

RESOLUTION NO. 23-__

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MENIFEE, APPROVING THE FIRST AMENDMENT TO THE AMENDED AND RESTATED FRANCHISE AGREEMENT BETWEEN CITY OF MENIFEE AND USA WASTE OF CALIFORNIA, INC., dba WASTE MANAGEMENT OF THE INLAND EMPIRE FOR SOLID WASTE HANDLING SERVICES.

WHEREAS, the City of Menifee ("City") and USA Waste of California, Inc., dba Waste Management of the Inland Empire ("Contractor") have entered that certain Agreement for Solid Waste Handling Services effective as of April 1, 2020 entitled Amended and Restated Franchise Agreement Between City of Menifee and USA Waste of California, Inc., dba Waste Management of the Inland Empire for Solid Waste Handling Services (the "Agreement"); and

WHEREAS, Contractor is an affiliate of Waste Management Holdings, Inc., a Delaware corporation ("Guarantor"), and Guarantor has entered into a written Guarantee Agreement (the "Guarantee") with City related to Contractor's performance pursuant to the terms of the Agreement, and is willing to extend the provisions of the Guarantee to the Agreement as amended by the proposed First Amendment; and

WHEREAS, Since adoption of the Agreement, regulations implementing Senate Bill (SB) 1383 have become effective which, generally speaking, create an obligation upon the City and Contractor to adopt programs to reduce methane emissions including by imposing requirements for the diversion of organic waste from landfills; and

WHEREAS, Sections 8.2.4 and 8.3.5 of the Agreement contemplated the adoption of the SB 1383 Regulations and implementation of Organic Waste recycling programs which would require a modification to the Agreement; and, further, provide that City and Contractor will meet and confer regarding the SB 1383 regulations to determine what specific programs would be required to be added to the Agreement; and

WHEREAS, The parties now desire to enter the amendment to the Agreement attached hereto as Exhibit A (the "First Amendment") for the purpose of setting forth their agreements and understandings with respect to amendments to the Agreement to address the requirements of SB 1383, while leaving all other aspects of the Agreement unchanged; and

WHEREAS, California Public Resources Code Section 49300 requires the City Council to approve the terms of the proposed First Amendment to the Agreement with Contractor pursuant to a resolution; and

WHEREAS, the provision of solid waste handling services is an activity supported in part through a public agency contract and therefore may be considered a "project" under the California Environmental Quality Act ("CEQA") (Pub. Res. Code §§ 21000 et seq.) (14 Cal. Code Regs. § 15378(a)(2)); and

WHEREAS, it can be seen with certainty that there is no possibility that the proposed First Amendment could have a significant effect on the environment in that the Amendment to the Agreement is merely the continuation of an existing service in the City.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Menifee as follows:

SECTION 1. Each of the above recitals is true and correct and is adopted by the City Council.

First Amendment to the Amended and Restated Franchise Agreement

SECTION 2. The City Council finds that the approval of the First Amendment to the Agreement is exempt from CEQA under the “common-sense” exemption set forth in CEQA Guidelines section 15061(b)(3).

SECTION 3. The City Council hereby agrees to enter into the First Amendment to the Agreement, subject to the terms set forth in this Resolution and the First Amendment to the Agreement, which is attached hereto as Exhibit “A” and incorporated herein by this reference.

SECTION 4. The City Council hereby authorizes the Mayor to execute the First Amendment on behalf of the City.

PASSED, APPROVED, AND ADOPTED this 21st day of June 2023.

Bill Zimmerman, Mayor

Attest:

Stephanie Roseen, Acting City Clerk

Approved as to form:

Jeffrey T. Melching, City Attorney

First Amendment to the Amended and Restated Franchise Agreement

EXHIBIT A

Please see the attached

**FIRST AMENDMENT TO AMENDED AND RESTATED FRANCHISE AGREEMENT
BETWEEN CITY OF MENIFEE AND USA WASTE OF CALIFORNIA, INC., dba WASTE
MANAGEMENT OF THE INLAND EMPIRE FOR SOLID WASTE HANDLING
SERVICES**