

**AMENDMENT NUMBER 5 TO  
SERVICE CONTRACT FOR  
MUNICIPAL RESOURCE RECOVERY SERVICES  
FOR THE CITY OF ANN ARBOR  
BETWEEN  
RECYCLE ANN ARBOR AND THE CITY OF ANN ARBOR**

The City of Ann Arbor, a municipal corporation, 301 E. Huron Street, Ann Arbor, Michigan 48107-8647 ("City") and Recycle Ann Arbor, a Michigan non-profit corporation, with offices at 2420 South Industrial Highway, Ann Arbor, Michigan 48104 ("Contractor") agree to amend the Service Contract for Municipal Resource Recovery Services for the City of Ann Arbor made and entered into by the parties on the 1<sup>st</sup> day of December, 2003, amended by Amendment #1 effective March 2, 2005, amended by Amendment #2 effective May 13, 2010, amended by Amendment #3 effective August 29, 2011, and amended by Amendment #4 effective August 18, 2015 (collectively, "the Agreement")

**WITNESSETH**

**WHEREAS**, the City and Contractor desire to modify the Agreement;

**WHEREAS**, the City and the Contractor have mutually agreed to the modifications in this Fifth Amendment; and,

**NOW, THEREFORE**, in consideration of the mutual duties and obligations set forth below, and that the parties otherwise have under the Agreement, Contractor and the City agree to the following amendments to the Agreement:

**ARTICLE I  
AMENDMENT TO ARTICLE III OF AGREEMENT**

**Term**

Article III of the Agreement is amended to read as follows:

Unless it is lawfully terminated earlier, the Agreement shall terminate on June 30, 2019. The City may extend this contract twice, for additional five-year terms, or once for a ten-year term, upon providing the Contractor written notification of its election to do the same.

**ARTICLE II  
AMENDMENT TO ARTICLE B-6 OF AGREEMENT**

**Collection Trucks**

Article B-6 of the Agreement is amended to read as follows:

While this Agreement remains in effect, the City shall continue to make available for Contractor's use, in a manner consistent with the Agreement, the Collection Trucks that are available upon execution of this Fifth Amendment, which are:

<b>ASSET ID</b>	<b>YEAR</b>	<b>MAKE/DESCRIPTION</b>
8693	2007	Crane Carrier chassis, Labrie Expert – Comingle refuse body
8694	2007	Crane Carrier chassis, Labrie Expert – Comingle refuse body
8695	2010	Peterbilt 320 Hydraulic Hybrid chassis, Labrie Automizer refuse body with RH HD arm
8696	2010	Peterbilt 320 Hydraulic Hybrid chassis, Labrie Automizer refuse body with RH HD arm
8697	2010	Peterbilt 320 Hydraulic Hybrid chassis, Labrie Automizer refuse body with RH HD arm
8698	2010	Peterbilt 320 Hydraulic Hybrid chassis, Labrie Automizer refuse body with RH HD arm
8689	2014	Mack LEU613 chassis, Labrie Expert refuse body with Helping Hand RH arm
8690	2014	Mack LEU613 chassis, Labrie Expert refuse body with Helping Hand RH arm
8691	2014	Mack LEU613 chassis, Labrie Expert refuse body with Helping Hand RH arm
8692	2014	Mack LEU613 chassis Labrie Expert refuse body with Helping Hand RH and LH arms

Contractor shall, at its own expense, lease any additional Collection Trucks necessary for Contractor to satisfy its obligations under this Agreement ("Leased Trucks"). Any lease agreements for any Leased Trucks shall be for terms not to exceed four months. Contractor shall not enter any such lease agreements unless and until it obtains the City's written approval of same, including via e-mail, with such approval not being unreasonably withheld by the City.

Contractor may use the City's fuel island to fuel any Collection Trucks, including any Leased Trucks, provided that any fuel that Contractor removes from the fuel island be used exclusively for Contractor's performance of its obligations under this Agreement.

Each Collection Truck that is not a Leased Truck shall be identified by its own unique four-digit number, which shall be displayed prominently on all four of its sides by the City. Each vehicle shall have displayed prominently on all four sides the program's graphic image that includes the Recycle Ann Arbor logo and the words "The City of Ann Arbor's Curbside Recycling Service".

The City shall have the right to inspect any of the Collection Trucks, including any of the Leased Trucks that Contractor uses to satisfy its obligations under this Agreement, and those vehicles' contents, at any time while operating inside or outside the City.

Each of the Collection Trucks, including each of the Leased Trucks, shall be stored at a location to be jointly determined by the City and the Contractor.

Contractor shall provide the City with comprehensive and thorough daily pre- and post-trip inspection reports for each of the Collection Trucks, including any of the Leased Trucks. Contractor shall wash the interior and exterior of each of the Collection Trucks, including any Leased Trucks, every other week.

Contractor shall ensure that the Collection Trucks, including the Leased Trucks, are appropriately maintained and repaired. The City shall be responsible for the cost of necessary maintenance on, towing of, and repairs to the Collection Trucks, including the Leased Trucks, except to the extent the foregoing is caused, in whole or in part, by Contractor's, or its employees' or contractors', failure to comply with the Agreement, including accidents or damage due to operation of the vehicles, or by Contractor's, or its employees' or contractors', use of such vehicles for purposes other than performing its obligations under this Agreement, in which cases Contractor shall be responsible for the

same. Contractor shall perform, or have the lessor perform, all maintenance and repairs to the Leased Trucks in accordance with the terms of the applicable lease.

Except as expressly provided in this Agreement, Contractor is responsible for all costs associated with the procurement, use, and operation of the Collection Trucks, including the Leased Trucks.

**ARTICLE III**  
**AMENDMENT TO ATTACHMENT A**  
**City of Ann Arbor Municipal Resource Recovery Services Performance Based Compensation Schedule**

Attachment A is amended to add the following paragraph:

In addition to other payments due from City to Contractor pursuant to this Agreement, the City shall reimburse Contractor for what it pays to any lessors for its use of the Leased Trucks. Notwithstanding the foregoing, City shall not be liable for any payments Contractor makes to any lessors because of Contractor's, or its employees' or contractors', breaches of any leases or negligent actions. Contractor shall disgorge and return to City any of the foregoing payments for which Contractor is reimbursed by a third party, including any lessor or insurer. Notwithstanding the foregoing, the City shall not be liable for any payments that Contractor incurs for its operation of any Leased Trucks unrelated to its obligations under this Agreement.

**ARTICLE III**  
**AMENDMENT TO ATTACHMENT A, ARTICLE A-2 OF AGREEMENT**  
**Designated Services Compensation**

In Paragraph C Compensation per Service Unit after the Single Stream Recycling Processing Live Acceptance Date

REPLACE

As of July 1, 2015 and annually each July 1 through June 30, 2018 the Contractor fee for the Fixed Cost Rate per Service Unit Scheduled Lift shall be adjusted according to the following schedule:

City FY 2016 (July 1, 2015 - June 30, 2016):	\$3.70
City FY 2017 (July 1, 2016 - June 30, 2017):	\$3.84
City FY 2018 (July 1, 2017 - June 30, 2018):	\$4.00

WITH

As of July 1, 2015 and annually each July 1 through June 30, 2019 the Contractor fee for the Fixed Cost Rate per Service Unit Scheduled Lift shall be adjusted according to the following schedule:

City FY 2016 (July 1, 2015 - June 30, 2016):	\$3.70
City FY 2017 (July 1, 2016 - June 30, 2017):	\$3.84
City FY 2018 (July 1, 2017 - June 30, 2018):	\$4.00
City FY 2019 (July 1, 2018 - June 30, 2019):	\$4.12

**ARTICLE IV**  
**AMENDMENT TO ATTACHMENT E**  
**City of Ann Arbor Municipal Resource Recovery Services Optional Performance**  
**Specification**

Attachment E is amended by striking Article E-2 City Truck Purchases and Article E-4 City Provided Truck Maintenance.

**ARTICLE IV**  
**AMENDMENT TO ATTACHMENT H**  
**City of Ann Arbor Municipal Resource Recovery Services Recycling Truck**  
**Inventory, Maintenance and Replacement Schedule**

Attachment H is stricken.

**EXECUTION OF AMENDMENT NUMBER 5 TO THE AGREEMENT**

All terms, conditions, and provisions of the Agreement, unless specifically amended above, are to apply to this amendment and are made a part of this amendment as though expressly rewritten, incorporated, and included herein.

This amendment to the agreement between the parties shall be binding on the heirs, successors and assigns of the parties.

Dated this \_\_\_\_\_, 2018

**IN WITNESS WHEREOF**, the authorized representatives of the Parties hereto have fully executed this instrument on the day and year first above written.

**FOR CONTRACTOR**

By \_\_\_\_\_  
Bryan Weinert, Interim CEO

**FOR THE CITY OF ANN ARBOR**

By \_\_\_\_\_  
Christopher Taylor, Mayor

By \_\_\_\_\_  
Jacqueline Beaudry, City Clerk

Approved as to Substance

\_\_\_\_\_  
Craig Hupy,  
Public Services Area Administrator

\_\_\_\_\_  
Howard Lazarus, City Administrator

Approved as to Form

\_\_\_\_\_  
Stephen K. Postema, City Attorney