

**ELEVENTH AMENDMENT TO FRANCHISE AGREEMENT**

This Eleventh Amendment to Franchise Agreement (the "Amendment") is entered into this 20th day of January, 2015 by and between the City of San Leandro (the "City") and Alameda County Industries, Inc. ("ACI"), with reference to the following:

A. The City and ACI are parties to that certain Franchise Agreement for Solid Waste, Recyclables, and Green Waste Services dated February 1, 2000, as amended by the First through Tenth Amendments thereto (collectively, the "Agreement").

B. The City and ACI have unresolved issues pertaining to the application of Title 1, Article 6 of Chapter 6 of the San Leandro Municipal Code (the "Living Wage Ordinance") to the workers at the materials recovery facility (the "MRF") owned and operated by ACI's affiliate, Alameda County Industries, LLC ("ACI LLC"), refurbishment of the MRF, and organization of the MRF workers under a collective bargaining agreement.

C. The City and ACI wish to resolve such issues and to enter into this Amendment to provide for certain rate setting matters on the terms herein.

NOW, THEREFORE, in and for the mutual covenants herein and other good and valuable consideration, the receipt and adequacy of which are hereby acknowledged, the City and ACI hereby agree as follows:

1. ACI's implementation of a 4.01% increase on all rates, effective February 1, 2015, is hereby ratified.

2. On February 1, 2015, the City will advance to ACI the amount of \$1,109,706.74 (the "Advance") by wire transfer in accordance with ACI's written instructions. ACI will repay the Advance to the City, together with simple interest at the rate of 2.5% per annum, in forty (40) equal installments of \$31,441.00 each on the first day of January, April, July and October every year, commencing October 1, 2015. The City will execute and deliver an agreement with ACI's bank subordinating the City's right to repayment of the Advance to ACI's repayment of its indebtedness to such bank on commercially reasonable terms.

3. Irrespective of any other rate adjustments authorized under the Agreement (such as the RRI adjustment) or hereafter approved by the City (such as pursuant to a special rate review), ACI is authorized to increase all rates, effective July 1, 2015, by 2.14% in order to fund all repayments of principal and interest pursuant to Section 2 above, so that such repayments will not reduce ACI's compensation under the Agreement. The City hereby acknowledges the need for further rate increases effective July 1, 2015 to address the refurbishment of the MRF and the organization of the MRF workers under a collective bargaining agreement, which rate increases will be the subject of a request by ACI for a special rate review pursuant to Section 6.4 of the Agreement.

4. ACI LLC will provide all workers at the MRF with wages and benefits that comply with the Living Wage Ordinance, commencing December 1, 2014.

5. Effective upon the City's payment of the Advance to ACI (the "Effective Date"), ACI, on behalf of itself and its affiliates, shareholders, officers, directors, agents, employees, attorneys, successors and assigns ("ACI Releasers"), hereby fully and forever releases and discharges the City, and its affiliates, officers, insurers, council members, agents, employees, attorneys, successors and assigns ("City Releasees"), from any and all claims, demands, agreements, damages, debts, expenses, causes of action, attorneys' fees and liabilities, of whatever kind or nature, in law, equity or otherwise, whether now known

or unknown, vested or contingent, suspected or unsuspected, which have existed or may have existed or which do exist prior to or as of the Effective Date, which relate to or arise from, in whole or in part, the Living Wage Ordinance, including, without limitation, that certain lawsuit entitled Maria Granados Flores, et al. v. Alameda County Industries, Inc., Case No. 3:14-cv-03011-JD, and the settlement thereof.

The ACI Releasers expressly waive the benefits of California Civil Code Section 1542, which provides:

A general release does not extend to claims which the creditor does not know or suspect to exist in his or her favor at the time of executing the release, which if known by him or her must have materially affected his or her settlement with the debtor.

In the event any action, suit, claim or demand is made, brought or asserted by any person, firm or entity against City Releasees by reason of, arising from, or in connection with any of the matters released in this Section 5, ACI agrees to defend against the same at its sole cost and expense, and to indemnify City Releasees, and to hold them harmless from and against any and all damages, judgments, liabilities, obligations, costs or expenses, including, but not limited to, reasonable attorney's fees and court costs, suffered by them by reason of such action, suit, claim or demand.

ACI represents and warrants that it has not assigned or transferred any rights or claims covered by the release contained in this Section 5.

This Section 5 reflects a settlement and compromise, and is not an admission of liability or fault by either party.

6. Each party acknowledges that in executing this Amendment, it has not relied on any inducements, promises, or representations made by the other party and/or the other party's representatives.

7. This Amendment is the product of negotiation and preparation by and between each party hereto and its attorneys. Therefore, the parties acknowledge and agree that this Amendment shall not be deemed to have been prepared or drafted by one party or the other, and that it shall be construed accordingly.

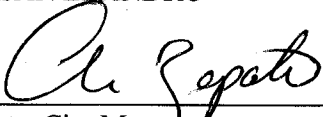
8. Each party acknowledges and warrants that its execution of this Amendment is free and voluntary and with the intent to be legally bound.

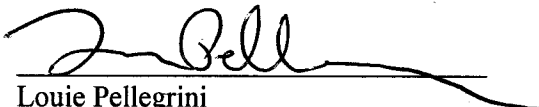
9. Except as set forth in this Amendment, the Agreement shall remain in full force and effect. In the event of any inconsistency between the terms of the Amendment and the terms of the Agreement, the terms of this Amendment shall prevail.

IN WITNESS WHEREOF, the duly authorized representatives of the parties have executed this Amendment effective as of the year and date specified in the first paragraph hereof.


CITY OF SAN LEANDRO

ALAMEDA COUNTY INDUSTRIES, INC.

  
\_\_\_\_\_  
Chris Zapata, City Manager

By:   
\_\_\_\_\_  
Louie Pellegrini  
Title: Vice President

Attest:

  
\_\_\_\_\_  
Marian Handa, City Clerk

By: \_\_\_\_\_  
Title \_\_\_\_\_

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