

**AMENDMENT NO. 10 TO AGREEMENT BETWEEN
THE CITY OF DUARTE AND BURRTEC WASTE SERVICES, LLC**

This Amendment No. 10 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. 10) is made and entered into as of Dec 20, 2018 (“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”), by that certain Amendment No. 2 thereto dated on or about November 13, 2007 (“Amendment No. 2”), by that certain Amendment No. 3 thereto dated on or about February 24, 2009 (“Amendment No. 3”), by that certain Amendment No. 4 thereto dated on or about June 22, 2010 (“Amendment No. 4”), and by that certain Amendment No. 5 thereto dated on or about December 10, 2013 (“Amendment No. 5”) and by that certain Amendment No. 6 dated on or about December 15, 2014 (“Amendment No. 6”) by that certain Amendment No. 7 dated on or about December 23, 2015 (“Amendment No. 7”) by that certain Amendment No. 8 dated on or about December 13, 2016 (“Amendment No. 8”) and by certain Amendment No. 9 dated on or about December 12, 2017. The Original Agreement as amended by Amendment No. 1, Amendment No. 2, Amendment No. 3, Amendment No. 4, Amendment No. 5, Amendment No. 6, Amendment No. 7, Amendment No. 8 and Amendment No. 9 is hereinafter referred to collectively as the Agreement.”

B. City and Contractor desire to enter into this Amendment No. 10 to, among other things, amend, extend and restate the Term of the Agreement, alter the dates of the Annual Performance Review, and add certain services to the list of services to be provided by Contractor.

C. Except as otherwise set forth in this Amendment No. 10, 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 3.01 (Term) of the Agreement is hereby amended in its entirety to read as follows:

3.01 Term. Pursuant to operation of the automatic extension provision of Amendment No. 9, section 3.01(d), the Term of this Agreement shall expire effective December 31, 2028, subject to subsection (c) below

(c) The Agreement Term may be extended one (1) additional year each year from and after December 31, 2019, so as to continually maintain a ten (10) year period as the remaining Term of the Agreement. Such extension may be granted by City with or without cause, pursuant to the following Annual Performance Review procedures and schedule:

(1) Commencing during calendar year 2018 and each calendar year thereafter until this Agreement expires, Contractor shall submit to City, prior to October 1 of each year, the documentation reasonably required for the City to perform the Annual Performance Review.

(2) City shall conduct the Annual Performance Review on or after October 1 but prior to December 15 of each year. Upon completion of the Annual Performance Review, the City shall determine, not later than December 15 whether to approve a one-year addition to the end of the Term of this Agreement. If the one year renewal is approved, a ten (10) year remaining term to the Agreement would be maintained. If the City timely determines to not approve the one year renewal to the Agreement, the Agreement shall expire as of the December 31 of the tenth full calendar year following such determination.

3. **NO OTHER AMENDMENT.** Except as set forth in this Amendment No. 10, the Agreement shall remain in full force and effect according to its terms.

4. **COUNTERPARTS.** This Amendment No. 10 may be executed in counterparts, each of which, when this Amendment No. 10 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. 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. 10.

[end—signature page follows]

IN WITNESS WHEREOF, the Parties have executed and entered into this Amendment No. 10 as of the Effective Date.


“CITY”

CITY OF DUARTE

Date: 12/11/18

By: 
Mayor

ATTEST:


Marla Akana, City Clerk

APPROVED AS TO FORM:
Rutan & Tucker, LLP


David Cosgrove, City Attorney

“CONTRACTOR”

BURRTEC WASTE SERVICES, LLC

Date: 12/20/18

By: 

Printed Name: Cole Burr

Its: President