

THE INFORMATION IN THIS BOX IS NOT A PART OF THE CONTRACT AND IS FOR COUNTY USE ONLY



Contract Number

98-105 A-8

SAP Number

4400005792

Public Works – Solid Waste Management Division

Department Contract Representative	<u>Darren J. Meeka, Deputy Director</u>
Telephone Number	<u>(909) 387-4701</u>
Contractor	<u>City of Fontana</u>
Contractor Representative	<u>Matthew Ballantyne, City Manager</u>
Telephone Number	<u>(909) 350-7653</u>
Contract Term	<u>2/24/1998 – 6/30/2026</u>
Original Contract Amount	<u>Various</u>
Amendment Amount	<u></u>
Total Contract Amount	<u></u>
Cost Center	<u>6700004250</u>

Briefly describe the general nature of the contract: *The Waste Disposal Agreement (WDA) that is the subject of this amendment is an agreement between the County and the City of Fontana for use of the County landfill system. Amendment No. 1 was to implement the "Article 19 Solid Waste" component of the County's waste management system and define the City's share of that revenue. Amendment No. 2 was to increase the annual maximum limits of "Article 19 Solid Waste" in the County landfill system. Amendment No. 3 allowed the County to charge the fee of \$10.00 per ton (prorated) for identified controllable waste of the City (e.g., roll off container trucks and other County/City vehicles such as pickups and dump trucks) and have such waste subject to being processed in the recycling program. Amendment No. 4 allowed the County to calculate the annual cost of living adjustment earlier in the calendar year. Amendment No. 5 extended the end date of the WDA to June 30, 2016. Amendment No. 6 allowed the Parties to extend the end date of the WDA to June 30, 2021, apply an annual fixed WDA renewal discount adjustment of \$0.82 per ton for the term of the WDA, and allow the County to enter into agreements to accept in-County waste from non-WDA users of the Disposal System at a rate lower than the WDA Contract Rate in exchange for the sharing of the net revenue generated from those agreements. Amendment No. 7 extended the end date of the WDA to June 30, 2026 and reset the WDA Contract Rate to \$38.00 per ton, effective July 1, 2021.*

This Amendment No. 8 will cap the WDA Contract Rate in order to maintain a 15% buffer between the WDA Contract Rate and the County's posted gate rate.

FOR COUNTY USE ONLY

Approved as to Legal Form

Jolena Grider
 Jolena Grider, Deputy County Counsel
 Date 6/22/22

Reviewed for Contract Compliance

Andy Silao
 Andy Silao, P.E.
 Date 6-27-22

Reviewed/Approved by Department

Brendon Biggs
 Brendon Biggs, Director
 Date 6-27-22

AMENDMENT NO. 8 TO THE
WASTE DISPOSAL AGREEMENT NO. 98-105

On February 24, 1998, the City of Fontana ("City") and the County of San Bernardino ("County") entered into a Waste Disposal Agreement ("WDA"). The parties hereby amend the WDA, on the Effective Date as provided herein, by their respective execution of this agreement (hereinafter "Amendment").

Recitals

- A. The parties have previously entered into the following amendments to the WDA. Amendment No. 1 to the WDA was to implement the "Article 19 Solid Waste" component of the County's waste management system and define the City's share of that revenue. Amendment No. 2 was to increase the annual maximum limits of "Article 19 Solid Waste" in the County landfill system. Amendment No. 3 allowed the County to charge the fee of \$10.00 per ton (prorated) for identified controllable waste of the City (e.g., roll off container trucks and other County/City vehicles such as pickups and dump trucks) and have such waste subject to being processed in the recycling program. Amendment No. 4 allowed the County to calculate the annual cost of living adjustment earlier in the calendar year. Amendment No. 5 extended the end date of the WDA to June 30, 2016. Amendment No. 6 extended the term of the WDA to June 30, 2021, applied an annual fixed WDA renewal discount adjustment of \$0.82 per ton for the term of the WDA, and allowed the County to enter into agreements to accept in-County waste from non-WDA users of the Disposal System at a rate lower than the WDA Contract Rate in exchange for sharing the net revenue generated from those agreements. Amendment No. 7 reset the WDA Contract Rate and extended the term for five (5) years to June 30, 2026.
- B. In connection with the ongoing administration of the WDA, the parties have determined it is now in their best interests to cap the WDA Contract Rate in order to maintain a 15% buffer between the WDA Contract Rate and the County's posted gate rate.
- C. This change will assist both the City and the County in planning for future fiscal years' budgeting of solid waste disposal services and costs by putting a mechanism in place for the future to prevent compaction with the County's posted gate rate.

NOW THEREFORE, in consideration of the forgoing recitals and the following covenants and promises the Parties agree as follows:

1. Amended Section 4.2 CONTRACT RATE. (A) Generally. This section is amended in its entirety to read:

SECTION 4.2. CONTRACT RATE. (A) Generally. Effective July 1, 2022, the Contract Rate payable by each Franchise Hauler shall be \$40.75 per ton, subject to potential adjustment necessary to reflect the circumstances set forth below:

- (i) increased costs incurred by the County (in excess of available insurance proceeds) due to the occurrence of one or more Uncontrollable Circumstances, including Changes in Law; and
- (ii) escalation during the Term of this Agreement calculated in accordance with Section 4.2(B). In no case will the calculation of escalation exceed 85% of the County approved general public gate rate (currently \$59.94 minus the current CSDP recycling fee of \$12.00), as such fees may be amended.

Prior to adjusting the Contract Rate as a result of any of the circumstances described in Section 4.2(A)(i), the County shall utilize the following remedy: reduce the costs of operating the Disposal System to the extent practicable.

Any adjustments to the Contract Rate permitted by Section 4.2(A)(i) shall be calculated by the County to reflect the actual costs or expenses of addressing the circumstance or circumstances pursuant to which the adjustment is authorized, and shall also reflect, where applicable, the then remaining capacity in the Disposal System. Such adjustment may not reflect circumstances other than the circumstances described in Section 4.2(A)(i).

2. Amended Section 4.2. CONTRACT RATE. (B) Calculation of Escalation. This section is amended in its entirety to read:

SECTION 4.2. CONTRACT RATE. (B) Calculation of Escalation. For purposes of Section 4.2(A)(ii), the Contract Rate shall be adjusted in accordance with the formula described in this Section each July 1 during the term hereof, commencing July 1, 2022. The adjustment shall be calculated in accordance with the following formula:

$$\text{Contract Rate} = \text{Fixed Portion} + [\text{Escalating Portion} \times \text{Index}]$$

Where,

$$\text{Fixed Portion} = \$10.87$$

$$\text{Escalating Portion} = \$17.63$$

Index = Price Index, which shall be determined in accordance with the following formula:

$$I = .7[\text{PPI}_1/\text{PPI}_2] + .3[\text{EI}_1/\text{EI}_2]$$

PPI_1 = The Producer Price Index, Industrial Commodities Commodity Data, as published at the United States Department of Labor, Bureau of Labor Statistics web site, Series ID WPU03 thru 15 for the month of September in the year prior to the year for which the adjustment is being made (e.g., the adjustment effective July 1, 2011 will use the September 2010 value)

PPI_2 = Producer Price Index, Industrial Commodities Commodity Data for the month of September, 1997

EI_1 = Employment Cost Index, Total Compensation, Private Industry All Workers, as published at the United States Department of Labor, Bureau of Labor Statistics web site, Series ID: CIU2010000000000 for the last quarter of the year preceding the year for which the adjustment is being made (e.g., the adjustment effective July 1, 2011 will use the third quarter, 2010 value)

EI_2 = Employment Cost Index, Compensation, Private Industry All Workers, as published at the United States Department of Labor, Bureau of Labor Statistics web site, Table 3, established for the third quarter of 1997.

Effective July 1, 2022, and each July 1 thereafter during the term of the Agreement, the Contract Rate adjustment will be calculated as provided above, except that an annual fixed WDA renewal discount adjustment of \$0.82 per ton will be applied after the annual Cost of Living Adjustment (COLA) adjustment. In no case will the adjustment to the Contract Rate exceed 85% of the County's approved general public gate rate (without the current CDSDP recycling fee of \$12.00), as such fees may be amended. For example, the current County's posted gate rate is \$47.94 (\$59.94 minus the \$12 CDSDP fee). Therefore, the WDA Contract Rate cannot be more than 85% of that rate, which is \$40.75. However, if the County adjusts its posted gate rate in any future year of the term of the WDA, the WDA Contract Rate will be adjusted according to the above calculation formula, including the renewal discount adjustment of \$0.82 per ton, up to the maximum of 85% of the newly posted gate rate. If the calculated annual adjustment of any year would exceed the 85%, then the capped maximum amount of 85% will be used. If, however,

IN WITNESS WHEREOF, the parties have caused this Amendment to be executed by their duly authorized officers or representatives as of the day and year first above written.

SAN BERNARDINO COUNTY

► Dawn M. Rowe
Gurt Hagman, Chairman, Board of Supervisors

Dated: Dawn M. Rowe JUN 28 2022 *VICE CHAIR*

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

By Lynna Monell
Clerk of the Board of Supervisors
of San Bernardino County
Deputy



City of Fontana
(Print or type name of corporation, company, contractor, etc.)

By ► [Signature]
(Authorized signature - sign in blue ink)
Matthew C. Ballantyne

Name [Signature]
(Print or type name of person signing contract)

Title City Manager
(Print or Type)

Dated: 6/20/2022

Address 8353 Sierra Avenue
Fontana, CA 92335

Approved as to Legal Form
► **SEE ATTACHED**
Jolena Grider, Deputy County Counsel
Date _____

Reviewed for Contract Compliance
► **SEE ATTACHED**
Andy Silao, P.E.
Date _____

Reviewed/Approved by Department
► **SEE ATTACHED**
Brendon Biggs, Director
Date _____

IN WITNESS WHEREOF, the parties have caused this Amendment to be executed by their duly authorized officers or representatives as of the day and year first above written.

SAN BERNARDINO COUNTY

▶

Curt Hagman, Chairman, 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
of San Bernardino County

By _____
Deputy

City of Fontana
(Print or type name of corporation, company, contractor, etc.)

By ▶ 
(Authorized signature - sign in blue ink)
Matthew C. Ballantyne

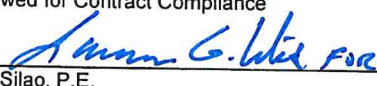
 Name _____
(Print or type name of person signing contract)

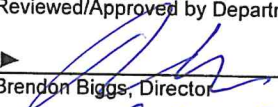
Title City Manager
(Print or Type)

Dated: 6/20/2022

Address 8353 Sierra Avenue
Fontana, CA 92335

Approved as to Legal Form
▶ **SEE ATTACHED**
Jolena Grider, Deputy County Counsel
Date _____

Reviewed for Contract Compliance
▶ 
Andy Silao, P.E.
Date 6-27-22

Reviewed/Approved by Department
▶ 
Brendon Biggs, Director
Date 6-27-22

IN WITNESS WHEREOF, the parties have caused this Amendment to be executed by their duly authorized officers or representatives as of the day and year first above written.

SAN BERNARDINO COUNTY

City of Fontana
(Print or type name of corporation, company, contractor, etc.)

▶

Curt Hagman, Chairman, Board of Supervisors

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

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

Name _____
(Print or type name of person signing contract)

Lynna Monell
Clerk of the Board of Supervisors
of San Bernardino County

Title _____
(Print or Type)

By _____
Deputy

Dated: _____

Address 8353 Sierra Avenue
Fontana, CA 92335

Approved as to Legal Form
▶ Jolana Gruber
Jolana Gruber, Deputy County Counsel
Date 6/22/22

Reviewed for Contract Compliance
▶ _____
Andy Silao, P.E.
Date _____

Reviewed/Approved by Department
▶ _____
Brendon Biggs, Director
Date _____

EXHIBIT A

CITIES/TOWNS WITH A WASTE DELIVERY AGREEMENT
WITH THE COUNTY OF SAN BERNARDINO
OFFERED THIS AMENDMENT JUNE 2022
FOR AN AGREEMENT END DATE OF JUNE 30, 2026

1. ADELANTO
2. APPLE VALLEY
3. BARSTOW
4. BIG BEAR LAKE
5. COLTON
6. FONTANA
7. GRAND TERRACE
8. HESPERIA
9. HIGHLAND
10. LOMA LINDA
11. RIALTO
12. TWENTYNINE PALMS
13. VICTORVILLE
14. YUCAIPA
15. YUCCA VALLEY