

**THIRD AMENDMENT TO FRANCHISE AGREEMENT
FOR REFUSE AND RECYCLING COLLECTION AND DISPOSAL**

This Third Amendment ("Third Amendment") to the Franchise for Refuse and Recycling Collection and Disposal is entered into as of January 19, 2011, between Pittsburg Disposal and Debris Box Service, Inc. ("Pittsburg Disposal") and the City of Pittsburg ("City").

RECITALS

A. Effective July 1, 1999, Pittsburg Disposal and City entered into that certain Franchise Agreement for Refuse and Recycling Collection and Disposal ("Franchise Agreement"), as amended pursuant to which City granted Pittsburg Disposal the exclusive right, privilege and franchise to provide Residential and Multi-family Dwelling Solid Waste Collection Service, Residential and Multi-family Recycling Collection Service and Commercial and Industrial Solid Waste Collection Service within the Service Area.

B. The purpose of this Third Amendment is to amend the Franchise Agreement to enhance the Franchise Agreement by adding additional services, programs and changing the term.

C. This Third Amendment has been negotiated between Parties and is consistent with Article XVII, Section 7 of the Franchise Agreement which requires any modification of, or amendment or additions to, the Franchise Agreement to be in writing and signed by both Parties.

NOW THEREFORE, in consideration of the premises, covenants and provisions set forth herein, the receipt and adequacy of which consideration is hereby acknowledged, the Parties agree as follows:

AGREEMENT

1. RECITALS.

The foregoing recitals are true and correct and hereby are incorporated herein by reference.

2. DEFINED TERMS.

All capitalized terms not defined herein shall have the meanings ascribed to them in the Franchise Agreement. For purposes of this Third Amendment, the phrase "Commercial/Industrial Customer" shall mean any Customer who receives services pursuant to the Franchise Agreement, as amended, to a Commercial and/or Industrial Property.

3. ARTICLE I, SECTION 2.

Article I – “Grant and Acceptance of Franchise, Section 2 – “Contract Period and Renewal Option,” is deleted in its entirety and the following new Article I, Section shall be substituted in its place as follows:

SECTION 2- CONTRACT PERIOD AND AUTOMATIC RENEWAL

“The term of this Franchise Agreement, as amended, which was originally effective July 1, 1999, is extended and will terminate in fifteen (15) years on June 30, 2025. The term of this Franchise Agreement, as amended, shall, upon the termination of each twelve (12) month period, shall automatically extended for an additional twelve (12) months so that, upon each anniversary date of this Agreement, the term shall always be fifteen (15) years. Either Party may terminate this automatic renewal by giving at least one hundred and twenty (120) days prior written notice to the other of such termination and thereafter, the automatic renewal shall terminate and the Franchise Agreement, as amended, shall terminate on the expiration of the remaining term, of the Franchise Agreement.”

4. ARTICLE II – SECTION 1.

Article II, “Franchise Fee” – Section 1 – “Residential Solid Waste Franchise Fee”, is amended to read as follows:

“The service charge and franchise fees are to be paid to the City by the Franchise Holder for the granting of this franchise and the services rendered. The Franchise Holder shall pay to the City a franchise fee of ten percent (10%) of the total gross fees collected, including special collections and mandatory recycling service charges as provided herein, billed to all Residential Customers within the City, effective February 1, 2011. The franchise fee shall increase to twelve percent (12%) effective February 1, 2012.”

5. ARTICLE II - SECTION 2.

Article II “Franchise Fee” Section 2 – “Multi-Family Dwelling, Commercial and Industrial Solid Waste Franchise Fee”, is amended to read as follows:

“A franchise fee shall be paid to the City by the Franchise Holder, for the exclusive right to furnish Multi-Family, Commercial and Industrial Customers Solid Waste Collection service, of ten percent (10%), effective February 1, 2011, of the total fees collected, including special collection fees as provided in the Franchise Agreement, as amended, charged to Multi-Family, Commercial and Industrial Customers. The franchise fee shall increase to twelve percent (12%) effective February 1, 2012.

6. ARTICLE IV C, SECTION 2.

Article IV, “Collection Services, Subdivision C -“General Services, “Section 2 – “Residential Annual Clean-ups,” is deleted in its entirety and the following new Section 2 shall be substituted in its place as follows:

SECTION 2 – SINGLE FAMILY DWELLING ON-CALL CLEANUP

“Franchise Holder shall provide Single Family Dwelling bulky waste collection service to all Single Family Dwelling Customers whose bulky items or extra residential Solid Waste have been placed in a disposal bag or container, or bundled, and placed within three (3) feet of the curb, sidewalk or paved surface of the public roadway, closest accessible roadway, or other such location agreed to by Franchise Holder, that will provide safe and efficient accessibility to Franchise Holder’s collection crew and vehicles. The bulky waste collection service is limited to a maximum two (2) cubic yards per cleanup or the equivalent of fourteen (14) thirty two (32) gallon bags. Franchise Holder shall provide on-call recycle clean up service to each Single Family Dwelling Customer whose green waste or corrugated cardboard has been placed in a manner set forth in Franchise Holder’s customer guide prepared and distributed by Franchise Holder to all Single Family Dwelling Customers. Each Single Family Dwelling Customer is entitled to receive Single Family bulky waste collection service and/or recycle cleanup service up to two (2) times a year. The collections shall be on call. Contractor shall maintain adequate vehicles and personnel to meet demand of on-call pick ups within two (2) weeks of request. Pick up will be on the same day as regularly scheduled garbage service.

Guidelines for collection of Single Family Dwelling bulky waste clean up are as follows:

- Place items at the curb by 5:00 a.m. preferably the night before the clean up day.
- All items must be stacked in one place.
- Bag or tie items with rope, cord, tape or string strong enough to keep the bundle intact or place in disposable containers. All containers will be taken including metal and plastic trash cans.
- Place cleanup items in a single pile at a distance of 4 feet or more from all carts.

Unacceptable Bulky waste material:

- No item may weigh more than 150 lbs. or be longer than 4 feet. Bags cannot weight more than 50 pounds/
- No televisions or computer monitors.
- No household hazardous wastes including paint, motor oil, car batteries, antifreeze, solvents, pesticides, cleaners.
- No large car parts (tires, transmission blocks, engines, etc.) or large furniture.
- No rocks; dirt or concrete.
- No refrigerators, freezers, air conditioners, or other appliances with Freon.
- No tree stumps or large tree trunks.
- Do not place cleanup items near or in front of refuse or recycling carts.
- No loose piles.

Guidelines for collection of Single Family on call recycling cleanups areas follows:

- After filling Green waste cart, place extra clippings in containers that are 32-gallons or less in volume. Containers will not be taken away. Do not use plastic bags.
- Tree branches and prunings must be 3 feet or less in length and 6 inches or less in diameter.
- Trim cardboard to 3 feet or less on each side, flatten and bundle with string.
- For pickups, place bundled cardboard or Green waste containers at the curb by 5:30 a.m. or, preferably, the night before.
- Keep extra material at least 4 feet away from carts.

7. ARTICLE VII

Article VII, "Residential Recycling Collection," is amended to add Section 6 – "Motor Oil and Oil Filters" as follows:

SECTION 6 – MOTOR OIL AND FILTERS

"Single Family Dwelling Customers will be able to recycle by calling Franchise Holder's Customer Service to schedule a pick up. Franchise Holder will provide a prepackaged kit to the requesting customer to place and store the motor oil and oil filter for collection. Customers are allowed a maximum of three (3) gallons of oil per pick up. Used motor oil and filters will not be collected as part of or during the Single Family Dwelling On-call Clean-ups allowed under Section 2. The City shall cooperate with Franchise Holder in securing any grant money that may be available to offset the costs of this program.

8. ARTICLE VII

Article VII, "Residential Recycling Collection," is amended to add Section 7 – "Batteries, Cell Phones and Compact Fluorescent Light Bulbs" as follows:

SECTION 7 – BATTERIES, CELL PHONES AND FLUORESCENT LIGHT BULBS

"Single Family Dwelling Customers will be able to recycle batteries, cell phones and compact fluorescent light bulbs ("CFLs") by calling Franchise Holder's Customer Service to schedule a pick up. Collection will be subject to the materials being properly packaged. Franchise Holder will provide City a recommendation for packaging requirements which shall be implemented upon approval by the City Manager.

9. ARTICLE VII A "COMMERCIAL AND INDUSTRIAL RECYCLING SERVICE

The Franchise Agreement is amended to add, a new Article VII A "Commercial Recycling and Industrial Service" as follows:

SECTION 1 – COMMERCIAL / INDUSTRIAL DIVERSION REQUIREMENTS

"Franchise Holder will use all commercially reasonable efforts to implement a comprehensive Commercial/Industrial Recycling, reuse and reversion program to maximize the amount of Solid Waste that can be diverted from this segment of the City's waste stream. Franchise Holder will provide City with an implementation timeline with benchmarks for Commercial/Industrial Recycling and Green Waste implementation within sixty (60) days of execution of this Third Amendment. The timeline shall include a commencement date for mandatory Commercial/Industrial Recycling. The implementation timeline will include diversion rate benchmarks which may be used to evaluate the effectiveness of the program. After program implementation, progress reports will be submitted to the City Manager upon his request. This report will include, but not be limited to, the name of each Commercial/Industrial Customer, current Solid Waste and Recycling service level, new service level, potential diversion and customer cost savings, if any, and the names of any Customer who refuses to participate.

SECTION 2 – CONDITIONS OF SERVICE

"Franchise Holder shall provide Commercial and Industrial Recycling service to all Commercial and Industrial Customers whose Recyclable Materials are properly containerized and set out. Franchise Holder is not required to collect Recyclable Materials, if the Customer does not segregate the Recyclable Materials from Solid Waste. If Recyclable Materials are contaminated through commingling with Solid Waste, the Franchise Holder shall, if practicable, separate the Solid Waste from the Recyclable Materials. The Recyclable Materials shall then be collected and the Solid Waste shall be left in the container along with a non-collection notice. However, if the Recyclable Materials and Solid Waste are commingled to the extent that they cannot easily be separated by the Franchise Holder or the nature of the Solid Waste renders the entire Recycling container contaminated, the Franchise Holder may leave the container un-emptied along with a non-collection notice.

SECTION 3 - SIZE AND FREQUENCY OF SERVICE

The Franchise Holder shall provide this service as deemed necessary and as determined between the Franchise Holder and the Commercial/Industrial Customer. Service may be provided by bin, cart or drop box at the option of the Customer. The size of the container and the frequency of collection shall be determined between the Customer and the Franchise Holder. Franchise Holder shall provide containers as part of the Commercial and Industrial Collection service rates.

SECTION 4 - RANGE OF RECYCLING SERVICES TO COMMERCIAL / INDUSTRIAL CUSTOMERS

Franchise Holder will offer a range of Recycling services to Commercial/Industrial Customers including, but not limited to, the following:

- a. Develop and send a waste assessment survey and Commercial/Industrial Recycling mailer outlining the new services to all Commercial/Industrial Customers;
- b. Meet with large waste generators to identify potential Recycling waste streams and source reduction opportunities;
- c. Conduct on-site Waste Assessments upon request for all Commercial/Industrial Customers and make Recycling and source reduction recommendations;
- d. Attend and speak with and to business organizations such as the Chamber of Commerce;
- e. Review current levels of all Commercial/Industrial Customers and determine potential for Recycling and contact the Commercial/Industrial Customer to review and discuss;
- f. Work with all Commercial/Industrial Customers to maximize Recycling services and minimize the additional overall cost service.

10. ARTICLE IX. SECTION 2.

Article IX, Education and Public Awareness, Section 2 – Community Events and School Education Promotion is amended to read as follows:

“At the direction of the City, the Franchise Holder shall participate in and promote recycling and other diversion techniques at community events and local activities. Such participation would normally include providing, without cost, educational and publicity information promoting the goals for the City’s Franchised Solid Waste, Recyclable Materials, and Green Waste program. Franchise Holder shall also provide information regarding collection services, collection guidelines, Recycling assistance and service policies and procedures.

Earth Day
America Recycles Day
School Programs
City Community Programs and Festivals
Tours of Mt. Diablo Recycling Center and the Transfer Station

Additional programs and events may arise over the term of this agreement and may be added or replaced to the list above. In establishing these programs and events, the Franchise Holder shall provide the City assistance with coordinating these events and programs as necessary.”

11. BINDING AGREEMENT.

This Third Amendment shall be binding upon and inure to the benefit of the heirs, administrators, executors, successors in interest, and assigns of each of the Parties hereto. Any reference in this Third Amendment to a specifically named Party shall be deemed to apply to any successor, administrator, executor, or assign of such Party who has acquired an interest in compliance with the terms of this Third Amendment or under law.

12. COUNTERPARTS.

This Third Amendment may be executed in multiple counterparts, each of which shall be deemed an original, but all of which, when taken together, shall constitute the same document.

13. CALIFORNIA LAW.

The Third Amendment shall be governed by and interpreted in accordance with the laws of the State of California.

14. INVALIDITY.

Any provision of this Third Amendment that is determined by a court of competent jurisdiction to be invalid or unenforceable shall be deemed severed from this Third Amendment, and the remaining provisions shall remain in full force and effect as if the invalid or unenforceable provision had not been a part hereof.

15. HEADINGS.

The headings used in this Third Amendment are for convenience only and shall be disregarded in interpreting the substantive provisions of this Third Amendment.

IN WITNESS WHEREOF, this Third Amendment has been entered into by and between Pittsburg Disposal and City as of the date and year first above written.

CITY:

CITY OF PITTSBURG,
a California Municipal Corporation

By: 

Name: Marc S. Grisham
Title: City Manager

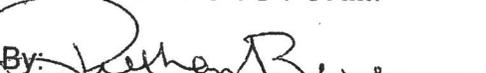
PITTSBURG DISPOSAL:

PITTSBURG DISPOSAL & DEBRIS BOX
SERVICE, INC.

By: 

Name: Joseph Garaventa
Title: Chief Executive Officer

APPROVED AS TO FORM:

By: 

Name: Ruthann Ziegler
Title: City Attorney

By: 

Name: Clark Colvis
Title: Chief Financial Officer