

FOURTH AMENDMENT TO THE AGREEMENT BETWEEN THE CITY OF FREMONT AND BLT ENTERPRISES OF FREMONT, LLC FOR CURBSIDE RECYCLABLE MATERIALS AND CURBSIDE ORGANIC WASTE SERVICES

RECITALS

A. The City of Fremont, California (“City”) and BLT Enterprises of Fremont, LLC, (“Contractor”) have previously entered into the Agreement Between The City of Fremont and BLT Enterprises of Fremont for Recyclables Diversion and Transfer Services, (the “Transfer Station Agreement”); and a separate agreement entitled “Agreement between the City of Fremont and BLT Enterprises of Fremont, LLC for Curbside Recyclable Materials and Curbside Organic Waste Services (the “Recyclables Agreement”), and the First and Second Amendment to that Recyclables Agreement.

B. City and Contractor entered into the Third Amendment to the Recyclables Agreement, the term of which is in effect until November 30, 2019.

C. The Third Amendment term provided an interim period for the parties to evaluate the market conditions of the commodities, contamination issues and the viability and cost of City recycling programs.

D. The Parties have determined that an additional six-month extension to the Third Amendment is necessary in order to allow both Parties an additional amount of time to resolve cost, rate and processing issues.

E. Contractor has submitted a claim to City for additional compensation under the terms of the Transfer Station Agreement on September 12, 2019, which included compensation for items which are not included in the Recyclables Agreement; therefore City and Contractor have agreed to negotiate those claims through a separate process and those claims are not addressed or included in this Fourth Amendment.

NOW, THEREFORE, in consideration of the mutual promises, covenants, and conditions contained herein, and for good and valuable consideration, the City and Contractor do hereby amend the Recyclables Agreement through this Fourth Amendment as follows:

1. Term

The City and Contractor agree that the Extraordinary Rate Review settlement in the Third Amendment is hereby extended from December 1, 2019 through May 31, 2020. All of the terms and provisions described in the Third Amendment will expire on May 31, 2020, unless extended by mutual agreement of the Parties.

2. Retroactive Provision

The City and Contractor agree that in the event the Parties agree on any additional compensation to Contractor under the Extraordinary Rate Review claim effective date of December 1, 2017, that agreed compensation will be retroactive to December 1, 2019.

3. Terms

All other terms in the Recyclables Agreement including the First, Second and Third Amendments not specifically amended by this Fourth Amendment shall remain in full force and effect. This Fourth Amendment is executed in two (2) duplicate originals, each of which is deemed to be an original.

IN WITNESS THEREOF, the Parties have executed this Fourth Amendment on the dates written below.

CITY:
City of Fremont

CONTRACTOR:
BLT Enterprises
of Fremont, LLC

By: 
Date: 12/17/19

By: 
Date: 11/13/19

Approved as to Form:


Harvey E. Levine
City Attorney

Approved as to Form

Legal

CALIFORNIA ALL-PURPOSE ACKNOWLEDGMENT

CIVIL CODE § 1189

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

State of California }
County of Los Angeles

On NOVEMBER 13, 2019 before me, JESSICA BAUTISTA-CHACON, Notary Public,
Date Here Insert Name and Title of the Officer

personally appeared DANIEL ROSENTHAL
Name(s) of Signer(s)

who 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.



I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Signature J. Bautista-Chacon
Signature of Notary Public

Place Notary Seal and/or Stamp Above

OPTIONAL

Completing this information can deter alteration of the document or fraudulent reattachment of this form to an unintended document.

Description of Attached Document

Title or Type of Document: FOURTH AMENDMENT TO AGREEMENT

Document Date: NOVEMBER 13, 2019 Number of Pages: 2

Signer(s) Other Than Named Above: _____

Capacity(ies) Claimed by Signer(s)

Signer's Name: DANIEL ROSENTHAL

Corporate Officer – Title(s): MANAGER

Partner – Limited General

Individual Attorney in Fact

Trustee Guardian of Conservator

Other: _____

Signer is Representing: _____

BLT ENTERPRISES OF FRENONT, LLC

Signer's Name: _____

Corporate Officer – Title(s): _____

Partner – Limited General

Individual Attorney in Fact

Trustee Guardian of Conservator

Other: _____

Signer is Representing: _____

LIMITED LIABILITY COMPANY CERTIFICATE

November 13, 2019

TO: THE CITY OF FREMONT ("City")

The undersigned does hereby certify that this company, BLT ENTERPRISES OF FREMONT, LLC, is a manager-managed limited liability company, that I am a manager thereof, and that this company has entered into or proposes to enter in that certain Fourth Amendment to the Agreement for Curbside Recyclable Materials and Curbside Organic Waste Services (the "Agreement").

The undersigned further certifies that any one of the following named persons whose positions are set forth opposite their names:

<u>Name</u>	<u>Position</u>
Bernard Huberman	President
Daniel B. Rosenthal	Vice President and Secretary
Shawn Guttersen	Vice President
Steve Perry	Vice President

be and they are hereby authorized and empowered for and on behalf of and in the name of this company and as this company's act and deed:

(a) To enter into the Agreement, in such form and on such terms and conditions as shall be agreed upon by those authorized above and City.

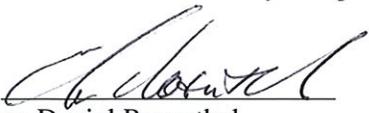
(b) To perform all acts and to execute and deliver all documents described above and all other contracts and instruments which City deems necessary or convenient to accomplish the purposes of this certificate.

The authority hereby conferred is in addition to that conferred by any other certificate heretofore or hereafter delivered by this company to City and shall continue in full force and effect until City shall have received notice in writing from this company of the revocation hereof. Any such revocation shall be effective only as to actions which are taken by this company pursuant to the certifications contained herein, subsequent to City's receipt of such notice. The authority hereby conferred shall be deemed retroactive, and any and all acts authorized herein which were performed prior to the execution of this certificate are hereby approved and ratified.

The undersigned further certifies that the activities covered by the foregoing certifications constitute duly authorized activities of this company; that said certifications are now in full force and effect; and that there is no provision in any document pursuant to which this company is organized and/or which governs this company's continued existence limiting the power of the undersigned to make the certifications set forth herein, and that the same are in conformity with the provisions of all such documents.

[Signature page follows.]

BLT ENTERPRISES OF FREMONT, LLC,
a California limited liability company

By: 

Name: Daniel Rosenthal

Title: Manager

Approved as to Form

Legal