

AMENDMENT 5 TO CONTRACT NO. 003423
EXCLUSIVE FRANCHISE AGREEMENT FOR THE UNINCORPORATED AREA OF
SOUTH WHITTIER

THIS AMENDMENT 5, made and entered into this 27th day of June, 2023, by and between the County of Los Angeles, political subdivision of the State of California (hereinafter referred to as COUNTY) and WARE DISPOSAL, INC, a California corporation, located at 1035 East 4th Street, Santa Ana, California, 92701 (hereinafter referred to as CONTRACTOR). COUNTY and CONTRACTOR are each a Party and collectively referred to as the Parties.

WITNESSETH

WHEREAS, Contract No. 003423 ("Contract") was entered into between the COUNTY and the CONTRACTOR on March 29, 2018, to provide services consisting of weekly, fully automated, separate collection in carts, processing, disposal of refuse, comingled recyclable materials, and green waste generated by single-family residences and multifamily properties under 5 units in the unincorporated area of South Whittier, commencing on April 1, 2018, for a period of 7 years with two 2-year renewal options, and month-to-month extensions up to 6 months; and

WHEREAS, the Board delegated authority to the Director of Public Works to renew the Contract for each additional renewal option; to approve and execute amendments to incorporate necessary changes within the CONTRACTOR services and specifications; and

WHEREAS, the Contract is currently in the sixth year of its initial 7-year term; and

WHEREAS, on August 18, 2020, the COUNTY and the CONTRACTOR executed Amendment No. 1 to the Contract, providing the COUNTY with a 10 percent cost reduction of all rates specified in Form PW-4.3.2 (Task 2 Service Fees) and/or all submitted invoices without any reduction in the goods and services to be provided to the COUNTY until June 30, 2021; and

WHEREAS, on December 29, 2020, the COUNTY and the CONTRACTOR executed Amendment No. 2 to this Contract, providing a new monthly rate per Customer of \$28.01 for Task 1 services effective January 1, 2021; and

WHEREAS, on June 15, 2021, the COUNTY and CONTRACTOR executed Amendment No. 3 to this Contract, providing a new monthly rate per Customer of \$33.28 for Task 1 services effective July 1, 2021, changing language in various sections in this Contract, and adding a provision that allows the COUNTY to require CONTRACTOR to provide organic waste collection services pursuant to the requirements of SB 1383; and

WHEREAS, on July 14, 2022, the COUNTY and CONTRACTOR executed Amendment No. 4 to CONTRACT, providing a new monthly rate for Task 1 Services, which includes organic waste collection services with an implementation start date of August 1, 2022, along with other contract changes necessary to comply with Senate Bill 1383 requirements; and

WHEREAS, the COUNTY desires to amend CONTRACT in order to change the method by which the service fees are adjusted using a single Consumer Price Index that captures all the changes affecting the solid waste industry, including prices for labor, fuel, and the processing of various types of commodities; and

NOW, THEREFORE, in consideration of these facts, the COUNTY and the CONTRACTOR agree that the Contract shall be amended as follows:

FIRST: Exhibit 7 Contract Services, as amended under Amendment No. 3, is removed in its entirety and replaced with the following:

EXHIBIT 7 – Contract Services (Adjustment of Service Fees)

A. Timing, Conditions, Changes

1. Annual CPI Adjustments

Beginning at least 6 months after the Commencement Date, Director will adjust the Service Rates each July 1 based on the percentage change in the average annual published Consumer Price Index (CPI), for Trash and Garbage Collection (CUUR0000SEHG02), U.S. City average, all urban consumers, not seasonally adjusted, as published by the United States Department of Labor, Bureau of Labor Statistics, BLS Data Viewer, available at: <https://beta.bls.gov/dataViewer/view/timeseries/CUUR0000SEHG02>.

The annual change is a comparison of the average monthly rate for the two previous Calendar Years. To avoid a rate increase for Customers shortly after a new contract is executed, a minimum of 6 months must elapse between Commencement Date and July 1 of the current year.

Table of past adjustments:

Series Title	Garbage and trash collection in U.S. city average, all urban consumers, not seasonally adjusted
Series ID	CUUR0000SEHG02
Seasonality	Not Seasonally Adjusted
Survey Name	CPI for All Urban Consumers (CPI-U)
Measure Data Type	Garbage and trash collection
Area	U.S. city average
Item	Garbage and trash collection

Rate Adjustment (effective date)	January to December Average Observation Value	Percent Change
7/1/2014	416.183	n/a
7/1/2015	425.796	2.31
7/1/2016	432.030	1.46
7/1/2017	439.427	1.71
7/1/2018	449.089	2.20
7/1/2019	466.861	3.96
7/1/2020	481.902	3.22
7/1/2021	498.705	3.49
7/1/2022	522.329	4.74
7/1/2023	549.334	5.17

2. Adjustments at Any Time

If CONTRACTOR requests Director by Notice or Director Notifies CONTRACTOR at any time, following agreement with CONTRACTOR, the Director may adjust the Service Fees in either of the following events, subject to the Maximum Rate Adjustment table in subsection C, and limitations in E:

a. *Changes in Law*

Change in CONTRACTOR's Direct Costs of providing Contract Services due to Changes in Law. Any adjustment in the Service Fee due to a Change in Law by the State is not included in the Maximum Rate Adjustment in subsection C.

b. *Changes in Scope of Service*

CONTRACTOR's Direct Costs of providing Contract Services due to changes in Contract Services or Standards. For example, if Director requests a new service such as Collection of Bulky Items from Occupant's front doors instead of the Set-Out Site, the rate increase would be implemented when the service begins and not limited to July 1.

c. *Extraordinary Circumstances*

Change in CONTRACTOR's Direct Costs of providing Contract Services due to unforeseeable events.

3. Adjustments Prior to Commencement

If after 12 months from the Effective Date the Contract Services have not begun, Director shall calculate an annual rate adjustment to the Service Fees according to item A1 of Exhibit 10 for each July 1, excluding the July 1 that may occur before the 12 months have passed.

For example, if the Board of Supervisors awards the CONTRACT February 1, 2023 and Contract Services begin 15 months later on July 1, 2024, there will be an adjustment to the rates effective July 1, 2024, but there will be no adjustment on July 1, 2023.

B. Rounding

All calculations are rounded to the nearest 1/100th decimal place (for example, 10.9656 percent to 10.97 percent, or 10.9637 percent to 10.96). The decimal 5 is rounded up (for example, 10.965 percent to 10.97 percent). Adjustments in Service Fees are rounded to the nearest penny (for example, \$25.34).

C. Maximum Rate Adjustment

Adjustments to the Service Fees cannot exceed the percentages in the table below, except for changes due to acts of the State in item A2a of this exhibit.

Contract Period *	Maximum Adjustment**
Years 0 to 0.5	0 percent
Year 0.5 to 7	35 percent
Year 8/Extension(s), if any	40 percent
Year 9/Extension(s), if any	45 percent
Year 10/Extension(s), if any	50 percent
Year 11/Extension(s), if any	55 percent

* Rate adjustments due to Changes in Laws or Contract Services under subsection A2a above may be implemented at any time during the Term. The percentages are based on the Customer Service Fee at the start of CONTRACT.

** Any change in Service Fees for direct costs due to Changes in Law promulgated by the State in item A2a of this exhibit are not included in the percentage calculations of the maximum Service Fee Adjustment.

For example, during the first 7 years of the CONTRACT, the Service Fee could increase 35 percent plus an additional amount due to an increase of \$4 per ton on the State-mandated Disposal fee.

D. Customer 30-Day Notice

CONTRACTOR shall provide all Customers a minimum of 30 days written Notice of the implementation of changes in any Customer Service Fees.

E. Adjustment Limitations

No adjustment will be effective until Notice thereof has been provided by Director to the Board of Supervisors.

Any increase to the Service Fee resulting from Changes in Law shall not exceed 10 percent of the current Service Fee per Contract Year but increases in excess of 10 percent will be carried over to the next Contract Year or years.

Service Fees will not be adjusted under the following circumstances:

- There are uncured Breaches, or
- Within 6 months of the Commencement Date, or
- During any of the six possible one-month extensions.

If CONTRACTOR and Director fail to reach an agreement to adjust the Service Fees, COUNTY will have the options described in item D2b of Exhibit 5.

F. Services Eligible for Adjustment

1. Customer Service Fee

2. Special Services (if applicable)

- Christmas Tree Collection
- Annual Cleanup Event
- Mulch/Compost & Shredding Events
- Bulky Item Service
- Priority Pickups
- Special Cleanup Events
- Sharps Collections
- GPS & Video Equipment
- Minimum Rollout

3. Customer Surcharges (if applicable)

- Additional On-Call Pickups
- Container Size Exchanges Beyond One
- Container Removal and Return
- Roll-Out Service for non-Elderly or Disabled
- Difficult to Service
- Cart Cleaning
- Locking Recyclables Cart Fee

4. County Service Fee (Task 2)

G. Discontinued Indices

If a price or index is discontinued on the date of adjustment, the last available price or index for the required period (such as Calendar Year or another 12-month period) will be used, or other index as determined by Director.

SECOND: This AMENDMENT 5 will take effect upon execution by both parties.

THIRD: DIRECTOR shall have the final word in clarifying any reference discrepancies, such as when an AMENDMENT refers to the incorrect part, section, or item in CONTRACT; and

FOURTH: Except as modified by this AMENDMENT 5, all other terms, conditions, requirements, and specifications of CONTRACT shall remain in full force and effect.

[illegible]

IN WITNESS WHEREOF, the COUNTY has, by order of its Board of Supervisors, caused these presents to be subscribed by the Director of Public Works, and the CONTRACTOR has subscribed its name by and through its duly authorized officers, as of the day, month, and year first written above.

COUNTY OF LOS ANGELES

By 
for Director of Public Works

APPROVED AS TO FORM:

DAWYN R. HARRISON
County Counsel

By Talin Halabi
Deputy

Talin Halabi
Type or Print Name

WARE DISPOSAL, INC.

By 
Its President

Judith Helaine Ware
Type or Print Name

By 
Its Secretary

Ben Marlon Ware
Type or Print Name

ACKNOWLEDGMENT

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

State of California

County of Orange

On 06-15-2022 before me, Aubry Edwards notary public
(insert name and title of the officer)

personally appeared Judith Helaine Ware & Ben Meelon Ware,
who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) ~~is~~ are
subscribed to the within instrument and acknowledged to me that ~~he~~/she/they executed the same in
~~his~~/her/their authorized capacity(ies), and that by ~~his~~/her/their signature(s) on the instrument the
person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Signature



(Seal)

