

**Amendment to Franchise Agreement
Between
City of Richmond
and
Richmond Sanitary Service, Inc.**

This Amendment to the Franchise Agreement is entered into effective January 1, 2003, by and between the City of Richmond, a municipal corporation ("City") and Richmond Sanitary Service, Inc., a California corporation ("RSS, Inc").

The City and RSS entered into a Franchise Agreement effective July 1, 1986, and amended on September 6, 1991; January 20, 1994; and March 16, 1999 (hereinafter referred to as the "Franchise Agreement"). The City and RSS, Inc. have agreed to a further amendment of the Franchise Agreement. All of the terms, conditions, rights and obligations of the parties under the Franchise Agreement shall remain in full force and effect and shall not be changed in any manner except as expressly set forth in this Amendment to the Franchise Agreement. The parties expressly agree that their rights and duties under the Agreement derive from the execution of the original Franchise Agreement in 1986 and modified only to the extent of subsequent amendments which expressly modify the Franchise Agreement.

The City and RSS, Inc. hereby amend the Franchise Agreement as follows:

1. Section 3.7 of the Franchise Agreement is hereby amended and revised as follows:

"Effective January 1, 2000, the City shall establish the Year 2000 Rate, which rate shall be exclusive of the Designated Rate and shall be the maximum rate which RSS, Inc. shall be allowed to charge for services rendered hereunder. The Year 2000 Rate is the rate established under the Rate Setting Mechanism, as applied by the City and RSS, Inc. hereunder, for 1999, adjusted in accordance with the terms of the Franchise Agreement independent of this Amendment to the Franchise Agreement.

"Effective January 1, 2003, the Year 2000 Rate shall be adjusted annually for the remaining term of this Agreement through June 30, 2025, on December 31 of each year, by the change, if any, in the San Francisco - Oakland - San Jose Metropolitan Area Consumer Price Index for All Urban Consumers, all items (CPI). The adjustment shall be based upon the CPI published on or before the November 30 preceding the December 31 adjustment. Each such rate adjustment is in accordance with the rate adjustment provisions of the Franchise Agreement for Indexed Years.

In the event of an event of force majeure or other unforeseen economic conditions which materially affect the cost of RSS, Inc. providing services hereunder or in

the event of a successful challenge invalidating the franchise fee by action of a third party which results in a final judgment of a court of competent jurisdiction, after exhaustion of all appeals, or for so long as the trial court in any such proceeding has issued an injunction preventing the collection of the Franchise Fee by the City, then either party may request that a new rate be established under the Rate Regulation Methodology set forth herein upon reasonable notice to the other party. RSS, Inc., shall be an indispensable party to any such litigation challenging the franchise fee. In no event shall a new rate to be established hereunder be less than the rate charged at the time of the request of a party to establish a new rate as provided herein. In the event that the parties hereto cannot reach an agreement on the use of the Rate Regulation Methodology or the establishment of a revised rate on a going forward basis, then the parties agree that the dispute shall be subject to arbitration by a neutral panel of three (3) arbitrators, each party selecting one arbitrator and the two selected arbitrators selecting the third arbitrator for the panel. The parties shall each bear one half of the costs of the panel. The panel shall arbitrate the dispute within 120 days of the selection of the panel.

2. Article V of the Franchise Agreement is hereby amended by adding the italicized text to Section 5.6:

“5.6 Use of WCCSL by City. The City shall have the privilege, without charge therefore, of depositing at the WCCSL non-hazardous Solid Wastes that require no special handling which are (i) produced by regular municipal operations and collected by municipal employees on municipally-owned property, and/or (ii) collected by municipal employees from vacant or abandoned property within the City. The provisions of this paragraph shall be effective until the commencement of operations of an IRRF or until the West Contra Costa Sanitary Landfill is no longer operated by an Affiliate, whichever shall first occur. RSS, Inc.’s expenses incurred to WCCSL, Inc. hereunder shall be recoverable as allowable expenses under the Rate Regulation Methodology. Upon the closure of WCCSL and commencement of operation of a solid waste transfer station operated by RSS, Inc. (or its affiliate) at the WCCSL site, RSS, Inc. agrees that the charges to the City for handling and disposal of the wastes described in (i) and (ii) above will be at a rate as favorable to the City as the rate charged to RSS, Inc.’s best third party customer for said third party customer’s use of either the WCCSL transfer facility or the Potrero Hills Landfill.”

3. Article V of the Franchise Agreement is hereby amended by adding the following Section 5.8:

5.8 Documentation of Services Provided. Attached to this Agreement as Exhibit “A” is a list, as of October 1, 2002, showing the City services

provided by RSS, Inc.

4. Article V of the Franchise Agreement is hereby amended by adding the following section 5.9:

CONTAINERS FOR RESIDENTIAL PREMISES

5.9.1 (a) Collector shall provide the initial Containers to all Residential Premises.

(b) All Containers provided by Collector shall be constructed of rigid, durable materials with a minimum five (5) year life expectancy warranted by the manufacturer.

(c) Additional Containers shall be delivered and serviced for the Rate specified in the Schedule of Approved Rates. Collector shall deliver the requested additional Containers no later than two (2) weeks after receipt of the request.

(d) Collector shall have the right to charge Residential Householder for Containers lost or damaged through willful or intentional abuse or misuse.

5. Article V of the Franchise Agreement is hereby amended by adding the following section 5.10:

5.10 WHEEL-OUT SERVICE

5.10.1 Collector shall provide free wheel-out service to eligible residents. For purposes of this Section 5.10, "eligible residents" are those who: (1) are physically unable to move the Containers as verified by a medical certificate; and (2) annually sign a sworn statement that they live in a residence with no other residents capable of moving Containers. Collector shall provide wheel-out service for any non-eligible resident requesting such service on a for-fee basis established by Collector for this service.

6. Article V of the Franchise Agreement is hereby amended by adding the following section 5.11:

5.11 TITLE TO SOLID WASTE AND RECYCLABLES

It is expressly understood that all Solid Waste and Recyclables collected under this Agreement becomes the property of Collector at the point of Collection. At no time does City obtain any right of ownership or possession of Solid Waste or Recyclables placed for Collection, and nothing in this Agreement shall be construed as giving rise to any inference that City has any such rights. City and Collector agree that, for the purposes of the Uniform Commercial Code and all other laws imposing liability for defective products, it is Collector, and not City that is to be considered the "merchant" of goods recycled pursuant to this Agreement.

7.. Article V of the Franchise Agreement is hereby amended by adding the following section 5.12:

5.12 CHANGE IN OPERATIONS, ADMINISTRATION OR SCHEDULE

Collector shall notify the City Manager in writing of any proposed material changes in vehicle routes and schedule prior to implementation. Any such changes shall meet the service standards and other terms of this Agreement. In the case of changes to the Collection schedule, Collector must notify all affected Subscribers at least (14) days prior to any change in the Collection day. Collector shall not permit any Subscriber to go more than seven (7) days without service in connection with a Collection schedule change.

8. Article VIII of the Franchise Agreement is hereby amended to replace Section 8.1 with a new Section 8.1 to read as follows:

Franchise Fee. Beginning January 1, 1990, RSS, Inc. shall pay to the City for said privilege hereby granted a percentage of the gross annual revenues derived from its collection operations under this Franchise Agreement. Beginning January 1, 2003, RSS, Inc. shall pay to the City for said privilege five (5) percent of the Gross Revenues derived from its collection operations under this Franchise Agreement, based upon audited revenue statements submitted annually to the City. The payment to the City shall be made on a monthly basis, with annual adjustments as necessary based on review of the audited revenue statement. As used herein, the term "Gross Revenues" means revenues from refuse and recycling collection services provided to residents and businesses within the City of Richmond, California, exclusive of governmental taxes, fees and surcharges applicable to said Gross Revenues.

9. Article XI of the Franchise Agreement is hereby amended by adding the following Section 11.1.1:

11.1.1 Additional Indemnification. In addition to the indemnification provided in Section 11.1 above, RSS, Inc. agrees to indemnify, defend and save the City, its agents, officers and employees harmless from and against any and all liability, claims, suits, actions, damages and/or causes of action arising out of any personal injury, bodily injury, loss of life or damage to property, violation of any federal, state or local law or ordinance or other cause in connection with the provisions of any amendment to the Franchise Agreement, the City's establishment of a new rate as provided in section 3.7, or in connection with the activities of RSS, Inc., its subcontractors, agents and employees under this Amendment to the Franchise Agreement. By this indemnification, RSS, Inc. agrees to indemnify, defend and save the City harmless from and against all costs, counsel fees, expenses incurred in obtaining expert testimony and the attendance of witnesses, expenses and liability incurred in and about any such claim, the investigation thereof or the defense of any action or proceedings brought thereon, and from and against any orders, judgments or decrees which may be entered therein unless arising out of the sole negligence or willful misconduct of the City.

10. Article XII of the Franchise Agreement is hereby amended to delete Sections 12.1 and 12.2 of the existing Agreement, to be replaced with the following new Section 12.1 and 12.2:

12.1 **Minimum Limits of Insurance.** Collector shall maintain limits no less than:

(a) General Liability: \$5,000,000 combined single limit per occurrence for bodily injury, personal injury and property damage. If Commercial General Liability Insurance or other form with a general aggregate limit is used, either the general aggregate limit shall apply separately to this project/location or the general aggregate limit shall be twice the required occurrence limit.

(b) Automobile Liability: \$3,000,000 combined single limit per accident for bodily injury and property damage.

(c) Workers' Compensation and Employer's Liability: \$1,000,000 each accident, \$1,000,000 policy limit bodily injury or disease, \$1,000,000 each employee bodily injury by disease.

(d) Pollution and/or Environmental Impairment Liability: \$3,000,000 each occurrence/\$10,000,000 policy aggregate covering liability arising from the release of waste materials and/or irritants, contaminants or pollutants. Collector shall ensure that such coverage shall, if commercially available, without involvement of City, automatically broaden in its form of coverage to include legislated changes in the definition of waste materials and/or irritants, contaminants or pollutants. The policy shall stipulate this insurance is primary and no other insurance carried by City will be called upon to contribute to a loss suffered by Collector hereunder and waive subrogation against City and other additional insureds.

12.2 **Deductible and Self-Insured Retentions.** Collector's deductibles, self-insured retentions or self-insurance programs are authorized pursuant to this Franchise Agreement.

11. Article XII of the Franchise Agreement is hereby amended by adding the following section 12.6:

Faithful Performance Bond. Collector shall file with City a bond, payable to City, securing Collector's faithful performance of its collection service obligations under this Agreement. The principal sum of the bond shall be \$500,000. The bond shall be executed as surety by a corporation authorized to issue surety bonds in the State of California, with a financial condition and record of service satisfactory to the City Manager. The bond shall be in a form specified by the City Manager. Alternatively, Collector may deposit a letter of credit or open a certificate of deposit in the name of City to be held to secure Collector's faithful performance. The performance bond shall be maintained in force for the duration of this Agreement. Collector shall pay the premium for the bond.

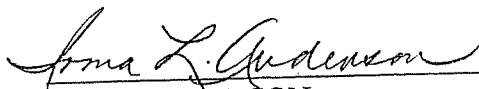
12. Article XII of the Franchise Agreement is hereby amended by adding the following Section 12.7:

Fidelity Bond. Collector shall file with City a bond, payable to City, securing Collector's fidelity and protecting City from loss of revenues resulting from theft, embezzlement, fraud, or dishonesty covering all employees of Collector. The principal sum of the bond shall be \$500,000. The bond shall be executed as surety by a corporation authorized to issue surety bonds in the State of California, with a financial condition and record of service satisfactory to the City Manager. The bond shall be in a form specified by the City Manager. Alternatively, Collector may deposit a letter of credit or open a certificate of deposit in the name of City to be held to secure this fidelity. The fidelity bond shall be maintained in force for the duration of this Agreement. Collector shall pay the premium for the bond.

IN WITNESS WHEREOF, and in consideration of the mutual promises set forth above, the City and RSS, Inc. have duly authorized execution of this Amendment and have executed this Amendment as of the date first hereinabove written.

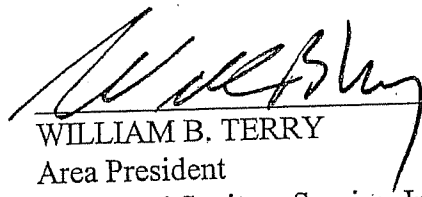
"CITY"

City of Richmond,
a California municipal corporation

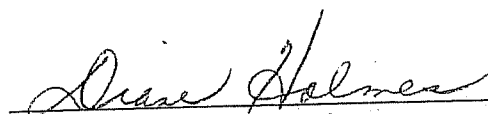

IRMA ANDERSON
Mayor
City of Richmond

"RSS, INC."

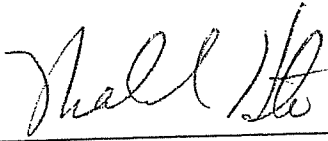
Richmond Sanitary Service, Inc.,
a California corporation


WILLIAM B. TERRY
Area President
Richmond Sanitary Service, Inc.

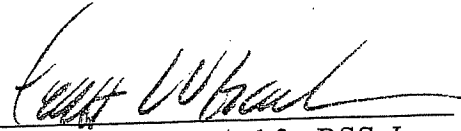
ATTEST:


Diane Holmes, City Clerk

Approved as to form:



Malcolm Hunter, City Attorney



Scott W. Gordon, Counsel for RSS, Inc.

EXHIBIT "A"

List of Services Provided

- Weekly residential waste collection and disposal (35, 65, 95 gallon carts)
- Alternating bi-weekly recycling and greenwaste collection and disposal
- Two annual on-call residential clean-ups
- Two annual City-wide clean-ups
- 20 gallon "mini-can" residential service
- Discounted senior rate
- Christmas tree pick-up
- Weekly commercial waste collection and disposal (35, 65, 95 gallon carts)
- Commercial bin service (1, 2, 3, 4, 5, 6, 7 yard pick-up – 1-5 times per week)
- Monthly roll-off box service (10, 14, 20, 30, 40 yard pick-up – 1-5 times per week)
- Temporary roll-off box service (10, 14, 20, 30, 40 yard pick-up based on a three (3) day rental)
- Complimentary curbside recycling and greenwaste collection for commercial and industrial waste collection customers with at least one full cart volume per week
- No charge collection for City designated business areas (approximately 100 containers)
- No charge collection from designated City buildings
- No charge collection at existing City parks
- A special rate (\$265 per box) roll-off service for neighborhood clean-ups
- Bulky item collection
- Prepaid bag-tie service for occasional extra wastes
- Collection of the following recyclables
 - Paper
 - White and colored
 - Newspaper
 - Cardboard
 - Mixed Paper
 - Magazines and catalogs
 - Paper bags
 - Junk mail and envelopes
 - Non-carbon forms
 - Containers

- Milk, water, and juice bottles
- Soda bottles
- Aluminum cans, foil and pans
- Glass bottles and jars
- #1 and #2 plastic items
- Steel and tin cans
- Green Waste
 - Yard trimmings
 - Grass clippings
 - Leaves and flowers
 - Pine needles
 - Weeds
 - Uncooked fruits and vegetables
- Used motor oil

This list may be amended from time to time by RSS, Inc. based on changes in market conditions, costs of services, and City priorities.

CALIFORNIA ALL-PURPOSE ACKNOWLEDGMENT

No. 5907

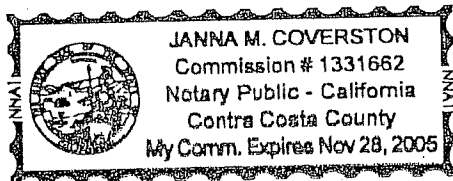
State of California

County of Contra Costa

On February 13, 2003 before me, Janna M. Coverston
DATE NAME, TITLE OF OFFICER - E.G., "JANE DOE, NOTARY PUBLIC"

personally appeared William B. Terry
NAME(S) OF SIGNER(S)

personally known to me - **OR** - proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.



WITNESS my hand and official seal.

Janna M. Coverston
SIGNATURE OF NOTARY

OPTIONAL

Though the data below is not required by law, it may prove valuable to persons relying on the document and could prevent fraudulent reattachment of this form.

CAPACITY CLAIMED BY SIGNER

INDIVIDUAL
 CORPORATE OFFICER
Area President
TITLE(S)

PARTNER(S) LIMITED
 GENERAL
 ATTORNEY-IN-FACT
 TRUSTEE(S)
 GUARDIAN/CONSERVATOR
 OTHER: _____

SIGNER IS REPRESENTING:
NAME OF PERSON(S) OR ENTITY(IES)
Richmond Sanitary Service, Inc.

DESCRIPTION OF ATTACHED DOCUMENT

A
Amendment to Franchise Agreement
TITLE OR TYPE OF DOCUMENT

Ten
NUMBER OF PAGES

January 1, 2003
DATE OF DOCUMENT

For City of Richmond:
Irma Anderson, Mayor
Diane Holmes, City Clerk
Malcolm Hunter, City Attorney

SIGNER(S) OTHER THAN NAMED ABOVE
Scott W. Gordon, Counsel for RSS, Inc.