

**AMENDMENT NO. 4 TO AGREEMENT BETWEEN  
THE CITY OF DUARTE AND BURRTEC WASTE SERVICES LLC**

This Amendment No. 4 To The Agreement Between The City Of Duarte And Burrtec Waste Services LLC For Municipal Solid Waste, Recyclables, And Green Waste Collection, Transportation, Disposal, Composting, And Processing (“Amendment No. 4”) is made and entered into as of June 22, 2010 (“Effective Date”), by and between the CITY OF DUARTE, a municipal corporation (“City”), and BURRTEC WASTE SERVICES LLC, a California limited liability company (“Contractor”). City and Contractor are sometimes referred to herein individually as a “Party” and collective as the “Parties.”

***RECITALS:***

A. City and Contractor entered into that certain agreement titled “Agreement Between the City of Duarte and Burrtec Waste Service[sic] LLC for Municipal Solid Waste, Recyclables, and Green Waste Collection, Transportation, Disposal, Composting, and Processing dated on or about September 18, 1996, also referred to as “Agreement Between The City of Duarte And Burrtec Waste Services[sic] LLC For Solid Waste Collection, Processing and Disposal Services, September 18, 1996 (the “Original Agreement”), as amended by that certain Amendment No. 1 thereto dated on or about March 8, 2004 (“Amendment No. 1”), and by that certain Amendment No. 2 thereto dated on or about November 13, 2007 (“Amendment No. 2”), and by that certain Amendment No. 3 thereto dated on or about February 24, 2009 (“Amendment No. 3”). The Original Agreement as amended by Amendment No. 1, Amendment No. 2, and Amendment No. 3, is hereinafter referred to collectively as the “Agreement.”

B. City and Contractor desire to enter into this Amendment No. 4 to (i) amend Exhibit 3.01a, Scope of Regular Collection Services to include Street Sweeping and (ii) increase the City Impact Fee.

C. Except as otherwise set forth in this Amendment No. 4, the defined terms used herein shall have the same meanings as used in the Agreement.

***AMENDMENT:***

*NOW, THEREFORE*, in consideration of the foregoing Recitals and the covenants and promises hereinafter contained, and for good and valuable consideration, the sufficiency and receipt of which are hereby acknowledged, the Parties hereto agree as follows:

1. **RECITALS INCORPORATED.** The foregoing Recitals are true and correct and are incorporated herein and made a part hereof.
2. **AMENDMENTS.** The Agreement is amended as follows:
  - A. Section 10.03 (“City Impact Fee) of the Agreement is hereby amended in its entirety to read as follows:

**10.03 City Impact Fee.** In order to reimburse the City its costs of administering this Contract, including review and evaluation of Records and reports in accordance with Article 7; evaluating Contractor's performance hereunder and compliance with the terms hereof; and of generally providing MSW management services not provided by Contractor hereunder as necessary to protect public health and welfare and comply with Applicable Law, including AB 939 diversion programs; and of maintaining, repairing, and replacing City infrastructure, including streets, Contractor shall pay to City as below:

1. An amount equal to fifteen percent (15%) of the gross annual revenue received by Contractor from commercial customers and all commercial Services; and

2. An amount equal to twelve (12%) of the gross annual revenue received by Contractor from residential customers and all residential Services.

- B. Exhibit 3.01a ("Scope of Regular Collection Services") is amended by adding Paragraph 16, "Removal of Debris from City Streets," as below with a commencement date for Contractor's performance under Paragraph 16 of July 1, 2010.

**16. Removal of Debris from City Streets**

In order to ameliorate the impacts of inadvertent spillage of Solid Waste onto City's streets and rights-of-way, as well as the impacts of Solid Waste which escapes from Containers due to wind and other natural conditions, Contractor shall provide street sweeping of the entire Duarte Street System and charge fees related to this program to its Duarte Customers subject to final approval by the City and in accordance with the following:

- A. General Provisions regarding Removal of Debris from Streets. Contractor agrees to furnish all tools, equipment, apparatus, facilities, expertise, labor, and materials, and perform all work necessary to sweep all streets, alleys and medians in the Duarte Street System so as to remove debris therefrom in a good and workmanlike manner. Said work shall be performed and completed by Contractor to the satisfaction of the City Manager. Contractor may hire a subcontractor to perform the services contemplated by this Paragraph 16 provided any agreement to do so is in writing, and approved by the City Manager in advance of a subcontractor performing any services. If a subcontractor is used, all requirements of this Section applicable to Contractor and its employees shall apply to such subcontractor and its employees. Notwithstanding the City Manager's approval for Contractor's use

of a subcontractor, Contractor shall remain fully responsible and liable for performance under this Paragraph 16.

- B. Frequency of Sweeping. The entire Duarte Street System shall be swept subject to a frequency approved by the City Manager, with the intent that to the degree feasible residential streets will be swept within two days after Solid Waste collection services are provided.
- C. Operations; Compliance With Laws and Regulations. The street sweeping methods and procedures used by the Contractor shall be consistent with the current standards in the industry, in compliance with all Federal, State and local laws and regulations, and shall be subject to the prior written approval of the City Manager.
- D. Schedule and Routes. Street sweeping routes and schedules are to be developed by Contractor and approved in advance in writing by the City Manager.
- E. Sweeping Vehicle Speed. Street sweeping vehicles shall not operate at a speed that exceeds the manufacturer's recommendations for the sweeper and/or the speed for good street sweeping practice as determined by the City Manager. In any event, vehicle speed shall not exceed six (6) miles per hour and patterned concrete crosswalks shall be swept at a maximum speed of three (3) miles per hour.
- F. Safety. All safety related defects determined to exist on any sweeping vehicle shall be corrected by Contractor prior to the vehicle being utilized for further street sweeping operations.
- G. Disposal of Refuse. Contractor shall, at its own expense, dispose of all Solid Waste collected in the course of street sweeping in the same manner as required for Solid Waste collected in the course of providing Solid Waste handling services. Contractor shall not temporarily stockpile street sweeping debris on public property, or on any private property without the prior written consent of the property owner and the City Manager, pending its ultimate disposal.
- H. Special Events and Services. Contractor shall perform additional street sweeping services at no additional cost to the City for the following events.
  - (1) Route 66 Parade
  - (2) City of Hope – 2 events per year

(3) Civic Center Parking Lot

I. Contractors Street Sweeping Equipment.

- (1) Type. The street sweeping equipment used by Contractor shall be a type consistent with the current standards in the industry and shall be subject to the prior written approval of the City Manager.
- (2) Quantity. Contractor shall have and maintain a minimum of two (2) street sweeping vehicles such that Contractor shall have available at least one back-up street sweeping vehicle to be used in the event of a mechanical failure.
- (3) Condition. All vehicles and equipment used to perform street sweeping services shall be maintained in good mechanical condition. In addition, the following shall apply:
  - a. Equipment used in the performance of this Agreement shall conform to all applicable South Coast Air Quality Management District ("AQMD") rules, regulations, and standards, including but not limited to AQMD Rule 1186, 1186.1 and PM 10 standards, as well as all other environmental standards, rules, and laws that pertain to services described in this Agreement. If requested by the City Manager or the City's Field Services Manager, Contractor shall provide equipment certification and/or documentation verifying full compliance with such standards, rules and laws.
  - b. Said equipment shall be kept clean at all times;
  - c. Said equipment shall be painted in a fashion approved in advance in writing by the City Manager; and,
  - d. Mechanical brushes and brooms shall be maintained in proper condition and shall be replaced as recommended by the manufacturer or when pick-up ability becomes impaired.
- (4) Inspection. All equipment utilized for street sweeping operations shall be subject to inspection by the City Manager (or his/her authorized designee) at any time.

J. Contractor's Street Sweeping Personnel.

- (1) Qualifications. Contractor shall employ competent and experienced drivers and mechanics for the performance of street sweeping operations ("Street Sweeping Personnel.").
- (2) Uniforms. City may require that Contractor's Street Sweeping Personnel wear a clean uniform bearing Contractor's company's name, or other suitable clothing as approved by City.
- (3) Identification of Employees. Contractor shall provide identification badges, cards or similar devices, for all of its Street Sweeping Personnel who may make personal contact with residents of the City. City may require Contractor to notify Customers yearly of the form of said identification.
- (4) Driver's License. Contractor's Street Sweeping Personnel shall, at all times, carry a valid operator's license for the type of vehicle he or she is operating.
- (5) Discontinued Use of Unsatisfactory Employees. No Street Sweeping Personnel shall continue to have any involvement whatsoever with regard to any work in anyway relating to or arising from this Agreement if City gives notice to Contractor that such person is determined by City to be intemperate, discourteous, disorderly, inefficient, or otherwise objectionable. Contractor shall indemnify, defend, and hold City harmless from and against any claims, demands, losses, lawsuits, or liabilities, including expert witness fees and attorney fees, arising out of or related to any termination or other personnel actions resulting from or arising out of City's above-described notice to Contractor.
- (6) Training and Legal Compliance. Contractor shall provide operating and safety training for all of its Street Sweeping Personnel that meets minimum OSHA, and all other applicable standards.

K. Contract Administration.

- (1) Verification. At the discretion of the City Manager, the City may require the installation of odometers, time clocks, or other specialized equipment to verify work performed.
- (2) Complaints. Any complaints received by City relating to the services to be provided by this Section shall be referred

to Contractor. All such complaints shall be dealt with by Contractor in the manner set forth in the Agreement.

(3) Reports. Contractor shall keep a daily log of streets swept. Said log shall state the area and the number of curb miles swept. A Monthly Report shall be prepared from the daily log and submitted in the Annual Performance Review to the City Manager.

3. NO OTHER AMENDMENT. Except as set forth in this Amendment No. 4, the Agreement shall remain in full force and effect according to its terms.
4. COUNTERPARTS. This Amendment No. 4 may be executed in counterparts, each of which, when this Amendment No. 4 has been signed by both of the Parties, shall constitute one and the same instrument.
5. EFFECTIVE DATE. The Effective Date of this Amendment No. 4 shall be the latest of the dates set next to the signatures of the Parties, which latest date shall be inserted into the Preamble to this Amendment No. 4.

[end—signature page follows]

IN WITNESS WHEREOF, the Parties have executed and entered into this Amendment No. 4 as of the Effective Date.

“CITY”

CITY OF DUARTE

Date: June 8, 2010

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

  
Mayor Margaret Finlay

ATTEST:

Marla Akana  
Marla Akana, City Clerk

APPROVED AS TO FORM:  
Rutan & Tucker, LLP


Dan Slater  
Dan Slater, City Attorney

“CONTRACTOR”

BURRTEC WASTE SERVICES LLC

Date: June 22, 2010

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

  
Printed Name: Cole Burr

Its: President / CEO

Attachment 1

**BURRTEC WASTE SERVICES**  
**Duarte Street Sweeping Amendment**  
**Rate Exhibit**

<u>Total Estimated Annual Cost</u>	
Street Sweeping	\$ 63,000
Auxiliary Sweeping	3,000
Direct Costs (5%)	3,300
Indirect Costs (5%)	3,300
Total	<u>\$ 72,600</u>
 <u>Residential Rate</u>	
Customer Count	4,600
Base Monthly Rate	\$ 1.19
Franchise Fee 12%	\$ 0.16
Total Monthly Billing	<u>\$ 1.35</u>
 <u>Commercial and Rolloff Rate</u>	
Customer Count	260
Base Monthly Rate	\$ 2.22
Franchise Fee 15%	\$ 0.39
Total Monthly Billing	<u>\$ 2.61</u>



## ATTACHMENT 2

City	Franchise Fees	CPI	AB939 fee
City of Adelanto	20%		0
City of Arcadia	2.04% Residential; 9.26% Commercial		30 cents per barrel
City of Azusa	10%		\$0.75 / barrels
City of Barstow	10%		0
City of Bradbury	7%		0
City of Covina	6%	3.4%	14.7%
City of Duarte	Residential 12%, Commercial 15%		0
City of Fontana	12%		0
City of Glendora	10.55%		9.5%
City of Grand Terrace	15%		0
City of Highland	10%		0
City of Lynwood	22%		0
City of Monrovia	\$15 per ton		0
City of Pomona	15% Residential, 25% Commercial		\$0.50 per ton
City of Rancho Cucamonga	10%		5%
City of Rialto	14%		3.6%
City of Riverside	\$13.59 per ton		\$2.29 per ton
City of San Bernardino	11%		0
City of Sierra Madre	15%		0
City of West Covina	6%	3.4%	14.7%
County of Los Angeles (Whittier, Pasadena, Santa Clarita)	10%		0

ATTACHMENT 3

**City of Duarte  
Burrtec Waste Services  
Refuse & Recycling Fee Rate Adjustment  
Current rate at 7% vs. Proposed Franchise Fee at 12%**

**90g**

Cost Components	Current Rate 7% Fee	Proposed Rate 12% Fee
Subtotal Hauler Fees	16.92	16.92
City Franchise Fee	1.27	2.31
Rate	18.20	19.23

**60g**

Cost Components	Current Rate 7% Fee	Proposed Rate 12% Fee
Subtotal Hauler Fees	14.69	14.70
City Franchise Fee	1.11	2.00
Rate	15.80	16.70

**40g**

Cost Components	Current Rate 7% Fee	Proposed Rate 12% Fee
Subtotal Hauler Fees	13.55	13.55
City Franchise Fee	1.02	1.85
Rate	14.57	15.40

**40g -Senior**

Cost Components	Current Rate 7% Fee	Proposed Rate 12% Fee
Subtotal Hauler Fees	12.82	12.82
City Franchise Fee	0.97	1.75
Rate	13.79	14.57

## CITY OF DUARTE

Burrtec Waste Services, LLC

Refuse Bin Collection Rate Analysis

Current rate at 10% vs. Proposed Franchise Fee at 15%

Bin Size	Freq	Current			Proposed		
		Service/ Disposal	Franchise Fee 10.00%	Monthly Rate	Service/ Disposal	Franchise Fee 15.00%	Monthly Rate
1	1	73.28	8.14	\$ 81.42	73.28	12.93	\$ 86.21
1	2	122.85	13.65	\$ 136.50	122.85	21.68	\$ 144.53
1.5	1	82.11	13.68	\$ 91.23	82.11	14.49	\$ 96.60
1.5	2	136.30	22.72	\$ 151.44	136.30	24.05	\$ 160.35
2	1	103.76	11.53	\$ 115.29	103.76	18.31	\$ 122.07
2	2	167.06	18.56	\$ 185.62	167.06	29.48	\$ 196.54
3	1	116.33	12.93	\$ 129.26	116.33	20.53	\$ 136.86
3	2	186.39	20.71	\$ 207.10	186.39	32.89	\$ 219.28
3	3	273.14	30.35	\$ 303.49	273.14	48.20	\$ 321.34
3	4	351.48	39.05	\$ 390.53	351.48	62.03	\$ 413.51
3	5	429.83	47.76	\$ 477.59	429.83	75.85	\$ 505.68
3	6	508.19	56.47	\$ 564.66	508.19	89.68	\$ 597.87
4	1	155.17	17.24	\$ 172.41	155.17	27.38	\$ 182.55
4	2	245.87	27.32	\$ 273.19	245.87	43.39	\$ 289.26
4	3	336.57	37.40	\$ 373.97	336.57	59.39	\$ 395.96
4	4	427.22	47.47	\$ 474.69	427.22	75.39	\$ 502.61
4	5	517.91	57.55	\$ 575.46	517.91	91.40	\$ 609.31
4	6	608.58	67.62	\$ 676.20	608.58	107.40	\$ 715.98
6	1	232.84	25.87	\$ 258.71	232.84	41.09	\$ 273.93
6	2	346.77	38.53	\$ 385.30	346.77	61.19	\$ 407.96
6	3	460.70	51.19	\$ 511.89	460.70	81.30	\$ 542.00
6	4	574.64	63.85	\$ 638.49	574.64	101.41	\$ 676.05
6	5	688.59	76.51	\$ 765.10	688.59	121.52	\$ 810.11
6	6	802.52	89.17	\$ 891.69	802.52	141.62	\$ 944.14

CITY OF DUARTE  
 Burrtec Waste Services, LLC  
 Recycling Bin Collection Rate Analysis  
 Current rate at 10% vs. Proposed Franchise Fee at 15%

Bin Size	Frequency	Current			Proposed		
		Service/ Disposal	Franchise Fee 10.00%	Monthly Rate	Service/ Disposal	Franchise Fee 15.00%	Monthly Rate
1.5	1	51.91	5.77	\$ 57.68	51.91	9.16	\$ 61.07
2	1	64.63	7.18	\$ 71.81	64.63	11.41	\$ 76.04
2	2	85.16	9.47	\$ 94.63	85.16	15.03	\$ 100.19
3	1	77.05	8.56	\$ 85.61	77.05	13.60	\$ 90.65
3	2	107.76	11.97	\$ 119.73	107.76	19.02	\$ 126.78
3	3	155.18	17.24	\$ 172.42	155.18	27.38	\$ 182.56
3	4	194.26	21.58	\$ 215.84	194.26	34.28	\$ 228.54
3	5	233.35	25.93	\$ 259.28	233.35	41.18	\$ 274.53
3	6	272.40	30.27	\$ 302.67	272.40	48.07	\$ 320.47