation of the average annual change in an index.

The Designated Landfill Disposal Facility Fee component is based on a per ton rate. That rate shall remain equal to the San Bernardino County Solid Waste Disposal System per ton rate for Roll-Off loads as of the effective date of the new rate schedule.

The Designated Organic Waste Processing Facility Fee and Designated Source Separated Recyclables Processing Facility Fee components are based on a per ton rate. The rate shall remain equal, respectively, to the Designated Organic Waste Processing Facility and Designated Source Separated Recyclables Processing Facility per ton rate for Roll-Off loads as of the effective date of the new rate schedule.

- (B) Step Two – Multiply the percentage changes for each rate adjustment component by that component’s weighting and add these resulting percentages together to get the total weighted change to the rates.

Cost components as a percentage of total costs are provided in Exhibit “H” (Rate Adjustment Indices and Initial Cost Component Weightings) for the rate adjustment effective July 1, 2024, with subsequent components calculated in Step Four of the rate adjustment. For Step Two of each subsequent rate adjustment, use the “Cost Components Reweighted to Equal 100%” in Column “O” of Exhibit “G-5” – (Example Rate Adjustment Formula) in Step Four during the previous rate adjustment.

- (C) Step Three – Multiply the total weighted percent change from Step Two by the existing Subscriber rates to calculate the increase or decrease to the maximum rates. Add the rate increase or decrease to the existing rates to derive the newly adjusted rates.

- (D) Step Four – Recalculate weightings for the following year based upon these changes.

- (8) **Changes in Rate Adjustment Indices.** If the same rate adjustment index is used from year to year, the “Old Index Value” (Column A in each example in Exhibits “G-1” through “G-5” - (Example Rate Adjustment Formula)), if applicable, shall be the “New Index Value” (Column B in Exhibits “G-1” through “G-5” – (Example Rate Adjustment Formula)), if applicable, used in the prior rate adjustment. If the rate adjustment index changes, due to a change in type of fuel, a discontinued index or otherwise, the change will be measured as the average annual change year over year for the new index, and data for the old/discontinued index will not be used. If a rate adjustment index is discontinued, an alternative index must be approved by the Director.
- (9) **Revision of Cost-of-Living Adjustment Methodology.** The Grantee and the County acknowledge that external factors that are used in the cost components reweighted analysis, such as fuels, costs of equipment, etc., may change over time and the factors may need adjustment. Either Party may initiate discussions to review these factors and whether an adjustment to the rate component weightings is necessary in order to provide economic service to County ratepayers.

2. Section 18(h) is added as follows:

SECTION 18 OTHER PROVISIONS

- (h) **Electronic Signatures.** This Contract may be executed in any number of counterparts, each of which so executed shall be deemed to be an original, and such counterparts shall together constitute one (1) and the same Franchise Agreement. The parties shall be entitled to sign and transmit an electronic signature of this Franchise Agreement (whether by facsimile, PDF or other mail transmission) signature shall be binding on the party whose name is contained therein. Each party providing an electronic signature agrees to promptly execute and deliver to the other party an original signed Franchise Agreement upon request.

3. Section 24 is added as follows:

Section 24 CAMPAIGN CONTRIBUTION DISCLOSURE (SB 1439)

Contractor has disclosed to the County using Exhibit “N” (Campaign Contribution Disclosure Senate Bill 1439), whether it has made any campaign contributions of more than two hundred fifty dollars (\$250) to any member of the Board of Supervisors or other County elected officer [Sheriff, Assessor-Recorder-

Clerk, Auditor-Controller/Treasurer/Tax Collector and the District Attorney] within the earlier of: (1) the date of the submission of Contractor's proposal to the County, or (2) twelve (12) months before the date this Contract was approved by the Board of Supervisors. Contractor acknowledges that under Government Code section 84308, Contractor is prohibited from making campaign contributions of more than two hundred fifty dollars (\$250) to any member of the Board of Supervisors or other County elected officer for twelve (12) months after the County's consideration of the Contract.

In the event of a proposed amendment to this Contract, the Contractor will provide the County a written statement disclosing any campaign contribution(s) of more than two hundred fifty dollars (\$250) to any member of the Board of Supervisors or other County elected officer within the preceding twelve (12) months of the date of the proposed amendment.

Campaign contributions include those made by any agent/Person/entity on behalf of the Contractor or by a parent, subsidiary or otherwise related business entity of Contractor.

4. Exhibits "A," "J," and "L" are amended with respect to "Zone A" referenced therein and these references shall mean "Zone A-1 and Zone A-2."
5. Exhibit A, Section (b)(1)(D) is added as follows:

(b) **Single-Family and Multi-Family Residential Services**

(1) **Weekly all-inclusive Cart Collection Service (standard service).**

(D) Clean Desert Sites shall be available to all Clean Desert Site Service Residential Subscribers. Clean Desert sites shall consist of at least one (1) site and open to Subscribers at the hours and locations noted below. Clean Desert Sites shall be adequately staffed to assist Subscribers with correctly disposing of their Discarded Materials in the appropriate Containers and maintain a safe and well-kept site. Grantee shall ensure that there is sufficient equipment and Containers to handle the volume of Solid Waste, Organic Waste, and Recyclables deposited by Subscribers. Grantee shall have posted signs to identify Containers and to note acceptable materials. Discarded Materials that are to be accepted for Collection at the Clean Desert Sites include the following: Solid Waste, Recyclable Materials, and Organic Waste, as further described in Exhibit "A-1." Clean Desert Site locations, hours, equipment, and acceptable materials may be changed upon mutual agreement between the County and Grantee.

(i) Clean Desert Site 1: Yucca Valley Transfer Station. 58925 Sunnyslope Dr, Yucca Valley, CA 92284.

(ii) Hours of Operation. All Clean Desert Sites will be open every Tuesday and Thursday from 9:00am through 1:00pm and every Saturday from 8:00am through 12:00pm. Clean Desert Sites will be closed on Grantee recognized Holidays and may be closed during inclement weather at the discretion of Grantee.

6. Exhibit "A-1" - Services to Be Provided is deleted in its entirety and replaced with 2024 Exhibit "A-1," which is attached and incorporated by reference.
7. Exhibit "B" - Map of Franchise Area is deleted in its entirety and replaced with 2024 Exhibit "B," which is attached and incorporated by reference.

8. Exhibit "B-1" - Legal Description of Franchise Area is deleted in its entirety and replaced with 2024 Exhibit "B-1," which is attached and incorporated by reference.
9. Exhibit "E" - Rates is deleted in its entirety and replaced with 2024 Exhibit "E," which is attached and incorporated by reference.
10. Exhibit "G" - Example Rate Adjustment Formulas is deleted in its entirety and replaced with 2024 Exhibit "G," which is attached and incorporated by reference.
11. Exhibit "H" - Rate Adjustment Indices and Initial Cost Component Weightings is deleted in its entirety and replaced with 2024 Exhibit "H," which is attached and incorporated by reference.
12. Exhibit "N" - Campaign Contribution Disclosure Senate Bill 1439 is added, which is attached and incorporated by reference.
13. Except as amended herein, all other terms and conditions of the Franchise Agreement shall remain in effect.

IN WITNESS WHEREOF, the Board of Supervisors of San Bernardino County and the Grantee have each caused this Amendment to be subscribed by its respective duly authorized officers on its respective behalf.

SAN BERNARDINO COUNTY

►

Dawn Rowe, Chair, Board of Supervisors

Dated: _____
SIGNED AND CERTIFIED THAT A COPY OF THIS
DOCUMENT HAS BEEN DELIVERED TO THE
CHAIRMAN OF THE BOARD

Lynna Monell
Clerk of the Board of Supervisors
San Bernardino County

By _____
Deputy

Burrtec Waste & Recycling Services, LLC
(Print or type name of corporation, company, contractor, etc.)

By ► _____
(Authorized signature - sign in blue ink)

Name Tracy A. Sweeney
(Print or type name of person signing contract)

Vice President of Administration- Desert
Title Operations
(Print or Type)

Dated: _____

Address 9890 Cherry Ave
Fontana, CA 92335