

AGREEMENT NO. _____

**AMENDMENT NO. FOUR (4) TO
AGREEMENT NO. 18-103**

THIS AMENDMENT NO. FOUR (4) TO AGREEMENT NO. 18-103 is made and entered into on _____, by and between the **CITY OF BAKERSFIELD**, a municipal corporation, ("CITY" herein) and **METROPOLITAN RECYCLING LLC.**, a California Limited Liability Company ("CONTRACTOR" herein).

RECITALS

WHEREAS, CONTRACTOR operates a materials recovery facility (the "MRF") on property leased from CITY pursuant to that certain Recycling Facility Ground Lease, Agreement No. 99-329 as amended by Agreement No. 99-329(1), Agreement NO. 99-329(2), and Agreement No. 99-329(3) (collectively the "Lease"); and

WHEREAS, CITY has implemented a residential curbside recycling program pursuant to which residential recyclable materials are source separated and deposited into blue carts by program participants (the "Comingled Materials"), which are then taken to a processing facility (including the MRF) for processing into marketable recycled materials; and

WHEREAS, CITY has also implemented a commercial recycling program pursuant to which commercial recyclable materials are source separated and deposited into blue carts or bins by program participants (the "Comingled Materials"), which are then taken to a processing facility (including the MRF) for processing into marketable recycled materials; and

WHEREAS, CITY has entered into a Refuse Collection Agreement, Agreement No. 06-300 as amended by Agreement No. 06-300(1) with Kern Refuse Disposal, Inc. (collectively the "Refuse Collection Agreement"). Pursuant to said Refuse Collection Agreement, Kern Refuse Disposal, Inc. ("Kern Refuse"), through its member haulers, services certain residential and commercial accounts of the CITY on behalf of the CITY. Such accounts include collection of Comingled Recyclable Materials; and

WHEREAS, CITY owns the Comingled Recyclable Materials that are picked up by both the CITY and the haulers of Kern Refuse in the residential curbside recycling program. Neither CITY nor any of the Kern Refuse haulers is required to take the Materials to the MRF although much of such Materials have been taken to the MRF for processing; and

WHEREAS, in the past CONTRACTOR has paid City for the Comingled Recyclable Materials, and the market value of the Materials after processing by the MRF exceeded the cost of processing. More recently, the cost of processing the Comingled Recyclable Materials has exceeded the value of processed recycled materials due to market conditions, so that CONTRACTOR needs to charge CITY and its other customers for its acceptance of the Comingled Recyclable Materials to avoid or minimize its losses; and

WHEREAS, on April 24, 2018, the parties entered into Agreement No PW18-057 in an amount not to exceed FORTY THOUSAND DOLLARS (\$40,000) to more thoroughly set forth the terms and conditions under which CONTRACTOR shall be required to accept Comingled Recyclable Material from the CITY and from the Kern Refuse haulers with respect to the Comingled Recyclable Materials owned by the CITY as determined under the Refuse Collection Agreement, and for other comingled Recyclable Materials collected by CITY under its commercial recycling program; and

WHEREAS, on June 20, 2018, the parties amended Agreement No. PW18-057 and entered into Agreement No. 18-103 to extend the agreement term to expire July 1, 2019, and increase compensation by NINETY THOUSAND DOLLARS (\$90,000) in an amount not to exceed ONE HUNDRED THIRTY THOUSAND DOLLARS (\$130,000); and

WHEREAS, on September 19, 2018, the parties entered into Agreement No. 18-103 (2) to increase compensation by SIX HUNDRED SEVENTY THOUSAND DOLLARS (\$670,000) for a total amount not to exceed EIGHT HUNDRED THOUSAND DOLLARS (\$800,000) to allow the continuance of accepting Comingled Recyclable Materials; and

WHEREAS, on June 28, 2019, the parties entered into Agreement No. 18-103 (3) to extend the agreement term to expire on July 1, 2020 and increase compensation by NINE HUNDRED THOUSAND DOLLARS (\$900,000) for a total amount not to exceed ONE MILLION SEVEN HUNDRED THOUSAND DOLLARS (\$1,700,000) to allow the continuance of accepting Comingled Recyclable Materials; and

WHEREAS, the parties agree to amend Agreement No. 18-103 to extend the agreement term to expire on October 31, 2020 and increase compensation by SIX HUNDRED THIRTY THOUSAND DOLLARS (\$630,000) for a total amount not to exceed TWO MILLION THREE HUNDRED THIRTY-THREE DOLLARS (\$2,330,000) to allow the continuance of accepting Comingled Recyclable Materials.

NOW, THEREFORE, incorporating the foregoing recitals herein, CITY and CONTRACTOR mutually agree as follows:

1. Section 3 of Agreement No. 18-103 entitled "Limitations on Amounts Payable by City" is hereby amended to read as follows:

3. LIMITATIONS ON AMOUNTS PAYABLE BY CITY. In no event shall the amounts payable by CITY to CONTRACTOR exceed the sum of ONE TWO MILLION THREE HUNDRED THIRTY-THREE DOLLARS (\$2,330,000) without the approval of a modification of this Agreement by the CITY and the City Council.

2. Section 8 of Agreement No. 18-103 entitled "Term" is hereby amended to read as follows:

8. TERM. This Agreement shall have a term ending October 31, 2020.

3. Except as amended herein, all other provisions of Agreement No. 18-103 shall remain in full force and effect.

IN WITNESS WHEREOF, the parties hereto have caused this Amendment No. Four (4) to Agreement No. 18-103 to be executed the day and year first above written.

"CITY"
CITY OF BAKERSFIELD

By: _____
Karen Goh
Mayor

"CONTRACTOR"
METROPOLITAN RECYCLING LLC.

By:  _____
Print Name: **Martin D. Graves**
Title: **Facility Sales Manager**

APPROVED AS TO CONTENT:
PUBLIC WORKS DIRECTOR

By: _____
NICK FIDLER
Public Works Director

APPROVED AS TO FORM:
CITY ATTORNEY

By: _____
JOSHUA H. RUDNICK
Deputy City Attorney II

Insurance: _____

COUNTERSIGNED:

By: _____
RANDY MCKEEGAN
Finance Director



CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY)
03/24/2020

THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AFFIRMATIVELY OR NEGATIVELY AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW. THIS CERTIFICATE OF INSURANCE DOES NOT CONSTITUTE A CONTRACT BETWEEN THE ISSUING INSURER(S), AUTHORIZED REPRESENTATIVE OR PRODUCER, AND THE CERTIFICATE HOLDER.

IMPORTANT: If the certificate holder is an ADDITIONAL INSURED, the policy(ies) must have ADDITIONAL INSURED provisions or be endorsed. If SUBROGATION IS WAIVED, subject to the terms and conditions of the policy, certain policies may require an endorsement. A statement on this certificate does not confer rights to the certificate holder in lieu of such endorsement(s).

PRODUCER Tolman & Wiker Insurance Services, LLC 5001 California Ave. Suite 150 Bakersfield CA 93309		CONTACT NAME: Brandi Rodriguez PHONE (A/C, No, Ext): (661) 616-4700 FAX (A/C, No): (661) 616-4500 E-MAIL ADDRESS: brodriguez@tolmanandwiker.com																						
INSURED Metropolitan Recycling LLC P.O. Box 2716 Bakersfield CA 93303		<table border="1"><thead><tr><th colspan="2">INSURER(S) AFFORDING COVERAGE</th><th>NAIC #</th></tr></thead><tbody><tr><td>INSURER A:</td><td>Crum & Forster Specialty Ins Co</td><td>44520</td></tr><tr><td>INSURER B:</td><td>United Financial Casualty Co.</td><td>11770</td></tr><tr><td>INSURER C:</td><td>Burlington Ins Co</td><td>23620</td></tr><tr><td>INSURER D:</td><td>Everest National Ins Co</td><td>10120</td></tr><tr><td>INSURER E:</td><td>Travelers Prop Cas Co of Amer</td><td>25674</td></tr><tr><td>INSURER F:</td><td></td><td></td></tr></tbody></table>		INSURER(S) AFFORDING COVERAGE		NAIC #	INSURER A:	Crum & Forster Specialty Ins Co	44520	INSURER B:	United Financial Casualty Co.	11770	INSURER C:	Burlington Ins Co	23620	INSURER D:	Everest National Ins Co	10120	INSURER E:	Travelers Prop Cas Co of Amer	25674	INSURER F:		
INSURER(S) AFFORDING COVERAGE		NAIC #																						
INSURER A:	Crum & Forster Specialty Ins Co	44520																						
INSURER B:	United Financial Casualty Co.	11770																						
INSURER C:	Burlington Ins Co	23620																						
INSURER D:	Everest National Ins Co	10120																						
INSURER E:	Travelers Prop Cas Co of Amer	25674																						
INSURER F:																								

COVERAGES

CERTIFICATE NUMBER: 20/21 GL/AU/XS/WC/IM

REVISION NUMBER:

THIS IS TO CERTIFY THAT THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.


INSR LTR	TYPE OF INSURANCE	ADDL INSD	SUBR WVD	POLICY NUMBER	POLICY EFF (MM/DD/YYYY)	POLICY EXP (MM/DD/YYYY)	LIMITS														
A	<input checked="" type="checkbox"/> COMMERCIAL GENERAL LIABILITY <input type="checkbox"/> CLAIMS-MADE <input checked="" type="checkbox"/> OCCUR GEN'L AGGREGATE LIMIT APPLIES PER: <input checked="" type="checkbox"/> POLICY <input type="checkbox"/> PROJECT <input type="checkbox"/> LOC OTHER:	Y	Y	ECG104792	02/01/2020	02/01/2021	<table border="1"><tr><td>EACH OCCURRENCE</td><td>\$ 1,000,000</td></tr><tr><td>DAMAGE TO RENTED PREMISES (Ea occurrence)</td><td>\$ 50,000</td></tr><tr><td>MED EXP (Any one person)</td><td>\$ 5,000</td></tr><tr><td>PERSONAL & ADV INJURY</td><td>\$ 1,000,000</td></tr><tr><td>GENERAL AGGREGATE</td><td>\$ 2,000,000</td></tr><tr><td>PRODUCTS - COMP/OP AGG</td><td>\$ 2,000,000</td></tr><tr><td></td><td>\$</td></tr></table>	EACH OCCURRENCE	\$ 1,000,000	DAMAGE TO RENTED PREMISES (Ea occurrence)	\$ 50,000	MED EXP (Any one person)	\$ 5,000	PERSONAL & ADV INJURY	\$ 1,000,000	GENERAL AGGREGATE	\$ 2,000,000	PRODUCTS - COMP/OP AGG	\$ 2,000,000		\$
	EACH OCCURRENCE	\$ 1,000,000																			
	DAMAGE TO RENTED PREMISES (Ea occurrence)	\$ 50,000																			
	MED EXP (Any one person)	\$ 5,000																			
PERSONAL & ADV INJURY	\$ 1,000,000																				
GENERAL AGGREGATE	\$ 2,000,000																				
PRODUCTS - COMP/OP AGG	\$ 2,000,000																				
	\$																				
B	<input type="checkbox"/> AUTOMOBILE LIABILITY <input type="checkbox"/> ANY AUTO <input type="checkbox"/> OWNED AUTOS ONLY <input type="checkbox"/> HIRED AUTOS ONLY <input checked="" type="checkbox"/> SCHEDULED AUTOS <input type="checkbox"/> NON-OWNED AUTOS ONLY			01966706-0	03/20/2020	03/20/2021	<table border="1"><tr><td>COMBINED SINGLE LIMIT (Ea accident)</td><td>\$ 1,000,000</td></tr><tr><td>BODILY INJURY (Per person)</td><td>\$</td></tr><tr><td>BODILY INJURY (Per accident)</td><td>\$</td></tr><tr><td>PROPERTY DAMAGE (Per accident)</td><td>\$</td></tr><tr><td></td><td>\$</td></tr></table>	COMBINED SINGLE LIMIT (Ea accident)	\$ 1,000,000	BODILY INJURY (Per person)	\$	BODILY INJURY (Per accident)	\$	PROPERTY DAMAGE (Per accident)	\$		\$				
	COMBINED SINGLE LIMIT (Ea accident)	\$ 1,000,000																			
	BODILY INJURY (Per person)	\$																			
	BODILY INJURY (Per accident)	\$																			
PROPERTY DAMAGE (Per accident)	\$																				
	\$																				
C	<input checked="" type="checkbox"/> UMBRELLA LIAB <input checked="" type="checkbox"/> OCCUR <input type="checkbox"/> EXCESS LIAB <input type="checkbox"/> CLAIMS-MADE DED RETENTION \$			HFF0011806	02/01/2020	02/01/2021	<table border="1"><tr><td>EACH OCCURRENCE</td><td>\$ 5,000,000</td></tr><tr><td>AGGREGATE</td><td>\$ 5,000,000</td></tr><tr><td></td><td>\$</td></tr></table>	EACH OCCURRENCE	\$ 5,000,000	AGGREGATE	\$ 5,000,000		\$								
	EACH OCCURRENCE	\$ 5,000,000																			
	AGGREGATE	\$ 5,000,000																			
		\$																			
D	WORKERS COMPENSATION AND EMPLOYERS' LIABILITY ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? (Mandatory in NH) If yes, describe under DESCRIPTION OF OPERATIONS below	Y/N Y	N/A	7600012784201	02/01/2020	02/01/2021	<table border="1"><tr><td><input checked="" type="checkbox"/> PER STATUTE <input type="checkbox"/> OTHER</td><td></td></tr><tr><td>E.L. EACH ACCIDENT</td><td>\$ 1,000,000</td></tr><tr><td>E.L. DISEASE - EA EMPLOYEE</td><td>\$ 1,000,000</td></tr><tr><td>E.L. DISEASE - POLICY LIMIT</td><td>\$ 1,000,000</td></tr></table>	<input checked="" type="checkbox"/> PER STATUTE <input type="checkbox"/> OTHER		E.L. EACH ACCIDENT	\$ 1,000,000	E.L. DISEASE - EA EMPLOYEE	\$ 1,000,000	E.L. DISEASE - POLICY LIMIT	\$ 1,000,000						
	<input checked="" type="checkbox"/> PER STATUTE <input type="checkbox"/> OTHER																				
	E.L. EACH ACCIDENT	\$ 1,000,000																			
	E.L. DISEASE - EA EMPLOYEE	\$ 1,000,000																			
E.L. DISEASE - POLICY LIMIT	\$ 1,000,000																				
E	Equipment Floater			BME1-1N899649	02/01/2020	02/01/2021	<table border="1"><tr><td>Scheduled Equipment</td><td>\$8,683,216</td></tr></table>	Scheduled Equipment	\$8,683,216												
Scheduled Equipment	\$8,683,216																				

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (ACORD 101, Additional Remarks Schedule, may be attached if more space is required)

(GL): The City of Bakersfield, its mayor, council, officers, agents, employees & volunteers are named as additional insured where required by contract per the attached endorsement EN0111. Waiver of Subrogation is added in favor of City of Bakersfield where required by contract per attached endorsement EC0109. Waiver of subrogation included on the work comp policy per the attached form WC040306.

CERTIFICATE HOLDER

CANCELLATION

City of Bakersfield Solid Waste Division 4101 Truxtun Ave. Bakersfield CA 93309	SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS.
	AUTHORIZED REPRESENTATIVE 

© 1988-2015 ACORD CORPORATION. All rights reserved.

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

ADDITIONAL INSURED – OWNERS, LESSEES OR CONTRACTORS

This endorsement modifies insurance provided under the following:

COMMERCIAL GENERAL LIABILITY COVERAGE PART
CONTRACTORS POLLUTION LIABILITY COVERAGE PART

SCHEDULE

Name Of Additional Insured Person(s) or Organization(s)
Blanket when specifically required in a written contract with the named insured.

SECTION III – WHO IS AN INSURED within the Common Provisions is amended to include as an additional insured the person(s) or organization(s) indicated in the Schedule shown above, but only with respect to liability caused, in whole or in part, by “your work” for that insured which is performed by you or by those acting on your behalf.

ALL OTHER TERMS AND CONDITIONS OF THE POLICY REMAIN UNCHANGED.

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

AMENDED WAIVER OF TRANSFER OF RIGHTS OF RECOVERY AGAINST OTHERS TO US

This endorsement modifies insurance provided under the following:

COMMERCIAL GENERAL LIABILITY COVERAGE PART
CONTRACTORS POLLUTION LIABILITY COVERAGE PART
ERRORS AND OMISSIONS LIABILITY COVERAGE PART
THIRD PARTY POLLUTION LIABILITY COVERAGE PART
ONSITE CLEANUP COVERAGE PART

SCHEDULE

Name of Person(s) or Organization(s)
Blanket when specifically required in a written contract with the named insured.

SECTION VI – COMMON CONDITIONS, item 17. Transfer Of Rights of Recovery Against Others To Us within the Common Provisions is amended by the addition of the following:

Solely as respects the person(s) or organization(s) indicated in the Schedule shown above, we waive any right of recovery we may have against the person(s) or organization(s) indicated in the Schedule shown above because of payments we make for "damages" arising out of your ongoing operations or "your work" performed under a written contract with that person(s) or organization(s) and included in the "products-completed operations hazard".

However, this waiver shall not apply to "damages" resulting from the sole negligence of the person(s) or organization(s) indicated in the Schedule shown above.

ALL OTHER TERMS AND CONDITIONS OF THE POLICY REMAIN UNCHANGED.

WAIVER OF OUR RIGHT TO RECOVER FROM OTHERS ENDORSEMENT - CALIFORNIA

We have the right to recover our payments from anyone liable for an injury covered by this policy. We will not enforce our right against the person or organization named in the Schedule. (This agreement applies only to the extent that you perform work under a written contract that requires you to obtain this agreement from us.)

You must maintain payroll records accurately segregating the remuneration of your employees while engaged in the work described in the Schedule.

The additional premium for this endorsement shall be 2 % of the California workers' compensation premium otherwise due on such remuneration.

SCHEDULE

PERSON OR ORGANIZATION

JOB DESCRIPTION

ANY PERSON OR ORGANIZATION FOR
WHOM THE NAMED INSURED HAS AGREED
BY WRITTEN CONTRACT TO FURNISH
THIS WAIVER

BLANKET WAIVER OF SUBROGATION