

DATE SUBMITTED 5/14/2020
 SUBMITTED BY City Manager's Office
 DATE ACTION REQUIRED 5/20/2020

COUNCIL ACTION (X)
 PUBLIC HEARING REQUIRED ()
 RESOLUTION ()
 ORDINANCE 1ST READING ()
 ORDINANCE 2ND READING ()
 CITY CLERK'S INITIALS JS

**IMPERIAL CITY COUNCIL
 AGENDA ITEM**

SUBJECT: DISCUSSION/ACTION: THIRD AMENDMENT TO REPUBLIC SERVICES AGREEMENT 1. APPROVAL OF THIRD AMENDMENT TO AGREEMENT BETWEEN REPUBLIC SERVICES AND CITY OF IMPERIAL REGARDING IMPLEMENTATION OF RECYCLING AND DIVERSION MANDATES	
DEPARTMENT INVOLVED: <u>City Manager's Office/Administrative Services Department</u>	
BACKGROUND/SUMMARY: The City of Imperial has concluded negotiations with Republic Services regarding the implementation of recycling and diversion mandates as directed by the State of California. The increase will be a direct pass through to residents and commercial customers. Residents will see an increase of \$1.88 to the base rate, increasing their monthly bill from 20.40 per month to \$22.28 per month. Commercial customers will see an increase of 5% from the current rates. As part of the agreement, Republic Services will forgo the CPI of 3.6% this year, provide two additional landfill access passes to residents, and extend the hours of operation for the bi-annual clean up. Pending approval rates will become effective May 2020.	
FISCAL IMPACT: To be determined – no negative impact to the City's municipal budget.	ADMIN SERV INITIALS <u>JS</u>
STAFF RECOMMENDATION:	DEPT. INITIALS _____
MANAGER'S RECOMMENDATION: It is staff's recommendation that the City Council approves the third amendment to the republic services contract as presented.	CITY MANAGER'S INITIALS <u>ab</u>
MOTION:	
SECONDED: AYES: NAYES: ABSENT:	APPROVED () REJECTED () DISAPPROVED () DEFERRED () REFERRED TO:

THIRD AMENDMENT TO AGREEMENT
~~FEBRUARY~~ May 1, 2020

This THIRD AMENDMENT TO THE AGREEMENT (the "Third Amendment") is made and entered into as of ~~February~~ May 1, 2020, (the "Effective Date") by and between the CITY OF IMPERIAL, a municipal corporation of the State of California ("City") and ALLIED WASTE TRANSPORTATION, INC., a Delaware corporation, dba REPUBLIC SERVICES OF IMPERIAL ("Republic"), with reference to the following recitals:

Recitals

- A. City is a general law city within the meaning of California Constitution and has reserved its powers pursuant to California Public Resources Code Section 40000 et seq. to grant an exclusive Solid Waste and Recycling franchise.
- B. On December 15, 2004, City granted Republic an exclusive franchise to collect and dispose of, for a fee, solid waste, yard waste and recyclable materials from residential, commercial and industrial premises within the City (the "Agreement"); and
- C. On August 6, 2008, the City and Republic entered into the First Amendment to the Agreement (the "First Amendment"); and
- D. On September 1, 2014, the City and Republic entered into the Second Amendment to the Agreement (the "Second Amendment"); and
- E. By virtue of the First Amendment, the term of the Agreement was extended by eight years, to expire on August 31, 2016, and by virtue of the Second Amendment the Agreement was extended to expire on August 31, 2026; and
- F. The purpose of this Amendment is to modify the date of the annual rate adjustment from July of every year to January of every year beginning 2021 and to modify certain other terms.

Amendments to Franchise

NOW, THEREFORE, in consideration of the above recitals, the covenants contained herein, and other good and valuable consideration, the receipt and sufficiency of which the parties hereby acknowledge, City and Republic hereby agree that:

1. Section 13. Cost Increase. Pursuant to Section 13 City and Republic agree that there has been extraordinary cost increase to the cost of doing business and as such have agreed that the price for Services are to be adjusted as follows:

Residential: will increase \$1.88 from \$20.40 per month to \$22.28 per month

Commercial/Roll-off: will increase 5% from the current rates

2. Section 12, "Billing," as amended by First Amendment, is hereby modified to add the following sentence and to change any references to the date of the annual rate adjustments to January of each year:

"Beginning January 1, 2021, and annually thereafter through the termination of the Agreement, rates for services shall be increased as set forth by the terms of the Agreement."

3. Section 13, Rate Adjustment Formula. The parties agree that the second paragraph under Rate Adjustment Formula in Section 13 is deleted in its entirety and replaced with the following:

Rate adjustments shall be based upon the Consumer Price Index for All Urban Consumers (Water, Sewer and Trash Collection Services) U.S. City Average, as published by United States Department of Labor, Bureau of Statistics (the "CPI"). For the CPI calculation, rates will be adjusted using the most recently available trailing twelve (12) months average CPI compared to the twelve (12) months preceding. The maximum CPI increase in any one year shall not exceed four percent (4%) over the prior reporting period as indicated by the CPI and the minimum increase shall not be less than one percent (1.0%) over the prior reporting period as indicated by the CPI. In any year in which the CPI indicates an increase of more than four percent (4%) ("overage") over the last reporting period, the amount of overage due to the CPI will not be included in the CPI adjustment for the subject year; however, the amount of overage shall be carried over into and added to the next succeeding year CPI calculation to increase Republic's rates up to the four percent (4%) overall cap on CPI adjustments. Any unused overage from a given year shall only be used one time, for the next succeeding year only. The foregoing four percent (4%) cap shall not apply to other

factors justifying a rate increase, such as change in law, or a City requested change in scope of Republic services or factors warranting an extraordinary rate adjustment.

4. Section 17, Use of Contractor's Site. Section 17 of the Agreement shall be amended to change the number of free landfill passes provided to Residents from four (4) passes per year to six (6) passes per year. All of terms in Section 17 is to remain as currently stated and in full force and effect.

5. Exhibit 3. Exhibit 3 (A) of the Agreement is hereby amended to add the following Program. Contractor agrees, on or around January of 2022 and at no additional cost to the City, to include the collection and processing of food waste to the current Programs offered by Contractor. Food waste collection and processing will be provided by utilize the existing containers Residents use for curbside collection of green waste.

Except as expressly amended herein, all other terms and conditions of the Agreement shall remain in full force and effect.

IN WITNESS WHEREOF, Republic and the City have entered into this Third Amendment to the Franchise Agreement as of the date first written above.

City

Republic

By: _____
Name: _____
Title: _____
Date: _____

By: _____
Name: _____
Title: _____
Date: _____

Approved as to form by:

City Attorney