

FRANCHISE AND
CONTRACT FOR SOLID WASTE HANDLING SERVICES

THIS CONTRACT made and entered into on July 13, 2005, by and between the City of Plymouth, a municipal corporation of the State of California ("City"), and , Waste Connections of California, A Waste Connections, Inc. Company, A California corporation ("Contractor").

W I T N E S S E T H:

WHEREAS, the public health, safety, and welfare and Public Resources Code sections 49300 and 49500, et seq. require that measures be taken by City to provide for solid waste and recycling handling services; and

WHEREAS, Contractor desires to collect and dispose of all solid waste, including without limitation, garbage, rubbish and recyclables, accumulated in City and any service area over which City has jurisdiction; and

WHEREAS, City has authority to and desires to grant to Contractor the exclusive franchise and right to provide such solid waste and recycling handling services;

NOW, THEREFORE, the parties agree as follows:

ARTICLE A. DEFINITIONS.

1. Solid Waste. As used in this Contract, the term "solid waste" shall be as defined in Public Resources Code section 49503.

2. Solid Waste and Recycling Handling Services. As used in this Contract, the term "solid waste and recycling handling services" shall be as defined in Public Resources Code section 49505.

3. Collection Area. The term "collection area" shall mean:

Within incorporated city limits of City as presently existing, or hereinafter modified or increased by annexation or otherwise.

4. Recycling. Is the process of collecting and either processing or having processed recyclable material that is recovered and not disposed of as solid waste.

ARTICLE B. CONTRACT PURPOSE AND TERM.

1. Purpose. City chooses to exercise its governmental function under its authority from the State of California to guard the public health, by granting exclusive solid waste handling services to one person or corporation by this Contract.

2. Grant of Exclusive Franchise and Term. City grants to Contractor the exclusive right and franchise to collect, store, transfer, process and dispose of solid waste within the collection area for the period

commencing upon the effective date of this Contract,
which is June 1, 2005, and continuing to and
including May 31, 2016, with the further provision
that this Contract may be renewed by

WCI proposes the following:

3. The City and WCI may mutually agree to extend the Term of this Agreement for a maximum of two (2) periods of five (5) years each, on the same terms and conditions herein. If the City wishes to extend the Term, it shall deliver a written notice to WCI at least twelve months (12) months before the expiration of the then existing Term, specifying the City's desire to extend the Term. If WCI does not wish to extend the Term on the same term and conditions it shall deliver a written notice within thirty (30) days after receiving the notice from the City. If WCI does not deliver a written notice declining to extend the Term, it will be deemed to have consented and the Term will be extended on the same term and conditions for the next five (5) year period.

ARTICLE C. COMMENCEMENT, BOND AND INSURANCE.

1. Commencement and Bond. Contractor shall commence solid waste handling operations under the Contract on its effective date, and upon the delivery by Contractor to City of a faithful performance surety bond or other security approved by the City in the penal sum of One Thousand Dollars (\$1,000.00). The bond or

other security is to ensure the true and faithful performance by Contractor of the Terms of this Contract. It shall remain on deposit and in full force at all times during the term of this Contract for City utilization of the same in the event of default by Contractor.

2. Insurance Required. Contractor shall procure and maintain general liability, automobile liability and employer's liability insurance for the duration of this Contract, as required by this section.

a. Minimum Scope of Insurance

Coverage of the required insurance shall be at least as broad as the following:

1. General Liability: Insurance Service Office Commercial General Liability coverage (occurrence form CG 0001).

2. Automobile Liability: Insurance Services Office form number CA 0001 (Ed. 1/87), covering Automobile Liability, code 1 (any auto).

3. Employer's Liability: Workers' Compensation insurance as required by the State of California and Employer's Liability Insurance.

b. Minimum Limits of Insurance

Contractor shall maintain limits of insurance no less than the following:

1. General Liability: \$1,000,000 per occurrence for bodily injury, personal injury, and property damage. If Commercial General Liability Insurance or any other form with a general aggregate limit is used, either the general aggregate limit shall be applied separately to this Contract, or the general aggregate limit shall be twice the

required occurrence limit.

2. Automobile Liability: \$1,000,000 per accident for bodily injury or property damage.

3. Employer's Liability: \$1,000,000 per accident for bodily injury or disease.

c. Deductibles and Self-Insured Retentions

Any deductibles or self-insured retentions must be declared to and approved by City. At the option of City, the insurer shall reduce or eliminate such deductibles or self-insured retentions as respects City, its officers, agents, and employees.

d. Other Insurance Provisions

City, its officers, agents, and employees, shall be named as additional insured on each such policy (with the exception of workers' compensation and employer's liability). Each such policy shall provide primary coverage to the additional insured as against any other insurance of City of its self-insured retention. Each policy required by the Contract shall be endorsed to state that coverage shall not be cancelled without first providing thirty (30) days prior written notice to City.

e. Verification of Coverage - - Insurance Certificates

Prior to beginning solid waste handling services, Contractor shall provide to City a certificate of insurance, in a form satisfactory to City, indicating that all insurance required by this section is in full force and effect. Failure to provide or maintain insurance or insurance certificates shall be deemed

to be a material breach of this Contract.

ARTICLE D. COLLECTION OPERATION DUTIES.

1. Frequency of Collection. Contractor shall make at least one weekly collection of all solid waste from all residential, commercial and institutional subscribing customers within the collection area unless otherwise approved by the City. The collection of recyclables shall be completed and agreed upon to meet the best interests of both the City and the Contractor. The pick-up days and schedule shall be designated by Contractor for information to city and the Public.

2. Equipment. All trucks used by Contractor for the collection and hauling of garbage or other putrescible solid waste shall be of the water-tight "compactor" type. Equipment used exclusively for the collection of refuse or other nonputrescible solid waste or refuse may be of any suitable type but shall be provided with coverings to adequately contain the solid waste within the truck body. Contractor shall maintain all trucks in a clean and sanitary condition. Each truck shall have a clearly visible insignia designating the name and telephone number of Contractor.

3. Hours of Collection. Solid waste collections shall not commence earlier than the hour of 6:00 a.m. in residential areas. Such collection may be in any commercial and industrial districts, except the "downtown" area, at any time subject to such reasonable modification of collection periods as may be

imposed by City. Collection from a "downtown commercial area" shall occur prior to 12:00 o'clock p.m. No regularly scheduled collections shall be made on Sundays. All collections shall be made as quietly as possible.

4. Standard of Care. Contractor shall not litter in the process of making collection from any residence or business, nor allow any solid waste and recyclables to spill, blow or fall from any vehicle used for collections. Contractor shall immediately clean any solid waste and recyclables, which does spill, blow or fall during the provision of solid waste handling services. Contractor shall, at its expense, repair or replace containers damaged as a result of its negligent handling thereof, reasonable wear and tear excepted. Contractor shall replace lids or covers on containers immediately after emptying.

5. Customer Complaints and Business Office. Contractor shall make available to the public a complaint form if requested on which customer complaints may be reported, and shall supply to City a reasonable number of such forms, which City may distribute. Contractor shall supply city copies of all submitted complaints and information as to their disposition upon requires. All complaints shall be processed promptly by Contractor. Contractor agrees to establish and maintain at a designated location a satisfactory business office in which its business operations shall be conducted, and in which public access during normal business hours shall be provided. Nothing contained herein

shall prevent Contractor from discontinuing service for customer nonpayment.

6. Special Haul. Contractor shall regularly provide special haul service for leaves, prunings or other garden refuse to all occupants of premises within the collection area. Contractor shall provide a spring cleanup once a year to all customers and City, during which up to one yard of bagged or bundled yard waste per customer, will be removed at no charge. This collection will be done on the customers' regular pickup day at the curb.

7. Transfer Operation. All solid waste collected and transferred at the Contractor's site in Ione,

8. Expected Performance Level. Contractor understands and acknowledges that every detail of this solid waste handling operation is important to City for the protection of the health and safety of its residents. Therefore, Contractor agrees to and shall develop and maintain a high and uniform level of orderly and uninterrupted service, cleanliness, appearance, well maintained equipment and responsible training and business techniques which will protect and enhance customer needs and contribute to the service reputation of the City and this franchise system.

Accordingly, Contractor agrees:

a. To hire and carefully supervise efficient, competent, professional and courteous operators and employees for the conduct and operation of the business.

b. Contractor shall comply, as a part of Contractor's duties hereunder, with all state, federal, regional or other appropriate governmental authorities, rules and regulations relating to resource reductions and/or recycling, it being understood by Contractor and City that Contractor may be entitled to an adjustment in rates to offset any additional expense incurred by Contractor in fulfilling the obligations imposed by future regulations.

9. Adherence to Rules and Operation for Public Benefit.

Contractor shall strictly observe and be bound by the rules of the operation enumerated in this Contract, and in all City ordinances or any amendment thereto; by all resolutions or policy statements which may from time to time be promulgated by City; and by other regulations, laws, permits, licenses, governmental approvals, court orders or the requirements any other governmental entity having jurisdiction relating to the collection and disposal of solid waste. Without limiting the generality of the foregoing, Contractor shall comply with all of the solid waste collection vehicle regulations and air pollution regulations promulgated by the California Resources Board. and (2) The City should annually calendar and make the report required by the ARB

ARTICLE E. RATES.

1. For all services required to be performed under this Contract, Contractor shall not charge any amount in excess of the

rates fixed from time to time by resolution adopted by City. A copy of the current rate schedule, which has been adopted, is attached hereto as Attachment A.

2. City shall not entertain or consider any additional rate increases during the calendar year of 2005. City shall retain the right to adjust rates in the event that a substantial change in Contractor's customer level and gross revenues in proportion to expenses and liability justify the same.

After 2005, rate adjustments shall not be made more than once during each calendar year, except in the event of an emergency or public calamity. Requests for rate adjustments shall be made no less than ninety (90) days prior to a rate adjustments becoming effective on July 1 of the year following the year in which the adjustment is made.

ARTICLE F. FRANCHISE FEE.

1. Payment. In consideration of the franchise privileges granted by City, Contractor shall pay to City, on a quarterly basis, a franchise fee of 10percent (10%) of the gross revenues from all of Contractor's operations in the City annually, and Contractor shall pick up all City solid waste without charge. Such sum shall be paid to and received by City within three weeks of the end of each quarter.

2. Audits. With the payment of the franchise fee, Contractor shall submit to City quarterly reports of its billing, service level and expense operations, including all pertinent

notices, reports and statements.

In this connections, Contractor agrees to and shall keep true an correct records and books of account from which the City may readily determine the status and progress of Contractor's business operations. Contractor further agrees that Contractor shall provide City annually, at Contractor's cost and within thirty (30) days of its completion, a report, which shall support in full the franchise fees paid by the Contractor to City for the previous fiscal year. To the extent that said report shows that City received a greater total amount of franchise fees than was owing to City for the previous fiscal year, said amount shall be credited against franchise fees owing to City in the year following said report.

Contractor further agrees that City, by any of its authorized agents, may inspect or audit all such books, equipment orders, customer accounts and other related records in the Contractor's Business office at reasonable times. City shall bear the cost of any such inspection or audit. Provided, however, that in the event any such audit determines that the franchise fee has been substantially underpaid, Contractor shall pay for the full cost of the audit and any previously unpaid franchise fee, together with interest on the unpaid franchise fee at the legal rate for the period of the underpayment.

ARTICLE G. DEFAULT, TERMINATION AND WAIVER.

1. Events of Default. Contractor shall be deemed to be in default under this Contract, and all rights and privileges granted to Contractor shall terminate, upon thirty (30) days written notice, if:

a. Contractor's collection or disposal service remains inoperative for any period of more than seven (7) consecutive days.

b. Contractor fails to submit the required franchise fee payment to city.

c. Contractor becomes insolvent or makes an assignment for the benefit of creditors or attempts any other transfer or sale of the business assets or operating privileges.

d. Contractor fails to perform any material condition, covenant or performance requirement of this Contract.

2. Duties Upon Termination. In the event of termination of this Contract for any reason, Contractor shall:

a. Within thirty (30) days of written notice from city, cease all operations hereunder, and,

b. Immediately cause copies of all business records, customer lists, addresses, billing data and other pertinent operating information to be transferred to City, and

c. Immediately pay all fees (including attorney's fees and court costs) which may be owing and appoint City or any of its officers or agents as City may designate as Contractor's attorney-in-fact to execute all instruments and to do all things

necessary to accomplish the operation of solid waste handling service on behalf of the public, and

d. Permit City to provide solid waste handling services by any means available to city.

3. No Waiver. The waiver of any default or defaults shall not operate as a waiver of any successive defaults and all rights of City on default by Contractor shall continue, notwithstanding one or more waiver.

ARTICLE H. ASSIGNMENT.

Neither this Contract nor any rights, privileges or duties hereunder shall be assignable or transferable in whole or in part by Contractor by stock transfer, formation of a new partnership, corporation or entity or any other conveyance mechanism without prior written approval by City Council resolution after making findings of fact regarding the following:

1. Capacity of the proposed assignee as to financial competency, performance and service record and equipment inventory;

2. Guarantee of performance by assignee based upon financial security and insurance and bonding capability;

3. Any other pertinent evidence;

Such prior written approval may not be reasonably withheld.

ARTICLE I. LIABILITY FOR BREACH.

Notwithstanding the right of city to terminate this Contract pursuant to Article G in the event of any default on the part of

Contractor, City may elect to permit Contractor to cure and correct a default pursuant to a written notice from City specifying the nature of the default, the time within which to cure and any procedures required. Upon receipt of any such notice to cure a default, Contractor shall pay to City all damages, costs and expenses, including reasonable attorney's fees incurred by City as a result of the default.

ARTICLE J. SERVERABILITY.

Each section, part, term and provision of this Contract shall be considered severable. If for any reason any section, part, term or provision herein is determined to be invalid and contrary to or in conflict with any existing or future law or regulation or a court or agency having valid jurisdiction, such determination shall not impair the operation or affect the remaining portions, sections, parts, terms or provisions of this Contract and the latter will continue to ed given full force and effect and bind the parties hereto. The invalid section, part, term or provision shall be deemed not to be part of this Contract.

ARTICLE K. INDEMNITY.

1. Indemnity. Contractor agrees to defend, indemnify and hold City, its officers, agents and employees harmless against any all claims, suit, demands or other causes, including reasonable attorney's fees and expenses, which may arise or be asserted against them by reason of the operation of Contractor's business or by reason of the duties and/or privileges granted to

Contractor under this Contract including without limitation by reason of enumeration, the nature of this Contract as an exclusive franchise, the nature or type of solid waste collected or disposed of; the manner of disposal of solid waste; or any violation of the Hazardous Waste Control Lay (Health & Saf. Code § 25100, et seq.), the Hazardous Waste Source Reduction and Management Review Act of 1989 (Health & Saf. Code § 25244.12, et seq.), the Resource Conservation and Recovery Act (42 U.S.C. § 6901, et seq.), and the Comprehensive Environmental Response Compensation and Liability Act (42 U.S.C. § 9601, et seq.), or any other similar state or federal law regulating the disposal of solid waste or hazardous wastes. Provided, however, that Contractor shall not be required to defend or indemnify City for costs arising out of any actively negligent acts or intentionally culpable acts of City, the City Council of City or its employees or agents.

2. Provisions Survive. The provisions of this Article shall survive the termination of this Contract.

ARTICLE L. NO WARRANTY BY CITY. Contract acknowledges that, except for solid waste or recyclables generated by City, City makes no representations as to the types of solid waste or recyclables, which will be generated within the collection area, and that City does not warrant that the solid waste will be free from dangerous or hazardous materials. Contractor acknowledges that its indemnity obligations (Article K) shall apply despite

the presence of such materials.

ARTICLE M. ENTIRE CONTRACT.

This is an integrated Contract. It contains the complete understanding of the parties, and may be amended only in writing.

ARTICLE N. ATTORNEY'S FEES AND VENUE.

Any action arising out of this Contract shall be brought only in Superior Court of Amador County, California, regardless of where else venue may lie. In any action arising out of this Contract, the prevailing party may recover its reasonable attorney's fees.

ARTICLE O. NOTICE TO PARTIES.

Any notice to parties required under this Contract shall be either delivered or mailed, U.S. mail first class postage prepaid, to the following addresses:

Contractor:
Manager

Dave Vaughn, District

Waste Connections of California, Inc.
6500 Buena Vista Road
Ione, CA 95640

City:

City Clerk
City of Plymouth
P.O. Box 429
9426 Main Street
Plymouth, CA 95669

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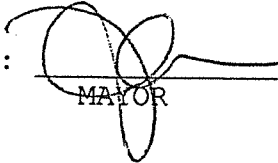
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Either party may amend its address for notice by providing

written notice to the other party.


CITY OF PLYMOUTH

BY:  _____
MAYOR

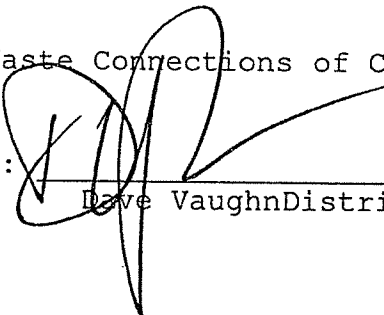
ATTEST:


CITY CLERK

APPROVED AS TO FORM:


CITY ATTORNEY

Waste Connections of California, Inc.

BY:  _____
Dave Vaughn District Manager

**FIRST AMENDMENT TO THE CONTRACT FOR SOLID WASTE HANDLING SERVICES
BETWEEN THE CITY OF PLYMOUTH AND ACES WASTE SERVICES, INC.**

This First Amendment to the Contract for Solid Waste Handling Services ("Amendment") is made by and between the City of Plymouth ("City") and Aces Waste Services, Inc., a California corporation ("Professional"), as of JAN 28, 2016. City and Professional are hereinafter collectively referred to as the "Parties."

RECITALS

WHEREAS, the Parties entered into a Contract for Solid Waste Services ("Agreement") dated June 29, 2010 for the purpose of transferring a solid waste franchise agreement from Waste Connections Inc. to Professional; and

WHEREAS, Article B, "Contract Purpose and Term," of the Agreement provides that the term shall end on May 31, 2016, unless otherwise extended for up to two periods of five (5) years; and

WHEREAS, this Amendment will extend the term of the Agreement five (5) years until May 31, 2021, clarify required collection operation duties, and incorporate new service rates previously adopted by the City Council, and

WHEREAS, the Parties agree that changes to the term and services provided for in the Agreement are necessary in order for the City to continue receiving services by Professional.

NOW, THEREFORE, the Parties hereto agree as follows:

AGREEMENT

1. The Parties agree to modify the end date of the Agreement set forth in Article B, Section 2 of the Agreement from May 31 2016, to May 31, 2021.
2. The Parties agree to modify Article D, Section 1 of the Agreement, "Collection Operation Duties," to reflect changes in services provided by Professional, and to read as follows:

"1. Frequency of Collection. Contractor shall make at least one weekly collection of all solid waste from all residential, commercial and institutional subscribing customers within the collection area unless otherwise approved by the City. The collection of recyclables shall occur at least every other week from all customers, unless the City and the Contractor agree to a less frequent schedule based on customer needs. The pick-up days and schedule shall be designated by Contractor for information to city and the Public."

EXHIBIT A

3. The Parties agree to modify Article D, Section 6 of the Agreement, "Collection Operation Duties," to reflect changes in services to yard waste collection provided by Professional, and to read as follows:

"6. Special Haul and Yard Waste Collection. Contractor shall regularly provide special haul service for leaves, prunings or other garden refuse to all occupants of premises within the collection area. Contractor shall provide a spring cleanup once a year to all customers and City, during which up to one yard of bagged or bundled yard waste per customer, will be removed at no charge. This collection will be done on the customers' regular pickup day at the curb. Contractor shall also provide yard waste collection in yard waste bins for all residential customers at least once every other week, unless the City and the Contractor agree to a less frequent schedule based on customer needs."


4. Parties agree to replace Attachment A to the Agreement, regarding the current rate schedule, with the new Attachment A, attached to this Amendment, which reflects the most current rate schedule adopted by the City Council at a properly noticed public hearing on July 24, 2014. The document entitled "Rate Schedule," attached hereto as Attachment A, shall replace and supersede the Agreement's Attachment A.
5. All other terms and conditions in the Agreement shall remain in full force and effect to the extent they are not in conflict with this Amendment.
6. The signatures of the Parties to this Amendment may be executed and acknowledged on separate pages or in counterparts which, when attached to this Amendment, shall constitute one complete Amendment.

IN WITNESS WHEREOF, the Parties have executed this Amendment on the day and year first above written.

CITY OF PLYMOUTH

PROFESSIONAL

Jeffrey Gardner, City Manager



PAUL MOLINELLI, PRESIDENT

Date: _____

Date: 2/9/2016

Attest:

Gloria Stoddard, City Clerk

Date: _____

EXHIBIT A

Approved as to Form:

Katherine Cook, City Attorney

Date: _____

Updated January 19, 2016

2595117.1

**SECOND AMENDMENT TO THE CONTRACT FOR SOLID WASTE
HANDLING SERVICES BETWEEN THE CITY OF PLYMOUTH
AND ACES WASTE SERVICES, INC.**

This Second Amendment to the Contract for Solid Waste Handling Services ("Second Amendment") is made by and between the City of Plymouth ("City") and Aces Waste Services, Inc. a California corporation ("Professional"), as of April 8, 2021. City and Professional are hereinafter collectively referred to as the "Parties".

WHEREAS, the Parties entered into a Contract for Solid Waste Services ("Agreement") by virtue of the assignment of the solid waste franchise agreement from Waste Connections Inc. to Professional; and

WHEREAS, the Agreement provided that the term shall end on May 31, 2016, unless otherwise extended for up to two periods of five (5) years; and

WHEREAS, the Parties exercised the first of such renewal periods and entered into a First Amendment to the Agreement ("First Amendment") which extended the term of the Agreement five (5) years; and

WHEREAS, this Second Amendment will exercise the second renewal period, extending the term of the Agreement five (5) years until May 31, 2026; and

WHEREAS, the Parties agree that changes to the term is necessary in order for the City to continue receiving services by Professional.

NOW, THEREFORE BE IT RESOLVED, the Parties hereto agree as follows:

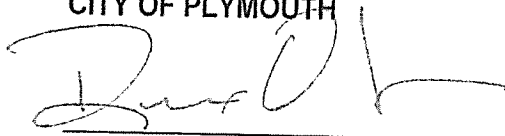
AGREEMENT

1. The Parties agree to modify the end date of the Agreement set forth in Article B, Section 2 of the Agreement from May 31, 2021, to May 31, 2026.
2. All other terms and conditions in the Agreement shall remain in full force and effect to the extent they are not in conflict with the First Amendment or this Second Amendment.

3. The signatures of the Parties to this Second Amendment may be executed and acknowledged on separate pages or in counterparts which, when attached to this Second Amendment, shall constitute on complete Amendment.

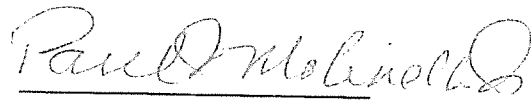
IN WITNESS WHEREOF, the Parties have executed this Second Amendment on the day and year first above written.

CITY OF PLYMOUTH



Rex Osborn, City Manager

PROFESSIONAL



Paul J. Molinelli, Jr., Partner,
Vice President & COO

ATTEST:



Maria De La Torre, Deputy City Clerk

Approved as to Form:



Frank Splendorio, City Attorney